



January 2011

country summary

## Guatemala

Guatemala's weak and corrupt law enforcement institutions have proved incapable of containing the powerful organized crime groups and criminal gangs that contribute to one of the highest violent crime rates in the Americas. Illegal armed groups, which appear to have partly evolved from counterinsurgency forces operating during the civil war that ended in 1996, are believed to be responsible for targeted attacks on civil society actors and justice officials. More than a decade after the end of the conflict, impunity remains the norm for human rights violations. The ongoing violence and intimidation threaten to reverse the little progress that has been made toward promoting accountability.

### Public Security, Police Conduct, and the Criminal Justice System

Illegal armed groups and criminal gangs contribute significantly to violence and intimidation, which they use to further political objectives and illicit economic interests, including drug trafficking.

Powerful and well-organized youth gangs, including the "Mara Salvatrucha" and "Barrio 18," have also contributed to escalating violence in Guatemala. The gangs use lethal violence against those who defy their control, including gang rivals and former members, individuals who collaborate with police, and those who refuse to pay extortion money. The gangs are believed to be responsible for the widespread killings of bus drivers targeted for extortion. According to the National Police, 57 drivers and 30 drivers' assistants were murdered in the first seven months of 2010.

Police have used repressive measures to curb gang activity, including arbitrary detentions and extrajudicial killings. Investigations by the Human Rights Ombudsman's Office and NGOs have found police involvement in "social cleansing," killings intended to eliminate alleged gang members and criminals. Moreover, abuses committed by police officers routinely go uninvestigated.

Guatemala's justice system has proved largely incapable of curbing violence and containing criminal mafias and gangs. According to official figures, there was 99.75 percent impunity for violent crime as of 2009. Deficient and corrupt police, prosecutorial, and judicial systems, as well as the absence of an adequate witness protection program, all contribute to

Guatemala's alarmingly low prosecution rate. In addition, members of the justice system are routinely subject to attacks and intimidation.

## **Accountability for Past Abuses**

Guatemala continues to suffer the effects of the 36-year civil war. A United Nations-sponsored Commission on Historical Clarification (CEH) estimated that as many as 200,000 people were killed during the conflict. The CEH attributed 93 percent of the human rights abuses it documented to state security forces and concluded that the military had carried out "acts of genocide." Very few of those responsible for the grave human rights violations during the civil war have been held accountable. Of the 626 massacres documented by the commission, only three cases have been successfully prosecuted in Guatemalan courts.

Guatemala's first conviction for the crime of enforced disappearance occurred in August 2009, when an ex-paramilitary leader was sentenced to 150 years in prison for his role in "disappearing" individuals between 1982 and 1984. The verdict was made possible by a landmark ruling by the country's Constitutional Court in July 2009, which established that enforced disappearance is a continuing crime not subject to a statute of limitations so long as the victims are still unknown.

The July 2005 discovery of approximately 80 million documents of the disbanded National Police, including files on Guatemalans who were killed or "disappeared" during the conflict, could play a key role in prosecuting past human rights abuses. Documents in the archive led to the March 2009 arrest of two former National Police agents for their alleged participation in the 1984 "disappearance" of student leader and activist Edgar Fernando García.

In September 2008 Congress passed the Law of Access to Public Information, which orders that "in no circumstances can information related to investigations of violations of fundamental human rights or crimes against humanity" be classified as confidential or reserved. In March 2009 President Alvaro Colom created the Military Archive Declassification Commission, tasked with sorting and declassifying military documents from 1954-1996.

## **Human Rights Defenders and Journalists**

Attacks and threats against human rights defenders are common, significantly hampering human rights work throughout the country. Journalists, especially those covering corruption, drug trafficking, and accountability for abuses committed during the civil war, also face threats and attacks. Rolando Santiz, a reporter for the national television station Telecentro

13, was shot to death in Guatemala City on April 1. Antonio de León, a station cameraman, was injured in the attack.

## **Labor Rights and Child Labor**

Freedom of association and the right to organize and bargain collectively are endangered by increasing anti-union violence, including attacks on union offices, and threats, harassment, and killings of trade unionists. The International Trade Union Confederation reports that 16 trade unionists were killed in 2009, the second highest total in the Americas. Seven trade unionists were reportedly killed in the first eight months of 2010.

Workers pressing for their rights in labor cases must rely on labor courts, whose work is stymied by dilatory legal measures, lengthy backlogs, and an inability to enforce rulings. According to a 2009 United States Department of State report, only two of the 216 companies operating in export processing zones (where export-processing factories known as "maquilas" are located) had recognized labor unions, and none had a collective bargaining agreement.

Guatemala has one of the highest rates of child labor in the Americas. The International Labour Organization reported in 2008 that 16.1 percent of children aged five to fourteen are obliged to work, many in unsafe conditions. Some of these children are employed in the construction, mining, and sex industries.

## **Sexual and Gender-Based Violence**

Violence against women is a chronic problem in Guatemala, and most perpetrators are never brought to trial. Despite legislative efforts to address this violence, there has been wide impunity for crimes against women.

According to the UN special rapporteur on extrajudicial, arbitrary, and summary executions, investigations into crimes against women, including transgender women, are often inadequate and obstructed by investigating police operating with a gender bias.

## **Reproductive Rights**

In a positive development, in September 2010 Guatemala's Congress adopted a law guaranteeing pre-natal and maternal health care. The law also mandates the appropriation of public funds for contraceptives to be distributed in the public health care system.

## Key International Actors

In September 2007 the UN secretary-general appointed Carlos Castresana, a Spanish former prosecutor and judge, to lead the newly-founded International Commission Against Impunity in Guatemala (CICIG). The commission's unique mandate allows it to work with the Guatemalan Attorney General's Office, the police, and other government agencies to investigate, prosecute, and dismantle the criminal organizations operating in Guatemala. The CICIG can participate in criminal proceedings as a complementary prosecutor, provide technical assistance, and promote legislative reforms. As of September 2010 the commission has undertaken 56 investigations and participated in 11 prosecutions. An investigation by CICIG led to the March 2010 arrest of Baltazar Gómez, Guatemala's national police chief, and Nelly Bonilla, the head of its antinarcotics unit, who were charged with drug trafficking and obstruction of justice, as well as involvement in a gunfight that resulted in the death of five antidrug police officers. CICIG also helped to improve the witness protection program and purge 1,700 officers from the National Civilian Police.

Originally set to expire in 2009, CICIG's mandate was extended by Congress for another two years until the end of 2011. However, on June 7, 2010, Castresana abruptly resigned, citing lack of cooperation from several high ranking government officials, including the then-attorney general. The UN has since appointed Francisco Dall'Anese, who was Costa Rica's attorney general, as CICIG's new head.

In October 2010 Spanish police arrested Carlos Vielmann, Guatemala's former interior minister, in Madrid. Vielmann was allegedly involved in the extrajudicial killing of seven detainees in 2006. CICIG had requested his capture some months earlier.

The UN high commissioner for human rights has maintained an office in Guatemala since 2005 that provides observation and technical assistance on human rights practices in the country.

In June 2010 James Anaya, UN special rapporteur on the situation of human rights and fundamental freedoms of indigenous people, visited Guatemala to investigate alleged human rights violations affecting the country's indigenous people. Anaya concluded that the right to previous consultation, according to which indigenous people are entitled to be consulted before any commercial enterprise occurs in their territory, is not being adequately protected.

In July 2010 the Office of the US Trade Representative announced it would file a case against Guatemala under the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR) alleging that it has failed to meet its obligations on labor rights.