



Submission by: Front Line Defenders and UDEFEGUA - Human Rights Defenders Protection Unit – Guatemala
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1. The following submission has been prepared jointly by Front Line Defenders – the International Foundation for the Protection of Human Rights Defenders, and the *Unidad de Protección a Defensoras y Defensores de Derechos Humanos - Guatemala ONG* - UDEFEGUA (Human Rights Defenders Protection Unit) based on research carried out by these organisations and information received from independent human rights defenders in Guatemala from January 2008 to January 2012.

2. Front Line Defenders (www.frontlinedefenders.org) is an international NGO based in Ireland with special consultative status with the Economic and Social Council of the United Nations. Front Line Defenders has particular expertise on the issue of security and protection of human rights defenders and works to promote the implementation of the UN Declaration on Human Rights Defenders adopted by General Assembly resolution 53/144 of 9 December 1998.

3. UDEFEGUA (www.undefegua.org) investigates and reports on attacks against human rights defenders on a national level and provides accompaniment to human rights defenders so that they can develop their own security and protection procedures.

Introduction:

4. Human rights defenders in Guatemala continue to be subjected to death threats, physical attacks, acts of harassment, surveillance, stigmatisation, judicial harassment, arbitrary detention, forced disappearances and killings. Many of the violations are carried out by clandestine security organisations and illegal groups. The exceptionally high level of impunity enjoyed by the perpetrators of such violations increases the risk exponentially for human rights defenders in the country.

5. The four years covered by this report (2008-2011) coincide with the government of President Álvaro Colom. During this period, 1,286 attacks were reported against human rights defenders, accounting for 51% of the total 2,491 reported attacks between 2000 and 2011. These figures indicate the worsening situation in the country despite the existence of mechanisms for the protection of HRDs. During this period 55 human rights defenders were murdered, with many being killed by hired assassins or illegal groups.

6. Whilst the vast majority of human rights violations dating from the internal armed conflict (1960-1996) remain unresolved there has been some progress with the arrest and capture of some perpetrators, and specifically the convictions of those involved in the Dos Erres massacre and the prosecution initiated against former dictator Efraín Ríos Montt and former chief of police Pedro García Arredondo. However the progress in these cases has also provoked an upsurge in attacks on human rights defenders working on cases of this type.

Vulnerable groups:

7. Women human rights defenders (WHRDs) have been particularly vulnerable during this reporting period. 32% (411) of the reported attacks were against WHRDs. Reports show a pattern of the continued and repeated use of written threats, including with a high content of sexual references, as a means of harassing and intimidating WHRDs. Five cases of rape were recorded.

8. On 4 June 2011 human rights defender Ms María Margarita Chub Che was shot dead by three unknown individuals on motorcycles in the community of Parana, in the Polochic Valley, Alta Verapaz. María Margarita Chub Che was a community leader in Parana, in the municipality of Panzós, she participated in the *Consejo de Comunidades del Polochic* (Community Council of Polochic) and was active in the pursuit of truth and justice for crimes of the past. There are reasons to believe that the killing of María Margarita Chub Che may be directly related to her work in the defence of human rights and in particular her pursuit of justice following the evictions of 14 Polochic Valley communities since 15 March 2011 and the continued threat that those communities are facing from private security firms.

9. On 11 June 2010, Ms Norma Angélica Cruz Córdova received a series of seven death threats via text message to her mobile phone. All of the messages threatened that she and/or people close to her - including her son - would be killed. Norma Angélica Cruz Córdova is the director of the *Fundación Sobrevivientes*, an organisation which provides support to female victims of human rights violations. As a result of Norma Angélica Cruz Córdova's work on cases of rape and murder victims, many of which are said to involve individuals with links to organised crime, she has been subject to many threats.

10. On 30 April 2009, a WHRD and member of the *Asociación para el Estudio y Promoción de la Seguridad en Democracia* – SEDEM (Association for the Study and Promotion of Security under Democracy) received what was to be the first of a series of at least 40 threatening SMS text messages sent to nine human rights defenders within SEDEM and UDEFEGUA. Many of the messages appeared to come from the cellular phone registered to one of the members of SEDEM, including on one day when the phone itself was in the possession of the Attorney General's office.

11. Trade unionists, *campesino* and land rights defenders, indigenous rights activists defending the right to prior consultation, and defenders working on justice and the *right to truth* are amongst the groups who reported high numbers of attacks. Guatemala City recorded the highest number of reported attacks (467 cases), followed by San Marcos (223), Alta Verapaz (95) and El Quiché (94). Written death threats (332) were the most reported form of attack, followed by judicial complaints (160) and intimidation (113).

12. Human rights defender Mr Vidal Nahaman Cabrera Tuch was shot dead on a minibus on 17 January 2012 as he travelled towards El Xab village in Retalhuleu. Vidal Nahaman Cabrera Tuch was an active member of the *Juventud del Comité de Desarrollo Campesino* - CODECA (Youth branch of the Association of Farmers' Development Committee) and worked on issues relating to wage conditions for *campesinos*, a just and dignified life for young people, land reform and nationalisation of electric energy in Guatemala. He was travelling on the minibus with his father and other passengers, when two unidentified males boarded and announced that it was a robbery. One of the perpetrators got off the bus and walked directly to the window beside where Vidal Nahaman Cabrera Tuch was sitting and shot him twice in the head. The human rights defender was brought to the National Hospital of Retalhuleu where he died from his injuries. The attackers did not steal anything from any of the passengers on the minibus and escaped immediately after the shooting. It was reported that one month prior to the killing, Vidal Nahaman Cabrera Tuch had received death threats.

Private Security Companies:

13. One factor leading to increased vulnerabilities for human rights defenders is the proliferation of clandestine security organisations and illegal groups in the country. Numbers working for private security companies are triple that of the workforce of both the National Civil Police and the Army and, despite reforms, most companies have not been formally legalised. Private security companies working to protect private interests in rural areas are most likely to act outside of the law according to reports.

14. On the night of the 26-27 June 2011 human rights organisation *Fundación Guillermo Toriello* – FGT (Guillermo Toriello Foundation) was broken into and valuable equipment, containing sensitive and important information, was stolen. The FGT promotes the rights of poor rural communities in Guatemala, and works to improve the livelihoods of those communities through supporting their claims to access to land and offering technical advice, agricultural support and humanitarian relief where necessary. FGT was providing accompaniment to communities in the Polochic Valley following the excessively violent evictions of 14 Polochic Valley communities on 15 March 2011 and the continued threat that those communities were facing from private security firms working for sugar and African palm tree production firms. FGT has faced a number of allegations and accusations made in the media and by public officials as a result of its support for the Polochic communities. Whilst recognising that the FGT offices are located in an area where a number of break-ins have previously been reported, there is evidence to suggest that the break-in and robbery at the FGT offices may be directly related to its legitimate work in the defence of human rights, and in particular its support to the Polochic communities.

Local Citizen Security Groups and Security Commissions:

15. Local Citizen Security Groups (Juntas Locales de Seguridad - JLS) and Security Commissions (Comisiones de Seguridad) are neighbourhood and communal groups set up with the purpose of preventing crime and violence in their area. Whilst operating independently of State security forces they are regularised by the National Civil Police or City or Town Mayors. In their vast majority, these two bodies have betrayed their original objectives and have become instruments of social control, undertaking armed patrols. It has been reported that one third of these JLS have engaged in illegal protection racketeering, extra-judicial executions and lynchings, illegal detentions and other unlawful activities. From 2008 to 2011, there were four cases of attacks against human rights defenders by these bodies.

16. On 24 and 28 October 2011 respectively, journalist and human rights defender Ms Lucia Carolina Escobar Mejía was subjected to threats and intimidation as a result of a series of articles she wrote denouncing what she described as the social cleansing being carried out by hooded death squads acting as local security juntas in Panajachel. Lucia Carolina Escobar Mejía works as a columnist and correspondent for *El Periódico* in the municipality of Panajachel in Sololá, as well as operating a local radio station, named RADIO ATI. On 28 October 2011, she received two text messages via the internet after lodging a complaint to the Public Prosecutor of Crimes Against Journalists and Trade Unionists regarding false accusations and intimidation which she had been subjected to four days previously. On 24 October 2011, the Mayor of Panajachel and owner of the local cable network, appeared on the evening news bulletin on local cable channel Panadish in an attempt to publicly discredit those denouncing the actions of the Security Commission. He claimed that information existed concerning the people acting against the Security Commission which could be used against them, and he accused Lucia Carolina Escobar Mejía of being a drug trafficker. Making direct reference to an article written by the human rights defender he stated that Lucia Carolina Escobar Mejía did not deserve to rest at the bottom of a lake, but rather in a rubbish dump.

Criminalisation and public stigmatisation of defenders:

17. A serious issue facing Guatemalan human rights defenders is the unfair use of criminal proceedings against them in order to prevent them from carrying out their legitimate human rights activities, with 160 cases being brought against HRDs in the reporting period. As part of the criminalisation process campaigns of defamation and stigmatisation of HRDs have been carried out by both state and non-state actors, particularly transnational companies and right-wing media publications. During this period, the State of Guatemala, through the President's Office, the Supreme Court and other institutions, were responsible for defaming human rights defenders, linking them to terrorist activities or threatening them with criminal proceedings should they continue to criticise Government policies. One such case which led to criminal proceedings being taken against a HRD is that of Reverend Pilar Alvarez who was subject to six lawsuits, arrest warrants and criminal proceedings that were proven groundless and ended with his acquittal on all charges. In this case, as in most cases of criminalisation, human rights defenders are defending a healthy environment, the right to food, access to land and the right to prior consultation.

Fight against impunity:

18. Few attacks against human rights defenders are investigated and even fewer result in convictions. The lack of effective criminal prosecution in these cases has led to an increase in the number of violations committed against human rights defenders. In December 2006 the International Commission against Impunity in Guatemala (CICIG) was created with a mandate to investigate and prosecute serious crimes in the country. During the reporting period only 13 cases of attacks against human rights defenders reached a positive conclusion leading to the punishment of the perpetrators. Whilst this culture of impunity exists there is nothing to deter further threats, attacks and killings of human rights defenders and increases in reported cases will continue.

19. On 4 September 2008, Dr Yuri Melini was shot seven times as he got out of his car in Guatemala City. Dr Yuri Melini is the Director of the *Centro de Acción Legal, Ambiental y Social de Guatemala – CALAS* (Legal, Environmental and Social Action Centre of Guatemala), an organisation working for the strengthening of environmental issues, community participation and respect for the collective rights of indigenous communities in relation to environmental concerns. Over the previous two years he had documented 128 attacks on environmental activists and led the campaign to bring the assassins of environmental campaigners lawyers Mr Erwin Ochoa López and Mr Julio Armando Vásquez (CONAP workers) to justice. As a result of this attack, Dr Yuri Melini and CALAS have been granted protection measures from the State but to date no individuals have been brought to justice and the case remains in impunity.

Protection Mechanisms:

20. To date the State of Guatemala has failed to adequately protect human rights defenders, as can be evidenced through the increasing number of reported attacks. During the reporting period a coordination mechanism was created between the *Comisión Presidencial de Derechos Humanos – COPREDEH* (Presidential Human Rights Commission) and the Ministry of the Interior to expedite the granting of precautionary measures, through police protection, to requests from both the Inter-American system and the international system. As the mechanism had not been formalised by the end of the previous President's mandate in 2012 all measures granted outside of the Inter-American Commission on Human Rights system were withdrawn by the Ministry of Interior. The State has not yet established a National Programme of Protection of Human Rights Defenders at risk.

21. Human rights defenders can currently access protection through the *Unidad de Protección de Testigos del Ministerio Público* (Witness Protection Unit of the Attorney General's Office). However these measures are widely viewed to be inadequate as entering the programme restricts their ability to continue their legitimate human rights activities as it requires temporary relocation and a change of identity. Currently there are 3 human rights defenders under the witness protection programme.

22. In 2007 the Ministry of the Interior, in cooperation with the Prosecutor General's Office, created the *Instancia de Análisis de Ataques a Defensores de Derechos Humanos* (Institute of Analysis of Attacks Against Human Rights Defenders), to process complaints of attacks against human rights defenders. The Institute effectively coordinated the investigation into a number of cases, achieving certain positive results, but from 2010 saw itself weakened institutionally to the point that it is no longer effective in 2012. Within the Institute there is a *Unidad de Derechos Humanos de la División Especial de Investigación Criminal de la Policía Nacional Civil* (Human Rights Unit of the Special Division of Criminal Investigation of the National Civil Police) which can act on cases brought by human rights defenders but does not have the material or political resources to effect positive outcomes.

23. Front Line Defenders and UDEFEGUA call upon the UN to urge the Guatemalan authorities to prioritise the protection of human rights defenders and in doing so to:

1. Take urgent measures to end extra-judicial killings and enforced disappearances of human rights defenders;
2. Carry out an immediate, thorough and impartial investigation into all reported cases, with a view to publishing the results and bringing those responsible to justice in accordance with international standards;
3. Take measures to strengthen and broaden State institutions working in the protection of human rights defenders. In particular, take concrete steps in order to establish the National Programme of Protection of Human Rights Defenders in Guatemala and increase resources to the *Unidad de Derechos Humanos de la División Especial de Investigación Criminal de la Policía Nacional Civil* (Human Rights Unit of the Criminal Investigation Special Division of the National Civil Police);
4. Promptly provide human rights defenders at risk with adequate protective measures tailored to their individual security needs with the aim of preventing future attacks and ensure that all human rights defenders in the Guatemala are free to carry out their human rights activities free from persecution;
5. Take measures to ensure that government officials or other public figures refrain from making public statements or declarations stigmatising the legitimate work of human rights defenders;
6. Immediately ensure full regulation of private security companies, Local Citizen Security Groups and Security Commissions and guarantee that any member acting outside of the law will be brought to justice in accordance with international standards;
7. Fully implement the adopted UPR recommendations on human rights defenders in a transparent and participatory manner with full involvement of human rights defenders at all levels.