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Issue Paper GUATEMALA HUMAN RIGHTS UPDATE June 1996

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GLOSSARY

AEU

University Students Association (Asociación de Estudiantes Universitarios)

CERJ

Council of Ethnic Communities Runujel Junam (Consejo Etnico Runujel Junam)

CCPP

Permanent Commissions (Comisiones Permanentes)

CIDH

Interamerican Commission of Human Rights (Comisión Interamericana de Derechos Humanos)

CM

Military Commissioner (Comisionado Militar)

CONAVIGUA

National Coordinating Committee of Guatemalan Widows (Cordinadora Nacional de Viudas de Guatemala)

COPAZ

Peace Commission (Comisión de Paz)

COPMAGUA

Coordination of Mayan Peoples Organizations (Coordinación de Organizaciones del Pueblo Maya de Guatemala)

COPREDEH

Presidential Coordinating Commission on Human Rights (Comisión Presidencial Coordinadora de la Política del Ejecutivo en Materia de Derechos Humanos)

CVDC

Voluntary Civil Defense Committee (Comité Voluntario de Defensa Civil)

FDNG

New Guatemala Democratic Front (Frente Democrático Nueva Guatemala)

FRG

Guatemalan Republican Front (Frente Republicano Guatemalteco)

GAM

Mutual Support Group (Grupo de Apoyo Mutuo)

MINUGUA

UN Mission for the Verification of Human Rights and of Compliance with the Commitments of the Comprehensive Agreement on Human Rights in Guatemala (Misión de las Naciones Unidas para la Verificación de Derechos Humanos en Guatemala y del Cumplimiento de los Compromisos Asumidos en el Acuerdo Global sobre Derechos Humanos)

MP

Public Ministry (Ministerio Público)

ODHA

| | |
|------|---|
| PAC | Human Rights Office of the Catholic Archdiocese (Oficina de Derechos Humanos del Arzobispado) |
| PAN | Civil Defense Patrol (Patrulla de Autodefensa Civil) |
| PDH | Office of the Human Rights Ombudsman (Procuraduría de Derechos Humanos) |
| PN | National Police (Policía Nacional) |
| UASP | Labour and Popular Action Unity (Unidad de Acción Sindical y Popular) |
| URNG | Guatemalan National Revolutionary Unity (Unidad Revolucionaria Nacional Guatemalteca) |

1. INTRODUCTION

This paper is an update of the human rights situation in Guatemala. It follows four earlier DIRB reports on Guatemala: *Domestic Violence in Guatemala* (November 1994); *Guatemala: Update* (July 1994), *Guatemala: Country Profile* (April 1993); and *Guatemala: Role of the Military* (January 1991).

Since the 1980s, various sectors of Guatemalan society as well as the international community have been trying to negotiate a solution to the country's long-standing armed conflict (Barry Oct. 1992, 73-76; ICCHRLA June 1995, 7). However, it was not until March 1994 that the government of Guatemala and the country's armed opposition, the Guatemalan National Revolutionary Unity (URNG), signed the Comprehensive Agreement on Human Rights in Guatemala, the first of several substantive agreements to be negotiated by the two parties (ibid.; United Nations 29 June 1995, 3). Observers of the peace process suggest that several developments, including the results of the general elections in November 1995, bode well for the progress of the country's ongoing peace negotiations (GHRC 22 Mar. 1996).

Since November 1994, the United Nations Mission for the Verification of Human Rights and of Compliance with the Commitments of the Comprehensive Agreement on Human Rights in Guatemala (MINUGUA) has been monitoring the human rights situation in the country as well as compliance with the commitments made in the Comprehensive Agreement (United Nations 29 June 1995, 3). According to Human Rights Watch, the mission has provided greater scrutiny of the human rights situation in the country than ever before (1995, 93).

Both the UN mission and non-governmental human rights observers believe that impunity continues to be one of the major obstacles to improvement in the human rights climate in Guatemala (ibid., 93, 94; AI Feb. 1996, 1; United Nations 24 Feb. 1996, 32). According to MINUGUA,

the persistence of impunity is the fault of the Government, not only because its officials take wrongful advantage of it but because, legally and politically, its highest authorities have the prime responsibility for ensuring respect for the human rights of all the inhabitants of Guatemala (ibid. 12 Oct. 1995, 37).

At the same time, the mission has observed that the government has shown "greater awareness of the need to combat impunity" (ibid. 24 Feb. 1996, 14), and that concern with impunity has become "a spur to action in Guatemalan society," motivating several sectors, including NGOs, the media, and

the churches, to confront the problem and do something about it (ibid. 12 Oct. 1995, 18).

1.1 The November 1995 Elections

In August 1995, the government and the URNG agreed to the first ceasefire in Guatemala's 35-year conflict, in anticipation of the November 1995 elections (AI Feb. 1996, 3; IPS 24 Aug. 1995). The two sides agreed to promote a climate of peace and security for the elections, while the URNG vowed to halt its military activities from 1-13 November 1995 (ibid.; United Nations 5 Dec. 1995, 4). For the first time in the conflict's history, the URNG urged voters to participate in the elections (*Country Reports 1995 1996*, 428-29; *Report on Guatemala* Dec. 1995, 3; *Democracy Backgrounder* Nov. 1995).

On 12 November 1995, general elections were held for president, vice-president, 80 congressional deputies, 20 deputies to the Central American Parliament, and 300 mayors (United Nations 5 Dec. 1995, 4). Because none of the presidential candidates received 50 per cent of the popular vote on the first ballot, a second round of voting was held on 7 January 1996 (*Report on Guatemala* Dec. 1995, 2). Alvaro Arzú of the National Advancement Party (PAN) was elected president over Alfonso Portillo of the Guatemalan Republican Front (FRG) in this run-off presidential election (ibid.; *Latinamerica Press* 18 Jan. 1996, 1). PAN also received an absolute majority in congress, winning 43 out of a total of 80 seats, followed by the FRG with 21 seats, and the New Guatemala Democratic Front (FDNG) with 6 (*Central America Report* 1 Dec. 1995, 5; *Report on Guatemala* Dec. 1995, 2).

Approximately 54 per cent of registered voters abstained from the November elections (*Latinamerica Press* 18 Jan. 1996, 1; *Envío* Jan.-Feb. 1996, 23; *Democracy Backgrounder* Nov. 1995), compared to 44 per cent in 1990, and 31 per cent in 1985 (*Central America Report* 17 Nov. 1995, 2). According to one report, it appears that the "abstention vote is the product of a generalized disillusionment with electoral politics, or a sense that the results are irrelevant in a country where government presence is hardly notable in most regions" (ibid.). According to MINUGUA, the low turnout "made for a limited exercise of the right to vote, a right also affected by the fact that one third of the adult population is still not on the electoral roll" (United Nations 24 Feb. 1996, 26), mainly for lack of documentation (ibid., 12). It is hoped that the new Law on the Personal Documentation of the Uprooted Population, promulgated in November 1995, will partly address this problem (ibid.).

The elections were reportedly "characterized by" the participation of sectors previously absent from the electoral process (United Nations 12 Oct. 1995, 3; *Country Reports 1995 1996*, 429). Several observers were surprised by the relatively strong showing by the FDNG (*Central America Report* 17 Nov. 1995, 3; *Report on Guatemala* Dec. 1995, 2; *Envío* Jan.-Feb. 1996, 24), a coalition party embodying popular movements, and including grassroots organizations, human rights activists and labour leaders (*Country Reports 1995 1996*, 428-29). The six newly elected deputies of the neophyte FDNG include the following human rights activists: Nineth Montenegro, president of the Mutual Support Group (GAM); Amílcar Méndez, director of the Council of Ethnic Communities Runujel Junam (CERJ); and Rosalina Tuyuc, president of the National Coordinator of Guatemalan Widows (CONAVIGUA) (*Envío* Jan.-Feb. 1996, 24; *Report on Guatemala* Dec. 1995, 2). The party also has the largest proportion of indigenous members in congress, namely four out of a total of eight deputies (*Indigenous Affairs* Oct.-Dec. 1995, 50). The election of members of the popular movement to congress is seen as a positive development for the peace process (*Democracy Backgrounder* Nov. 1995; *Envío* Mar. 1996, 24; *Report on Guatemala* Dec. 1995, 3).

Despite the large number of persons who were unwilling or unable to vote as indicated above, the U.S. Department of State described the elections as "free and fair" (*Country Reports 1995 1996*, 418). However, there were several cases of violence involving political candidates and activists in the period

following the election announcement (United Nations 12 Oct. 1995, 14, 15). MINUGUA's third periodic report indicates that six people were killed, including: the mayor of Moyuta, department of Jutiapa; candidates for the office of mayor in La Democracia, department of Huehuetenango, and in San Lucas, Tolimán, department of Sololá; two activists campaigning in San Jerónimo, department of Baja Verapaz; and a party leader in the department of Petén (ibid., 14-15). Further, allegations of foul play were made as a result of a power blackout on the night of the November elections, just after most of the votes had been counted (*Central America Report* 1 Dec. 1995, 5).

2. UPDATE ON THE PEACE PROCESS

Originally scheduled to be completed in December 1994, the UN-brokered peace talks between the government and the URNG continued into 1996 (AI Feb. 1996, 2; *Central America Report* 15 Feb. 1996). On 22 February 1996, after the change in government, incoming president Alvaro Arzú appointed three new civilian members to the Peace Commission (COPAZ), the government-appointed group involved in the peace negotiations with the URNG (ibid.). Three days later, the president met secretly with the high command of the URNG in Mexico City, the first time a Guatemalan president has met directly with the leaders of the armed opposition (*Envío* Mar. 1996, 22; *Latin American Weekly Report* 14 Mar. 1996). On 20 March 1996, one week before the start of a new round of peace talks between the URNG and the new government, the URNG declared a unilateral ceasefire (IPS 25 Mar. 1996; GHRC 22 Mar. 1996; United Nations 27 Mar. 1996, 1). Following the declaration, the new government ordered the military to desist its counter-insurgency operations (ibid.). According to some observers, these developments are a sign that the pace of the peace negotiations has picked up since the change in government (GHRC 22 Mar. 1996).

Since January 1994, the government of Guatemala and the URNG have signed the following five agreements:

1. the Comprehensive Agreement on Human Rights in Guatemala (Mexico City, 29 March 1994);
2. the Agreement for the Resettlement of Populations Uprooted by the Armed Conflict (Oslo, 17 June 1994);
3. the Agreement for the Establishment of a Commission for the Historical Clarification of Human Rights Violations and Violent Acts which have Provoked the Suffering of the Guatemalan People (Oslo, 23 June 1994);
4. the Agreement on Identity and Rights of Indigenous Peoples (Mexico City, 31 March 1995) (ICCHRLA June 1995, 8-9);
5. the Agreement on Socioeconomic Aspects and the Agrarian Situation (Mexico City, 6 May 1996) (*Prensa Libre* 7 May 1996).

The human rights agreement entered into force the day it was signed by both parties (COPAZ 29 Mar. 1994, 10). Only those sections of the agreement on indigenous peoples that do not require legislative or constitutional change are enforceable (United Nations 12 Oct. 1995, 34). The agreement on the resettlement of displaced persons, the agreement calling for the establishment of a "truth" commission, and the socioeconomic and agrarian agreement will only come into force when the final peace agreement is signed (HRWAmericas Jan. 1996, 2; AI Feb. 1996, 2; *Prensa Libre* 7 May 1996).

Other issues that still require negotiation under the revised January 1995 timetable of the peace

process include: the role of the army in a democratic Guatemala; "the demobilization and integration of ex-combatants into society"; and the constitutional reforms that will be required for all of the agreements to be implemented (*Central America Report* 15 Feb. 1996; *Envío* Mar. 1996, 22).

2.1 The Comprehensive Agreement on Human Rights in Guatemala

The Comprehensive Agreement on Human Rights in Guatemala is divided into nine substantive sections under the following general headings: (1) general human rights commitment; (2) the strengthening of institutions for the protection of human rights; (3) commitment against impunity; (4) commitment to the non-existence of illegal security forces and clandestine machinery, as well as to the regulation of the bearing of arms; (5) guarantees for freedom of association and movement; (6) military conscription; (7) safeguards for the protection of persons and entities working for the protection of human rights; (8) compensation and/or assistance for victims of human rights violations; and (9) human rights and internal armed conflict (COPAZ 29 Mar. 1994, 3-6).

The agreement provides for international verification of its commitments for an initial and renewable period of one year, and sets out the roles and responsibilities of the verification mission (*ibid.*, 7, 9). As stipulated in the agreement, verification must focus especially on violations of: the right to life, the integrity and security of the person, individual liberty, due process, freedom of expression, freedom of movement, freedom of association and political rights (*ibid.*, 8). For a review by MINUGUA of the signatories' compliance with the commitments in the Comprehensive Agreement during 1995, please refer to the 24 February 1996 United Nations mission's fourth periodic report.

2.2 The Agreement on Identity and Rights of Indigenous Peoples

On 31 March 1995, the government and the URNG signed the Agreement on Identity and Rights of Indigenous Peoples (AFP 1 Apr. 1995; United Nations 5 Dec. 1995, 3). The agreement recognizes the diverse nature and identity of the indigenous peoples of Guatemala (*ibid.*), and calls for constitutional reforms in order to safeguard their languages, religions, culture and identities (AFP 1 Apr. 1995). The agreement also requires legislative changes to recognize communal property rights, to restore communal lands to indigenous groups (*ibid.*), and to criminalize racial, ethnic and sexual discrimination against indigenous peoples (ICCHRLA June 1995, 9).

In an April 1995 declaration, the Coordination of Mayan Peoples Organizations (COPMAGUA) — a broad-based network of Guatemalan indigenous groups — stated that the agreement "does not necessarily gather all of our aspirations and demands but ... is a minimal but significant step in the strengthening of the Mayan People" (*ibid.*, 32). COPMAGUA believes that the agreement is vague on the question of granting indigenous peoples local government and land rights, and that the government lacks the "political will" to carry out the legislative reforms required by the agreement (*ibid.*, 34). According to MINUGUA's fourth periodic report, "no significant progress has been made in the adoption of measures to promote the rights of indigenous peoples..." (United Nations 24 Feb. 1996, 24).

In accordance with the Indigenous Accord the Guatemalan congress ratified Convention 169 of the UN International Labour Organization (ILO) (GHRCUSA 8 Mar. 1996). However, critics believe the convention was watered down at the last moment by an amendment that gives preeminence to the constitution over the convention (*ibid.*; *Cerigua* 7 Mar. 1996), despite article 46 of the constitution of Guatemala which says human rights treaties and agreements that have been ratified by Guatemala have precedence over domestic law (United Nations 10 Aug. 1995, 5, 7).

2.3 The Role and Impact of MINUGUA

MINUGUA was established by UN resolution 48267 of the General Assembly on 19 September

1994, and launched its operations on 21 November (United Nations 29 June 1995, 3). Since then, MINUGUA — through 13 offices in the country — has been verifying compliance with the provisions of the Comprehensive Agreement by both signatories, and publishing its findings in periodic reports (ibid.). In April 1996, the UN General Assembly renewed the mission's mandate until 31 December 1996 (*Cerigua* 11 Apr. 1996a; GHRCUSA 17 May 1996). MINUGUA's functions are outlined in the Comprehensive Agreement. Among other things, the mission is mandated to:

1. Receive, qualify and follow-up complaints regarding possible human rights violations;
2. Verify that the competent national institutions are carrying out the necessary investigations autonomously, effectively and in accordance with the political constitution of the Republic of Guatemala and international norms regarding human rights;
3. Determine whether or not a violation of human rights has occurred on the basis of whatever information it may obtain ... taking into consideration any investigations that the competent constitutional institutions may carry out (COPAZ 29 Mar. 1994, 7).

In addition to investigating human rights violations, the mission is empowered to verify compliance with the other commitments in the agreement (ibid.), and to assist constitutionally mandated institutions such as the judiciary and the public ministry to discharge their functions (ibid., 9). It has no power to punish human rights offenders (*The New York Times* 27 Mar. 1996).

MINUGUA's mandate expanded with the signing of the agreement on Identity and Rights of Indigenous Peoples, which calls on MINUGUA to verify compliance with domestic and international law on the subject of indigenous rights (United Nations 12 Oct. 1995, 33). However, until a final peace agreement is signed between the government and the URNG, MINUGUA will verify only those human rights commitments in the agreement that do not require legislative reform, namely those related to the equal treatment and non-discrimination of indigenous peoples (ibid., 34).

Assessments of MINUGUA's influence vary. A report written by the Canadian Department of Foreign Affairs and International Trade underlines the importance of the mission's verification of allegations of human rights violations (DFAIT Jan. 1996, 2). *Country Reports 1995* states that "MINUGUA's extensive international presence, its verification of alleged abuses, its detailed periodic reporting, and its programs to strengthen civilian institutions serve as deterrents to human rights abuses and encourage greater human rights activism by civil society" (1996, 418). Similarly, in its 1995 annual report, Human Rights Watch states that MINUGUA's presence "most likely had a dissuasive impact on human rights violations and provided some protection for the beleaguered domestic human rights community" (1995, 93). An article in *The New York Times* indicates that the UN presence in the country has become "the catalyst for a new tolerance for political dissent and protest about human rights violations" (27 Mar. 1996). However, the same article also suggests that while the number of political killings has decreased as a result of MINUGUA's presence in the country, violations continue to occur, and most cases highlighted by MINUGUA are not investigated or prosecuted (ibid.). According to another report, in mid-1995, the UN Sub-Commission on Prevention of Discrimination and Protection of Minorities adopted a resolution emphasizing the problem of impunity in the country (*Central America Report* 8 Sept. 1995). It stated that despite MINUGUA's presence, there has not been a "substantial improvement in the [human rights] situation..." (ibid.). In a review of 1995, MINUGUA concludes that "its own recommendations [to the government] were not properly heeded, in that there was no evidence of vigorous action by the Government against the root causes of impunity..." (United Nations 24 Feb. 1996, 29).

3. THE HUMAN RIGHTS SITUATION

3.1 Human Rights Abuses and the Rise in Violent Crime

Statistics on the number of extrajudicial executions in 1995 vary. The Office of the Human Rights Ombudsman (PDH) recorded 216 "possible" extrajudicial executions in 1995, down from 287 in 1994, while the Human Rights Office of the Catholic Archdiocese of Guatemala (ODHA) reported 215 such cases, compared to 355 in 1994 and 248 in 1993 (*Country Reports 1995 1996*, 419-20). The Guatemalan Human Rights Commission reported 194 extrajudicial executions in 1995, while the private Centre for Investigation, Study and Promotion of Human Rights reported 450 cases (*Central America Report* 12 Jan. 1996).

According to Amnesty International, the number of disappearances in 1995 was down from previous years (Feb. 1996, 5). This contrasts with the number of complaints received by the PDH, which increased from 60 in 1994 to 77 in 1995 (*Country Reports 1995 1996*, 423). ODHA reported ten politically motivated disappearances for 1995 (*ibid.*). According to *Country Reports 1995*, the government failed to prosecute any of the alleged perpetrators, and "many of the victims were politically active" (*ibid.*). In April 1996, the congress ratified the Inter-American Convention on Forced Disappearance (*Cerigua* 11 Apr. 1996b).

In 1995, Guatemala's congress adopted Decree Law No. 1773, making torture an offence under penal law (United Nations 12 Oct. 1995, 4). While the PDH reported nine cases of torture in 1995, the ODHA reported five (*Country Reports 1995 1996*, 423). These figures are lower than in 1994 when the organizations reported 18 and 17 cases respectively (*ibid.*). According to *Country Reports 1995*, political motives were present in some of these cases (*ibid.*) In a November 1995 report, the UN Committee against Torture noted that the government failed to investigate and prosecute those responsible for the practice of torture and other cruel and inhumane treatment in the country (IPS 26 Nov. 1995).

The National Police were allegedly responsible for the greatest number of cases of torture in 1995, although military commissioners and civil defense patrols were also denounced in such cases (AI Feb. 1996, 5). According to Amnesty International, victims of torture, mainly criminal suspects, were beaten, knifed, burned with cigarettes, or were administered electric shock or drugs (*ibid.*). In its three-month report for the period 21 May to 21 August 1995, MINUGUA indicated that official accounts of cases of torture use distorted facts to protect the alleged perpetrators (United Nations 12 Oct. 1995, 8). Further, it notes that there are serious allegations of torture that have not been investigated (*ibid.*, 36).

A November 1995 report by Casa Alianza, a local organization working to help Guatemala's street children, places most of the blame for the torture of street children on members of the National Police, as well as on private security forces supervised by the police (*National Catholic Reporter* 1 Dec. 1995). Of 59 cases documented in the report, 16 resulted in the death of the victim; two witnesses were also killed (*ibid.*). According to the government, a special National Police unit dealing with street children has developed guidelines for the police to follow when handling alleged juvenile offenders (United Nations 10 Aug. 1995, 11).

According to Amnesty International, human rights defenders, priests, trade union members and students have been threatened and attacked throughout 1995 (AI Feb. 1996, 6). Complaints received by MINUGUA for the three-month period 21 May-21 August 1995 indicate that death threats are most frequently aimed at human rights defenders, social and political figures, as well as public prosecutors

(United Nations 12 Oct. 1995, 7). The threats have hampered human rights investigations, and intimidated public prosecutors involved in high profile cases (ibid.).

Citing the high number of abductions and violent deaths, MINUGUA criticizes the "climate of generalized violence and public uncertainty..." in the country (ibid., 3). According to the verification mission, the "serious lack of public security is in itself an encroachment on human rights because it denies the people the possibility of living free of fear and of attacks on their lives, integrity of person and liberty" (ibid., 35). The number of kidnappings rose in five months by 250 per cent, carjackings in the capital have averaged 30 a day, and kidnapping of adults and children for ransom have become commonplace among the wealthy and the poor (*Central America Report* 14 Mar. 1996, 7). According to one source, attempts at negotiating a reduction in ransom demands has resulted in "periodic execution of victims by their kidnapers ... as a technique to maintain the final ransom figure within an acceptable range for the 'industry'" (*Central America Report* 20 June 1996, 2). Although recent statistics placed the number of kidnappings at an average of three a day, these figures are regarded by some analysts as "conservative," as some families "prefer not to report kidnappings in order not to endanger the victims" (ibid.). In early 1996, the Anti-Kidnapping Commando of the national police dismantled at least 15 gangs of approximately 20 to 30 members each dedicated to this crime; many of those heading the gangs were found to be active and former members of the army and the police (ibid.). One member of the anti-kidnapping squad was also arrested for kidnapping (*The Washington Post* 17 June 1996). The ODHA reported that assassinations increased (1,066 in 1995, compared to 1,008 the previous year and 427 in 1993), as did the number of attacks and threats against individuals (*Central America Report* 29 Feb. 1996, 4).

The increase follows dismissals in mid-January of military and police personnel with alleged links to organized crime (*The New York Times* 12 Mar. 1996; Reuters 29 Feb. 1996; *Envío* Mar. 1996, 24). In what one report calls the most "extensive house-cleaning of the security forces since Guatemala returned to civilian rule a decade ago" (*The New York Times* 12 Mar. 1996), approximately 300 changes were made to command posts in the country (*Envío* Mar. 1996, 24; GHRCUSA 9 Feb. 1996, 4) while a third of Guatemala's generals — many with records of human rights abuse or criminal activity — were removed from active duty (ibid.). In January 1996 the new government purged the police of more than 100 corrupt officers and removed many high-ranking army officers (*Central America Report* 14 Mar. 1996, 6). However, by April the labour court had "ordered the reinstatement of nearly half of the 118 police officers fired" (ibid. 11 Apr. 1996, 8).

The minister of government attributed the surge to attempts by organized crime "to test the seriousness of the government reform efforts" (*Central America Report* 11 Apr. 1996, 7). Political analysts attribute it to three main causes: concern by criminal groups that their protection by corrupt members of the security forces and other favourable conditions for their activities may be coming to an end; the "privatization of state corruption" by former members of security forces; and destabilizing intentions by members of the security forces disgruntled by the current government's efforts to curb corruption and abuses (ibid. 14 Mar. 1996, 6).

Although analysts believe that "the current wave of violence is above all linked to organized crime groups with security force connections" (ibid.), the increase in kidnapping and robbery may be attributable in part to the guerrillas of the URNG who may be trying to raise funds while under pressure to reduce their "war tax" or in preparation for future political work (ibid.). The Archbishop's Human Rights Office (ODHA) has attributed the increased violence to "a mixture of injustice, criminal 'mafias,' 'social cleansing' by vigilante groups (or death squads) and the 35-year conflict," adding that "the security forces are deeply implicated in all kinds of criminal activity" (*Latin American Regional Reports:*

Caribbean and Central America Report 4 Apr. 1996, 2). The perceived failure of state agencies to enforce the law has resulted in "mob justice" type beatings or killings of an increasing number of criminals or accused criminals (ibid.). Police agents have also become the victims of crime, with "at least 60 members of the police force ... killed in the first 10 months" of 1995 (*Latin American Regional Reports: Caribbean and Central America Report* 14 Dec. 1995, 4).

In its fourth periodic report, MINUGUA states that the government had not fulfilled its commitment to ensure "that there are no illegal security forces and clandestine structures," as it had failed to identify and disband organized illegal groups acting "with impunity to commit serious crimes" (United Nations 24 Feb. 1996, 30). According to the mission, these groups also "facilitate and cover up the commission of crimes or participate in so-called 'social cleansing' operations, in which they use criminal methods in place of the legal action of the security forces" (ibid.). In some cases involving these groups "there are signs of participation or collusion by agents of the State, even without a political motivation" (ibid.). Amnesty International has referred to the possible existence of "death squads" which it believes comprise members of the security forces or individuals collaborating with them (May 1996). In July 1995, the Minister of Defense denied the involvement of military and civilian security forces in social cleansing operations, and questioned the existence of such activities (*Cerigua* 26 July 1995).

3.2 Attacks against Human Rights Defenders

In a review of its concerns for 1995, Amnesty International said that it was particularly concerned about "the alarming level of threats and attacks that have been reported against human rights defenders" (Feb. 1996). These include individuals involved in the forensic investigation of mass graves possibly belonging to victims of large scale extra-judicial executions dating to the army's counter-insurgency campaigns of the 1970s and 1980s, as well as witnesses and family members of the victims (ibid., 2, 9). MINUGUA has found that both army officers and members of the civil defense patrols have intimidated individuals working for the promotion of human rights by comparing their activities with those of guerrillas (United Nations 12 Oct. 1995, 26; 24 Feb. 1996, 15). In its fourth periodic report, MINUGUA states that the government has failed to conduct exhaustive investigations of alleged threats and acts of intimidation against human rights activists, and that it did not take protective measures as stipulated in the Comprehensive Agreement (United Nations 24 Feb. 1996, p. 31).

The following are a few examples of attacks against human rights defenders. In January 1995, Amílcar Méndez, then director of the Council of Ethnic Communities Runujel Junam (CERJ), a grassroots human rights group, was informed by a member of the security forces that the leaders of military intelligence and the treasury police in the department of Quiché were planning to kill him (HRW 1995, 98). In October 1995, after joining the electoral campaign, Méndez's home was reportedly ransacked by armed men (ibid.). In April 1996, Méndez's teenaged daughter was raped by four heavily armed men who broke into her parents' home (GHRCUSA 17 May 1996). Since CERJ's formation in 1988, more than 20 of its members have reportedly been killed or disappeared (HRW 1995, 98).

In February 1995, a member of the Mutual Support Group (GAM), Sneidera Cana Chonay, was injured by machine-gun fire in San Martín Jilotepeque (United Nations 5 Dec. 1995, 9). While authorities believe the incident to be a crime of passion, the victim was allegedly interrogated and harassed by security forces while recovering in hospital (ibid.).

In March 1995, Catarina Terraza Chávez, a leader of the National Coordinating Committee of Guatemalan Widows (CONAVIGUA) from La Laguna, Nebaj, department of Quiché, was harassed upon returning from a public demonstration in the capital, allegedly by a member of the military intelligence

unit G-2 (AI Feb. 1996, 7). The demonstration had been organized to draw attention to the role of the military and other agents of the state in the violation of indigenous peoples' rights (ibid.). Another CONAVIGUA member, Manuela Tiño, reportedly received death threats from the chief military commissioner and the chief of the civil defense patrol of the village of San Rafael Chicho, Joyabaj (United Nations 5 Dec. 1995, 10).

In June 1995, the body of Manuel Saquic Vásquez, a pastor and coordinator of the Kaqchikel Maya Human Rights Committee in Panabaj, department of Chimaltenango, was found in an unmarked grave with 33 stab wounds and a slit throat (AI Feb. 1996, 3; United Nations 12 Oct. 1995, 7). A former military commissioner already on trial for the murder of Pascual Serech — founder of the same committee — is a suspect in the murder (ibid.; *Country Reports 1995 1996*, 420-21); Serech reportedly disappeared in November 1995 (United Nations 24 Feb. 1996, 12). A few days after the exhumation of Vásquez, the Human Rights Committee of Panabaj received a threat that referred to the killing of Saquic Vásquez and listed the names of others who would follow. It was signed "Jaguar Justiciero," a name believed to be used by Guatemala's security forces (HRW 1995, 97). A second, similar threat was received by the Kaqchikel Presbytery a month later (ibid.; *Cerigua* 17 Aug. 1995).

According to MINUGUA, the killing of Saquic Vásquez was "designed to intimidate organizations and persons who work in defence of [human] rights" (United Nations 12 Oct. 1995, 7); it has reportedly affected their work (ibid., 36). Judicial officials and staff of the Public Prosecutor's Office, as well as relatives and colleagues of the slain pastor, have received threats (United Nations 12 Oct. 1995, 7). As recently as March 1996, several pastors with the Kaqchikel Presbytery were threatened (GHRCUSA 22 Mar. 1996).

In July and December 1995, Oswaldo Enríquez, member of the board of directors of the Guatemalan Human Rights Commission (GHRC) and vice-president of the International Federation of Human Rights (FIDH) reportedly received death threats at his office (AI Feb. 1996, 6). In January 1996, he was briefly followed by two men in a van to his home (ibid.; *La Lettre de la FIDH* Feb. 1996).

In January 1996, two members of the New Guatemala Democratic Front (FDNG), Lucía Tiu Tum and Miguel Us Mejía, were killed by unidentified assailants in their home province of Totonicapán (*Cerigua* 11 Jan. 1996). Tiu Tum had been a prominent activist with CONAVIGUA, while Us Mejía had been active in CERJ. Both had worked to abolish enforced conscription and the existence of civil defense patrols (ibid.). Some of the newly elected FDNG congressional representatives had reportedly received death threats prior to the two killings (ibid.). The Interamerican Human Rights Commission (CIDH) of the Organization of American States (OAS) recently called for government protection for four FDNG deputies who have been the target of threats by the "Jaguar Justiciero" (*Cerigua* 11 Apr. 1996c; GHRCUSA 17 May 1996).

In April 1996, an indigenous leader and local human rights activist with the organization Defence of the Mayan People, Julio Ixmatá Tziquin, was allegedly seriously beaten and threatened by several individuals, including former military commissioners, members of civil defense patrols and a mayor, in the village of Guineales, Santa Catarina Ixtahuacán, department of Sololá (AI May 1996; *Cerigua* 11 Apr. 1996d; GHRCUSA 17 May 1996). Ixmatá Tziquin had campaigned against forced participation in civil defense patrols, and had denounced civil patrollers, military commissioners and members of the security forces for human rights violations allegedly committed against members of his community (AI May 1996). He had also been just elected head of the municipal police (ibid.). He was forced to flee as a result of the attack (ibid.).

Members of MINUGUA have also received threats. While visiting the town of Santa Barbara in the

department of Huehuetenango in November 1995, MINUGUA and ODHA representatives were surrounded and received death threats from armed members of the town's civil defense patrol (*Cerigua* 23 Nov. 1995). In the same month, unidentified assailants strafed MINUGUA's regional office in Guatemala City with machine-gun fire (United Nations 24 Feb. 1996, 4). In another incident in March 1995, members of the URNG fired upon a MINUGUA military liaison officer, hitting a tire on his vehicle (United Nations 29 June 1995, 7; HRW 1995, 94, 95).

For details on these and additional examples of attacks against human rights defenders, please consult the above-cited sources, available through the DIRB.

3.3 Attacks against the Media

While the media regularly criticizes government policies, reports indicate that self-censorship is practised by journalists in "particularly sensitive cases," namely those involving the military or powerful economic interests (*Country Reports 1995* 1996, 427). According to *Country Reports 1995*, "continuing acts of political violence directed against journalists give credence to their complaints of pressure and coercion..." (ibid.). Out of 12 "political acts" against the media reported by the ODHA in 1995, there were nine cases of intimidation, one attempted killing, one case of torture and one extrajudicial execution (ibid.). Amnesty International reported in May 1996 that it "has been receiving increasing and consistent reports on threats and intimidation to journalists in Guatemala, in which members of the security forces may be involved" (7 May 1996). However, an article in the monthly publication of the group Reporters Sans Frontières suggests that freedom of the press is no longer under concerted attack by the state, but from increasingly "isolated sectors", as well as organized crime (*La Lettre de Reporters sans frontières* Dec. 1995,14).

In September 1995, intruders broke into the offices of the news agency CERIGUA and stole computer equipment containing the organization's databases (United Nations 24 Feb. 1996, 13; *Cerigua* 6 Sept. 1995). These contained the organization's mailing list, and information on human rights abuses, the union and popular movements. Money and other equipment was left untouched (ibid.). According to MINUGUA's fourth periodic report, the Public Prosecutor's Office "did not show a willingness to look into the case" (United Nations 24 Feb. 1996, 13).

In late February 1996, Vinicio Pacheco, a reporter with the private radio station Radio Sonora, was abducted and tortured by unidentified men in Guatemala City (*The New York Times* 12 Mar. 1996; Reuters 29 Feb. 1996). Pacheco, who had been reporting on kidnapping and car thefts, was reportedly told by his captors before being released that "freedom of the press has its price" (GHRCUSA 8 Mar. 1996). Amílcar Julio Nuila, a journalist from Cobán who had also reported on kidnapping, was attacked with a knife on one occasion, while on another homemade bombs were thrown at his house (ibid.). He was not hurt in either of the attacks (ibid.). A reporter with the daily *El Gráfico*, Ervin San Juan, and his wife were temporarily abducted by unidentified men in April 1996 (ibid., 17 May 1996). San Juan was reportedly told that journalists were "getting into things that were not their business" (ibid.).

3.4 Attacks against Members of Unions and Popular Organizations

According to *Country Reports 1995*, "trade union leaders and members continued to suffer instances of violence and abuse, including threats, assassination attempts, kidnapping, and physical harm" (1996, 432). Amnesty International believes that the violence has been getting worse: "the recent wave of persecution frequently appears to be the work of gunmen hired by employers and factory owners in an attempt to destroy any or all attempts to unionize or vindicate their rightful labour claims" (1 Mar. 1996a).

Débora Guzmán Chupén, a trade unionist in the garment industry in Amatitlán, department of Guatemala, was temporarily abducted by unidentified armed men in February 1995 and threatened with death unless her husband abandoned his union activities (AI 1 Mar. 1996b; HRW 1995, 95). Her husband, union leader Félix González, and 49 others were threatened and harassed following a protest organized in May 1994 to criticize a factory closing (AI 1 Mar. 1996b). The couple have received several anonymous death threats, including two addressed to secret locations where they were in hiding (ibid.)

Family members of union activists have also been subject to violence. Vilma González, the sister of union leader Reynaldo Federico González, was raped and tortured by unidentified men on two separate occasions, first on 27 February 1995 and again on 17 March in spite of police protection (GHRCUSA 22 Mar. 1996; *Cerigua* 21 Mar. 1996). On 17 March, Federico González fled the country as a result of several threats to him and his family (ibid.). According to one report, González was being harassed for his work in lobbying the US Congress for trade sanctions against garment factories which violated the rights of workers (ibid.). Vilma González fled the country on 28 March 1996 (ibid. 11 Apr. 1996d).

According to a December 1995 press conference of the Labour and Popular Action Unity (UASP) — a coalition of human rights activists, unionists and students established in 1987 (Barry Oct. 1992, 129) — there was an increase in the number of attacks on the popular movement at the end of the year (*Cerigua* 4 Jan. 1996a). In December, a leader of the Public Works Labour Union, Carlos Salguero, was attacked by unidentified assailants who told him to stop his union activities (ibid.; GHRCUSA 29 Dec. 1995, 3). In the same month, the headquarters of the University Students Association (AEU) at San Carlos University were burglarized (*Cerigua* 14 Dec. 1995a), while a shanty-town organizer, Gabriel Pérez Chacón, and his mother were killed by unidentified men in Guatemala City (ibid., 4 Jan. 1996a). More recently, leaders of the Union of Guatemalan Squatters have reportedly received death threats from a group calling itself the "Dragón Justiciero" (GHRCUSA 17 May 1996). In April 1996, community organizer Oscar Arturo Gonzalez was allegedly detained and beaten by police officers in the department of Quetzaltenango (ibid.).

3.5 The Role of Civilian Agents of the Armed Forces

As noted earlier in sections 3.1 and 3.2 (and in section 5 below), military commissioners (CMs) and members of the civil defense patrols (CVDCs or PACs) have been allegedly responsible for human rights violations (AI May 1996). Both of these groups function as civilian agents of the armed forces (ibid.), and were an important element in the army's counterinsurgency strategy in the rural areas of the country (Barry Oct. 1992, 52-53). According to *Country Reports 1995*, "security forces, especially PAC's and civilian military commissioners, committed numerous serious human rights violations and generally enjoyed impunity from the law" (1996, 419). Both the ODHA and CERJ indicated that in at least 30 cases in 1995, PAC members and military commissioners were not arrested for human rights violations, despite the existence of arrest warrants (ibid.).

In September 1995, the president announced the demobilization of approximately 24,000 military commissioners (AI May 1996; *Central America Report* 22 Sept. 1995), which were then legally dissolved by congress in November (United Nations 24 Feb. 1996, 4). However, concern has been expressed that the disbanded commissioners might retain informal links to the army, and that in the absence of an effective system of civilian authority, they may continue to have political power and authority (*Central America Report* 22 Sept. 1995). According to Amnesty International, "local human rights groups are concerned that the commissioners, who are reportedly still armed, will continue operating as civilians, their formal dissolution merely serving as a *de facto* amnesty" (Feb. 1996, 2-3). In its fourth periodic report, MINUGUA indicated that the government had failed to properly publicize

the demobilization of the commissioners, especially in remote parts of the country, and that some commissioners had kept their weapons or had not had their weapons collected by the military (United Nations 24 Feb. 1996, 16). MINUGUA also found that in some cases prior to the demobilization, military commissioners — who have traditionally been responsible for enforced conscription (AI Feb. 1996, 2) — had gathered youths at army bases to talk to them about their duty to serve in the military (United Nations 24 Feb. 1996, 18). Forced military recruitment was suspended in 1994, and it is reported that the practice has almost ceased (*ibid.*, 18, 31; *Country Reports 1995 1996*, 418).

The Comprehensive Agreement guarantees that all membership in civil defense patrols must be voluntary and commits the government "not to encourage the establishment of new [patrols]" (COPAZ 29 Mar. 1996, 5; United Nations 24 Feb. 1996, 17). In its review of 1995, MINUGUA indicated that the latter commitment had been observed, but that "some patrol members took a hostile attitude towards persons unwilling to join the CVDCs" (*ibid.*, 31). Further, while several requests for the dissolution of the CVDCs had been made and carried out in 1995, the army prevented dissolution in some cases (*ibid.*, 17-18).

4. INVESTIGATIONS AND PROSECUTIONS

According to Amnesty International, those government bodies particularly responsible for investigating extrajudicial executions, such as the judiciary, the Public Ministry (MP) and the National Police (PN), generally failed to act in cases of alleged extrajudicial execution (Feb. 1996, 3). MINUGUA has indicated that in most cases where it found that a violation of the right to life had occurred, the state failed to identify and prosecute those responsible (United Nations 24 Feb. 1996, 5). Similarly, *Country Reports 1995* suggests that

because of the scarcity of law enforcement resources and a weak and ineffective administrative and judicial system, as well as widespread impunity and a lack of political will, the Government, with few exceptions, failed to investigate killings fully or to detain and prosecute perpetrators (1996, 419).

In some cases, investigations have not been initiated or properly conducted, arrest warrants have not been issued, and alleged perpetrators have either escaped or have been freed on bail inappropriately (United Nations 12 Oct. 1995, 11-12). MINUGUA places much of the blame for the lack of due process on the Public Prosecutor's Office, which has shown "a lack of will or ability ... to conduct criminal proceedings", especially in cases involving the military (*ibid.*, 12).

However, MINUGUA recognizes that government authorities have failed to support public prosecutors in the face of military interference and serious threats (*ibid.*, 12). In its fourth periodic report, MINUGUA referred to complaints of the attorney general that the government was "exerting pressure to delay the investigation of cases involving army officers and a high ranking official" (*ibid.* 24 Feb. 1996, 13). The attorney general has also reported that prosecutors from the Public Ministry receive between three and four threats a month, and are often attacked (AI Feb. 1996, 6). According to MINUGUA, government inaction in these cases "has intensified the feeling among judges and prosecutors that their personal safety is in jeopardy and that they have no support in the discharge of their duties" (United Nations 12 Oct. 1995, 17-18).

While MINUGUA has stated that "most members of the judiciary discharge their responsibilities with independence, judicial integrity and determination," it is concerned about attempts to interfere with judicial independence, including threats (*ibid.*, 20). According to the government of Guatemala as

well as the UN independent expert, more than 20 judges have received threats (United Nations 10 Aug. 1995, 12; *ibid.* 5 Dec. 1995, 16). A January 1996 report in the local paper *La Prensa Libre* indicated that five judges were receiving death threats for trying cases involving politicians and the military (*Cerigua* 4 Jan. 1996b). The work and independence of judges may also be compromised because the Supreme Court can routinely reassign judges, and impose disciplinary measures (*ibid.*, 20-21).

According to the Toronto-based Inter-Church Committee on Human Rights in Latin America (ICCHRLA), "the lack of political will to resolve the vast majority of Guatemala's human rights cases" is illustrated by the lack of progress in several high-profile cases (June 1995, 19). For example, there has been little or no progress in the case of the 1990 murder of anthropologist Myrna Mack (United Nations 12 Oct. 1995, 13; *Country Reports 1995 1996*, 422). Although an army specialist was convicted in 1993 for Mack's murder, criminal proceedings were ordered initiated against five military officials — the alleged intellectual authors of the murder — by the Constitutional Court (ICCHRLA June 1995, 20). According to MINUGUA, there has been a delay in progress because the Public Prosecutor's Office failed to assign a prosecutor to the case in the face of reluctance among prosecutors and lawyers to get involved (United Nations 12 Oct. 1995, 13). Further, more than a dozen judges have been involved in the case in the last five years (*Central America Report* 12 Jan. 1996). There has also been a lack of progress in the 1991 murder of José Luís Merida Escobar, a detective who was investigating the 1990 Mack killing (*Country Reports 1995 1996*, 422).

There have been several delays and "irregularities" in the case of the 1993 murder of Jorge Carpio Nicolle, a cousin of the former president, former presidential candidate, and publisher of the daily paper *El Gráfico* (ICCHRLA June 1995, 19, 20). According to the latest annual report of Human Rights Watch, the case has been "punctuated by repeated threats and harassment of victims' relatives and the special prosecutor," who was also the victim of an assassination attempt in 1994 (1995, 96). MINUGUA describes the case as another in "which the continuous harassment of the prosecutor has not met with a firm response on the part of the highest authorities of the Public Prosecutor's Office" (United Nations 12 Oct. 1995, 14).

While there have been prosecutions in a few high profile cases, the alleged perpetrators of the massive human rights violations committed in the 1970s and 1980s, during the army's counter-insurgency campaigns, have not been convicted (AI Feb. 1996, 2, 8)^[1]. This may be partly explained by an amnesty declared in January 1986 for violations committed between 1982 and 1986 (AI Feb. 1996, 8). As soon as a final peace agreement is negotiated, a "truth" commission will begin to look into human rights violations committed by both sides during the armed conflict (*ibid.*, 2). However, human rights critics point out that one of its most serious short-comings — as specified in the agreement establishing its existence — will be that the alleged perpetrators of the abuses will not be named or prosecuted (*ibid.*; ICCHRLA June 1995, 8).

NOTE

[1] Estimates of the number of people killed from 1978 to 1985 range from over 45,000 to 100,000 and more (*The Village Voice* 5 Nov. 1985; Hey 1995, 65-66). [\[back\]](#)

5. REFUGEE RETURN

According to Tom Barry, author of *Inside Guatemala*, the army's counterinsurgency campaign throughout the country's highlands in the early 1980s forced large numbers of indigenous people into internal and external exile (Oct. 1992, 203). Barry estimates that 300,000 Guatemalans fled to the

United States (ibid); the number of persons who sought refuge in Mexico is estimated at more than 100,000 (with 46,000 officially recognized by the UNHCR); and hundreds of thousands were displaced internally (ibid.; Costello Apr. 1995, 7). While refugees began returning from Mexico in small numbers when Guatemala returned to civilian rule in the mid-1980s, it was not until 1987 that those refugees in camps in southern Mexico organized themselves into the Permanent Commissions (CCPP) and began negotiating with the government for organized returns in large numbers (HRWAmericas Jan. 1996, 5-6). On 8 October 1992, the government and the CCPP signed an accord brokered by the UNHCR and other international organizations to facilitate the return process; the first collective return took place on 20 January 1993 (ibid., 6). Since 1993, the UNHCR has voluntarily repatriated a total of 16,000 refugees (*Country Reports 1995 1996*, 428). In 1995, 9,500 refugees returned to Guatemala from Mexico (ibid.). According to the UNHCR, approximately 42,000 Guatemalan refugees remain in camps there (*Latin American Weekly Report* 19 Oct. 1995).

In 1995, there were two incidents of violence against former or returning refugees (United Nations 24 Feb. 1996, 6; HRWAmericas Jan. 1996, 2; *Country Reports 1995 1996*, 427-28; *The New York Times* 7 Oct. 1995). On 5 October 1995, eleven people from the refugee settlement Aurora 8 de Octubre in Xamán, department of Alta Verapaz, were killed and more than 30 others were injured, by soldiers on patrol from the Rubelsanto military base (ibid.). While initial government reports claimed that the soldiers had been attacked by the villagers and acted only in self-defence (ibid.; IPS 6 Oct. 1995; *Envío* Oct. 1995, 27), preliminary findings by both MINUGUA and the ODHA rejected this claim (HRWAmericas Jan. 1996, 10; *Central America Report* 13 Oct. 1995a). Although villagers had surrounded the soldiers and expressed their disapproval with the military presence in the village, both MINUGUA and the ODHA could not find any reason to justify the army's violent reaction (ibid.). Further, soldiers reportedly killed some people who were lying injured on the ground and shot an eight-year-old boy as they were retreating from the incident (ibid.).

According to MINUGUA, there is no evidence to suggest that the incident was planned by the military (United Nations 24 Feb. 1996, 7), but it is indicative of "the autonomy enjoyed by the army in its counterinsurgency activity" as well as the "influence of the (army's) discourse identifying refugees and returnees with the guerrillas" (qtd. in *Central America Report* 13 Oct. 1995a). The UN's Independent Expert on Guatemala, Mónica Pinto, said that the incident is "a most serious violation of the human rights of the returnees in Guatemala and of refugees and repatriates in Latin America in general" (United Nations 5 Dec. 1995, 8). Some returnees reportedly approached the UNHCR asking to return to Mexico as a result of the incident (*The Christian Science Monitor* 10 Jan. 1996). At the time, refugee returns scheduled for late 1995 were temporarily put on hold (HRWAmericas Jan. 1996, 8), and have since resumed (GHRCUSA 22 Mar. 1996).

The incident led the government to set up a special investigative commission composed of the president of the Presidential Human Rights Commission (COPREDEH), Guatemala's Attorney General, the Interior Minister and the director of the National Fund for Peace (FONAPAZ) (HRWAmericas Jan. 1996, 10). The incident also led to the resignation of the Minister of Defense, General Mario Enríquez, while the commander of Military Zone 21 in Cobán, was relieved of his duties (ibid.; *Cerigua* 12 Oct. 1995; Reuters 9 Oct. 1995). Guatemala's then president, Ramiro de León Carpio, stated that the events of 5 October were part of an "isolated incident" (HRWAmericas Jan. 1996, 13) and that in the future, "he would not allow returns to conflictive areas" (ibid.; *Central America Report* 20 Oct. 1995). According to the Permanent Commissions, this decision is a violation of the Accords of 8 October 1992 signed by the government, as among other things, the Accords protect the right of refugees to choose where they wish to return (ibid.).

While the soldiers were to be tried by a military tribunal under the new criminal procedure code (HRWAmericas Jan. 1996, 11), in January 1996, a Court of Appeals made a landmark decision to transfer the Xamán case to civilian jurisdiction (AI Feb. 1996, 4). Ramses Cuestas, Guatemala's Attorney General, stated that the decision was "historic for Guatemalan jurisprudence" (ibid.) and would pave the way for similar cases in the future (IPS 2 Feb. 1996). According to one report, accused army officials have generally been favoured in military trials (*Central America Report* 12 Jan. 1996). In February, the Supreme Court confirmed that the case would be transferred to a civil court in Cobán (GHRCUSA 23 Feb. 1996). According to a June UPI report the judge who was "initially in charge of the case in Cobán was suspended by the Supreme Court [in June] after he granted conditional release to eight of the defendants" (UPI 11 June 1996). "The suspension of [the judge] was seen as a way to secure continued peace talks between the government and rebels of the [URNG]" (UPI 5 June 1996). The case is still pending.

In a previous incident in March 1995, in anticipation of an organized refugee return to the Zona Reyna communities of San Antonio Tzejá and San Juan Ixcán, department of Quiché, an organization under the leadership of a *de facto* civil patrol leader and including local officials, military commissioners and members of civil defense patrols, attempted forcefully to thwart the return (HRWAmericas Jan. 1996, 14-15). In addition to preventing the UNHCR (and other organizations) from entering the area in advance of the return (ibid., 15-16), on 28 June the group illegally detained five foreigners, including one UNHCR and two MINUGUA officials (ibid., 18; United Nations 12 Oct. 1995, 5; ibid., 5 Dec. 1995, 11). Approximately 300 refugees who crossed the Mexican-Guatemalan border on 20 April 1995, bound for communities in the Zona Reyna, were unable to complete their trip at first. For their own safety, they remained in the town of Cantabal for approximately two months (United Nations 12 Oct. 1995, 30; *The Boston Globe* 1 July 1995). The returnees were eventually persuaded by a government commission to settle in a location two hours on foot from their original destination (United Nations 12 Oct. 1995, 30). Another group of returnees who had been held up for several months in the town of Victoria 20 de Enero, were forced back by hostile residents when they attempted to complete their journey to the Ixcán community of Santa María Dolores in December 1995 (*Cerigua* 14 Dec. 1995b).

Although an arrest warrant was issued in May 1995 against the civil patrol leader, Raúl Martínez, as well as another eight individuals involved in blocking the April refugee return, the Public Ministry reportedly failed to conduct a proper investigation and to lay charges against the alleged perpetrators, while the National Police did not comply with the arrest warrants (HRWAmericas Jan. 1996, 24-25; United Nations 24 Feb. 1996, 20). Although Martínez voluntarily appeared in a Court in Cobán on 2 May 1996, he was allowed to leave on bail in what the ODHA called a "mockery of justice" (GHRCUSA 17 May 1996, 1-2).

According to Human Rights WatchAmericas, "the civilian and military authorities mischaracterized the abuses committed by local authorities and civil patrollers as a mere land conflict between villagers and 'resolved' it by resettling the [refugee] families, rather than addressing the underlying problem of law and impunity" (Jan. 1996, 28). It also says that "land conflicts may erupt into further violence in other areas of resettlement if the government does not take steps to resolve them by legal means and with respect for due process" (ibid., 30). According to MINUGUA, "the State is not living up to its duty to protect the rights of the returnees" (United Nations 12 Oct. 1995, 30). The Inter-Church Committee on Human Rights in Latin America, stated in June 1995 that the government's failure to support the process of return will only lead to a repetition of the violence (June 1995, 30).

It is not immediately clear how the Xamán and Ixcán incidents will affect the number of refugees who want to return to Guatemala, or the rate of return. Citing refugee groups, one report suggests that

the rate of refugee return has less to do with the returnee situation in Guatemala, than with the state of "desperation" of those exiled in Mexico (*Central America Report* 23 June 1995). According to the UNHCR, 9,524 refugees returned to Guatemala in 1995 (United Nations 24 Feb. 1996, 3), while approximately 12,000 are expected to return in 1996, albeit amidst security concerns (*Cerigua* 14 Mar. 1996).

NOTES ON SELECTED SOURCES

***Cerigua* [Guatemala City]. 11 April 1996a (and other dates). "UN Authorizes MINUGUA Extension." (*Central America Newspak* [Austin], 1-14 Apr. 1996, Vol. 11, N^o. 5, p. 6)**

Centro Exterior de Reportes Informativos sobre Guatemala (*Cerigua*) is a news service dedicated to news from Guatemala. *Cerigua* was based in Mexico City, but has recently relocated to Guatemala City. It describes itself as "an independent news agency founded in 1983." It also claims to have an office in Chicago. *Cerigua* publishes the *Cerigua Weekly Briefs*.

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The Guatemala Human Rights CommissionUSA (GHRCUSA) is an NGO based in Washington, D.C. The Commission describes itself as "a nonprofit, nonpartisan, humanitarian organization that monitors the human rights situation in Guatemala." Information in the *Guatemala Human Rights Update* that is not gathered directly is obtained from various sources, including the Guatemalan Human Rights Commission (CDHG), Amnesty International, Human Rights WatchAmericas, and the Archbishop's Human Rights Office.

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