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COUNTRY SUMMARY

Guatemala

Twenty years after the return of civilian rule, Guatemala has made little progress toward securing the protection of human rights and the rule of law, essential features of a functioning democracy. Impunity remains the rule when it comes to human rights abuses. Ongoing acts of political violence and intimidation threaten to reverse the little progress that has been made toward promoting accountability in recent years.

Impunity

Guatemala continues to suffer the effects of an internal armed conflict that ended in 1996. A truth commission sponsored by the United Nations estimated that as many as 200,000 people were killed during the 36-year war and attributed the vast majority of the killings to government forces.

As Human Rights Watch has noted in the past, Guatemalans seeking accountability for these abuses face daunting obstacles. The prosecutors and investigators who handle these cases receive grossly inadequate training and resources. The courts routinely fail to resolve judicial appeals and motions in an expeditious manner, allowing defense attorneys to engage in dilatory legal maneuvering. The army and other state institutions fail to cooperate fully with investigations into abuses committed by current or former members. The police do not provide adequate protection to judges, prosecutors, and witnesses involved in politically sensitive cases.

Of the 626 massacres documented by the truth commission, only two cases have been successfully prosecuted in the Guatemalan courts. In 1999, a Guatemalan court sentenced three former civil defense patrol members to prison for the murders of two of the 177 civilians massacred in Rio Negro in 1982. In addition, in October 2005, the Supreme Court of Justice upheld the 2004 sentencing of a lieutenant and 13 soldiers to 40 years in prison for the 1995 Xaman massacre in which 11 civilians were killed.

By contrast, the prosecution of former military officers allegedly responsible for the 1982 Dos Erres massacre, in which at least 162 people died, has been held up for years by dilatory defense motions. Furthermore, the trial of six other civil defense patrol members, alleged to be complicit in the Rio Negro massacres, has been delayed since October 2004 because of defendants' appeals.

The few other convictions obtained in human rights cases have come at considerable cost. In the case of Myrna Mack, an anthropologist who was assassinated in 1990, it took more than a decade to obtain the conviction of an army colonel, Valencia Osorio, for his role in orchestrating the killing. During that time, a police investigator who gathered incriminating evidence was murdered, and two other investigators—as well as three witnesses—received threats and fled the country. Osorio, meanwhile, escaped police custody and has not served his sentence.

The July 2005 discovery of approximately 70 to 80 million documents of the disbanded National Police, including files on Guatemalans who were murdered and “disappeared” during the armed conflict, could play a key role in the prosecution of those who committed human rights violations during the conflict. Unfortunately, there is no legal framework in place to ensure adequate long-term management of the archive, nor to regulate public access to its files.

Impunity remains a chronic problem with common crimes as well. The Guatemalan Human Rights Ombudsman's Office estimates, for example, that arrests are only made in 3 percent of the cases involving murders of women and girls. The prosecution of those who commit violence against women is impeded by discriminatory legislation that prevents punishment for some violent crimes against women, and impunity is further fueled by deeply ingrained gender discrimination within the government agencies responsible for the investigation and prosecution of these crimes.

Frustration with the lack of justice in Guatemala has undoubtedly contributed to acts of vigilantism in the last several years. Public lynching is a common problem, with 25 lynching cases reported in 2004 and 32 in 2005. The majority of lynching victims were suspected of having committed a crime, but there has also been lynching in the past few years which was motivated by other factors, such as disputes over land or water.

Several steps have been taken by the Guatemalan government in 2006 to combat impunity, improve the justice system, and guarantee the rights of prisoners. In October 2006, Guatemalan President Oscar Berger approved a prison reform law (Ley del Regimen del Sistema Penitenciario), passed by Congress the previous month, which includes provisions setting up rehabilitation programs and schools within prisons.

Attacks and Threats by “Clandestine Groups”

Over the past five years, there has been an alarming number of attacks and threats against Guatemalans seeking justice for past abuses. The targets have included human rights advocates, justice officials, forensic experts, and plaintiffs and witnesses involved in human rights cases. They have also included journalists, labor activists, and others who have denounced abuses by the authorities. Guatemalan human rights organizations state that 161 such acts of violence or intimidation were reported between January and August 2006.

On April 2, 2006, Meregilda Súchite was murdered, apparently in connection with her work as a community leader and member of a women’s human rights group, which is supported by the Center for Legal Action in Human Rights (Centro para la Accion Legal en Derechos Humanos, CALDH). Members of the Guatemalan Foundation for Forensic Anthropology (Fundacion de Antropologia Forense de Guatemala, FAFG) continued to receive death threats in 2006, in connection with their work exhuming bodies buried in clandestine cemeteries throughout the country.

There is widespread consensus among local and international observers that the people responsible for these acts of violence and intimidation are affiliated with private, secretive, and illegally armed networks or organizations, commonly referred to in Guatemala as “clandestine groups.” These groups appear to have links to both government officials and organized crime—which give them access to considerable political and economic resources. The Guatemalan justice system, which has little ability even to contain common crime, has so far proven no match for this powerful and dangerous threat to the rule of law.

Excessive Use of Force

While political violence is no longer carried out as a matter of official state policy, members of the national police still sometimes employ excessive force against suspected criminals and others. The perpetrators are often poorly trained police officers. Between January and June 2005, there were 257 complaints made to the Guatemalan Human Rights Ombudsman's Office for abuse of authority by police or prison guards and 18 complaints filed for extrajudicial killings by police or prison guards. For example, a transgender woman was murdered and another was critically wounded on December 17, 2005, when they were gunned down on a street in Guatemala City. Eyewitnesses reported that the gunmen were uniformed police officers.

Key International Actors

The UN High Commissioner for Human Rights opened an office in Guatemala in 2005 to provide observation and technical assistance on human rights practices. In February 2006, the office issued a report on human rights in Guatemala, expressing its concern over the current situation and urging the government to take a number of steps in order to combat violence and impunity, such as ratifying the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Efforts continue to secure the implementation of the 2004 agreement between Guatemala and the UN to establish a special commission to investigate and promote the prosecution of "clandestine groups." The Commission for the Investigation of Illegal Groups and Clandestine Security Organizations (Comision de Investigacion de Cuerpos Ilegales y Aparatos Clandestinos y de Seguridad, CICIACS) grew out of a proposal developed by the Guatemalan government and local human rights groups, in consultation with members of the international community. In 2004, Guatemala's Constitutional Court held that several of the agreement's provisions were unconstitutional. In May 2006, the Guatemalan government presented to the UN a revised version of the agreement. At this writing, the Guatemalan government and the UN are still negotiating the contents of the CICIACS agreement.

In a landmark ruling, Spain's Constitutional Court held on September 26, 2005 that, in accordance with the principal of "universal jurisdiction," cases of alleged

genocide committed during Guatemala's internal armed conflict could be prosecuted in the Spanish courts, even if no Spanish citizens were involved. On June 24, 2006, Spanish Judge Santiago Pedraz, a Spanish prosecutor, and two private prosecutors went to Guatemala to take testimony from the defendants. However, no testimony was given because the defendants filed numerous appeals, and the Guatemalan Constitutional Court suspended the proceedings indefinitely. On July 7, 2006, Judge Pedraz issued international arrest warrants for eight Guatemalan defendants and issued an order to freeze the defendants' assets, both in Spain and internationally. In November, a Guatemalan court authorized the arrest of four of the defendants. At this writing, Spain had not yet sought extradition of the suspects from Guatemala.

The Inter-American human rights system continues to provide an important venue for human rights advocates seeking to press Guatemala to accept responsibility for past abuses.