
Guatemala

Nearly two decades 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 U.N.-sponsored truth commission estimated that as many as 200,000 people were killed during the thirty-six-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 one case has been successfully prosecuted in the Guatemalan courts. In 2004, a lieutenant and thirteen soldiers were found guilty of the 1995 Xamán massacre in which eleven civilians were killed; they were each sentenced to forty years in prison. By contrast, the prosecution of former military officers allegedly responsible for the 1982 Dos Erres massacre, in which 162 people died, has been held up for years by dilatory defense motions.

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 over 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.

Attacks and Threats by “Clandestine Groups”

Over the past four years, there have 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 of authority.

In January 2005, Guatemala's Human Rights Ombudsman reported a plot to assassinate Bishop Álvaro Ramazzini, who has been an outspoken voice on social and economic issues. In March, radio journalist Marielos Monzón, who had broadcast special programs on recent clashes between police and indigenous protestors, reported that an anonymous caller had told her to "[s]top defending those stinking Indians, you bitch, or we will kill you." In August, members of the Guatemalan Foundation for Forensic Anthropology received repeated death threats, apparently due to their work exhuming bodies buried in clandestine cemeteries throughout the country.

There is a widespread consensus among local and international observers that the people responsible for these acts of 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 state agents 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 state policy, members of the national police still sometimes employ excessive force against suspected criminals and others. These cases usually entail the abuse of authority by poorly trained police officers.

In January 2005, police and soldiers clashed with protestors who had blocked the passage of a mining company's vehicle in the Department of Sololá. One local resident was killed, and at least twelve people were injured, among them several police officers. In March, two men were shot and killed by army troops during a confrontation with protestors in the Department of Huehuetengo.

Workplace Discrimination

Women and girls working in Guatemala's two female-dominated industries—the export-processing (maquiladora) and live-in domestic worker sectors—face widespread sex discrimination at the hands of private employers and the government. Domestic workers are denied key labor rights protections, including minimum wage guarantees and an eight-hour workday, and have only limited rights to paid national holidays. Younger women and girls, in particular, sometimes face sexual harassment and violence in the homes where they work.

Women and girls working in the maquiladora sector, though formally protected under the law, encounter persistent sex discrimination in employment based on their reproductive status, with little hope for government remedy. Guatemalan maquiladoras, many of which are suppliers for well-known South

Korean and U.S.-based corporations, discriminate against women workers in a number of ways—including requiring women to undergo pregnancy tests as a condition of employment; denying, limiting, or conditioning maternity benefits; denying reproductive health care to pregnant workers; and, to a lesser extent, firing pregnant workers from their jobs.

Despite pressure from civil society, in 2005 the Guatemalan Congress failed to pass legislation that would have regulated work conditions for domestic workers by setting minimum salary standards, limiting permissible work hours, and protecting against sexual harassment.

Key International Actors

The United Nations High Commissioner for Human Rights opened an office in Guatemala in 2005 to provide observation and technical assistance on human rights practices (a role that the United Nations Verification Mission in Guatemala (MINUGUA) had played for nearly a decade, until it closed its operations in December 2004).

No progress has been made toward implementing the 2004 agreement between Guatemala and the United Nations 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 (CICIACS) grew out of a proposal developed by the Guatemalan government and local human rights groups, in consultation with members of the international community. The Guatemalan Congress has never ratified the agreement, and the country’s Constitutional Court has held that several of its provisions are unconstitutional. The current government has said it would propose modifications to the initiative that would make it consistent with the court’s restrictive interpretation of the Guatemalan Constitution.

The inter-American human rights system continues to provide an important venue for human rights advocates seeking to press the state to accept responsibility for abuses. In July 2005, for example, Guatemala held a public ceremony in the town of Plan de Sánchez, presided by Vice President Eduardo Stein and attended by the vice president of the Inter-American Commission on Human Rights, to accept state responsibility for the massacre of 268 villagers in 1982. The Inter-American Court of Human Rights had ordered this act of public acceptance in a 2004 judgment.

In a landmark ruling, Spain’s Constitutional Court held in October 2005 that 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. Finding that “principle of universal jurisdiction takes precedence over the existence or not of national interests,” the Constitutional Court granted the appeal by Guatemalan Nobel laureate, Rigoberta Menchú, whose efforts to press charges in Spain for abuses committed in Guatemala had been blocked by a lower court.