

Guatemala

Eighteen years after the return of civilian rule and eight years after the signing of peace accords, Guatemala has made little progress toward securing the protection of human rights and the rule of law, essential features of a functioning democracy. Ongoing acts of political violence and intimidation threaten to reverse the little progress that has been made in recent years. With the United Nations concluding its ten-year verification mission at the end of 2004, efforts to establish new forms of international collaboration on human rights issues face strong opposition from powerful sectors within the country, as well as legal hurdles created by the Constitutional Court's highly restrictive interpretation of the Guatemalan constitution.

Impunity

Guatemala is still suffering the effects of an internal armed conflict that was, in many respects, the region's most brutal. A U.N.-sponsored truth commission estimated that as many as 200,000 people were killed during the thirty-six-year war that ended in 1996. Government forces were responsible for the vast majority of the killings.

Guatemalans seeking accountability for these abuses face daunting obstacles. One is the weakness of a justice system that relies on prosecutors and investigators who 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 murdered; they were sentenced to 40 years in prison each. 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 motions by the defense.

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. The conviction was subsequently overturned by an appeals court in 2003, only to be reinstated by the Supreme Court in 2004. However, Osorio was able to escape police custody and has not served his sentence.

Clandestine Groups

Over the past three years, there have been an alarming number of attacks and threats against Guatemalans seeking justice for past abuses. The targets have included human rights organizations, justice officials, forensic experts, plaintiffs, and witnesses involved in human rights cases. They have also included journalists, labor activists, and others who have denounced abuses of authority.

There is a widespread consensus among local and international observers that the people responsible for these acts of intimidation are affiliated with private, secretive, 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 is ill-prepared 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 August 2004, for instance, national police used excessive force against workers who had occupied Nueva Linda, a private plantation on the Pacific coast, according to the National Human Rights Ombudsman. After the workers resisted police efforts to evict them from the property, a gun battle erupted, killing eleven people, including four police. Journalists who witnessed the confrontation reported that the police carried out several extrajudicial executions. They also reported being threatened and beaten by police.

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 to pregnant women; denying reproductive health care to pregnant workers; and, to a lesser extent, firing pregnant women.

Key International Actors

The United Nations Verification Mission in Guatemala (MINUGUA) was scheduled to close its operations at the end of 2004. In preparation for that date, MINUGUA sought to strengthen the capacity of key state institutions to promote the goals of the 1996 peace accords and train young Guatemalan professionals as verifiers and promoters of the accords. The Office of the United Nations High Commissioner for Human Rights reached an agreement with Guatemala to establish an in-country office that would provide observation and technical assistance following MINUGUA's departure. However, the agreement, which still had not been ratified by the Guatemalan Congress at this writing, has faced significant opposition from some legislators.

The United Nations has also entered into an agreement with Guatemala to establish a special commission to investigate and promote the prosecution of the “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. Both the U.S. and European diplomatic corps have supported the creation of the CICIACS and expressed their intention to help finance its operations. The agreement has not been ratified by the Guatemalan Congress, however, and its prospects for ratification have been greatly diminished by a finding of the Constitutional Court that several of its articles were unconstitutional. The government has said it would propose modifications to the initiative that would make it consistent with the court's restrictive interpretation of the constitution.

The Inter-American human rights system has provided an important venue for human rights advocates seeking to press the state to accept responsibility for abuses. In 2004, Guatemala accepted state responsibility for several cases brought before the Inter-American Court of Human Rights, including the 1990 murder of anthropologist Myrna Mack and the 1982 Plan de Sánchez massacre.