

AMNESTY INTERNATIONAL
ANNUAL REPORT EXTRACTS 2005-2007¹
GUATEMALA

2007

Background

There were continued high levels of crime, affecting all sectors of society.

Various groups protested against different government economic policies. February saw protests against the Central America Free Trade Agreement. In June, doctors protested against under-investment in health services and infrastructure. Some rural Indigenous communities continued to oppose mining activities in their areas.

In February, the Office of the UN High Commissioner for Human Rights in Guatemala issued its first report. Among other recommendations it called for more investment to prevent human rights violations and protect human rights.

Constitutional guarantees were suspended twice during the year in certain rural areas as combined army and police forces searched for alleged weapons caches and crops producing illegal drugs. Civil society groups protested against the manner of the searches and accused them of being politically motivated, as communities in the targeted areas had protested against government policies.

In October, a Mexican court authorized the extradition of former President Alfonso Portillo, who left the presidency in January 2004, to face charges of corruption. An appeal was lodged. In December the government signed an agreement with the UN to establish the International Commission Against Impunity in Guatemala. The Commission would support the Public Prosecutor's Office in prosecuting the activities of illegal security forces and clandestine security organizations. The agreement was not submitted to Congress for ratification by the end of the year.

Violence against women

At least 580 women were killed, according to police records. According to the Public Prosecutor's Office, during 2006, six people were sentenced for such killings, which often involved sexual violence.

In June, the UN Committee on the Elimination of Discrimination against Women expressed concern at the disappearances, rape, torture and murders of women and the engrained culture of impunity for such crimes. In September, Congress approved the creation of a new National Institute of Forensic Sciences which would unify the forensic services of different government bodies. A law which considered sexual relations with a female minor a crime only if the girl was "honest" remained in force.

- In February, the body of Silvia Patricia Madrid, a 25-year-old sex-worker, was found semi-naked on a road on the outskirts of Guatemala City. She had been strangled and her body showed signs of sexual violence. The authorities did not collect evidence from the alleged murder scene.

Economic, social and cultural rights

According to the UN, over 30 per cent of the population lived on less than US\$2 a day. Inequality persisted in the country. A disproportionately high number of those with low

¹ The events listed in each year's report relate to events taken place the year before its publication

incomes and limited access to healthcare and education were women, Indigenous people and rural dwellers.

Evictions in rural areas continued, with 29 reported to have been carried out. In July the UN Committee against Torture called for the government to prevent the use of excessive force, provide specific training for police officers, and ensure that complaints concerning forced evictions were thoroughly investigated.

- In April, approximately 400 people of the San José La Mocá farm, Department of Alta Verapaz, were forcibly evicted. The community had been in dispute with the farm's owner over alleged unpaid wages. They were forced onto a nearby road, with no access to clean water, food or shelter. In July, one member of the community was killed and 38 wounded in further violence related to the eviction.

Threats, intimidation and impunity

During a visit in May, the UN High Commissioner for Human Rights stated that there had been no significant progress in combating impunity or eliminating clandestine groups. More than half of the reported 278 attacks on human rights activists and organizations were against those focusing on economic, social and cultural rights, including labour rights, the rights of Indigenous peoples and housing rights.

In June a Spanish judge and prosecutor, investigating a case of alleged genocide, visited the country to interview witnesses and suspects. The two officials were prevented from pursuing the case, but in July the judge issued international arrest warrants for the five accused, including former President General Efraín Ríos Montt.

- In July, Erwin Orrego, a member of the Emergency Front of Market Sellers of Guatemala, was kidnapped and threatened with execution, allegedly by police officers. He was released after human rights organizations alerted the media and authorities.

Death penalty

A proposal to abolish the death penalty was rejected after the relevant commission in Congress returned an unfavourable verdict. Two new proposals to establish a system for allowing pardons of those sentenced to death progressed through Congress. In 2005 the Inter-American Court of Human Rights (IACHR) had ruled that the lack of possibility of a pardon meant that the death sentences could not be carried out.

Nine prisoners had their death sentences commuted to 50-year prison terms after judgments by the IACHR relating to the definition of crimes for which the death penalty could be applied. Twenty-one prisoners remained under sentence of death. No death sentences were passed during the year and no executions took place.

2006

Record numbers of women were killed; the government's response remained ineffective and inadequate and there were few successful prosecutions of those responsible. Human rights defenders faced repeated threats and intimidation, especially at times of nationwide protest against government economic policies. Hundreds of cases of disputes between rural communities and landowners remained unresolved. Those responsible for past human rights violations, including genocide, committed during the internal armed conflict, were not brought to justice.

Background

In March, Congress ratified a free trade agreement (known as CAFTA) with the USA, the Dominican Republic and other Central American states. This and other economic policies, such as the expansion of mining activities by foreign companies and proposed privatization of parts of the public sector, caused significant protest nationwide. At least two demonstrators were killed, allegedly by members of the security forces, and many were injured during demonstrations.

The government issued public apologies in four cases of past human rights violations committed during the internal armed conflict. One public apology, for the 1982 Plan de Sánchez massacre of more than 250 indigenous villagers by state forces, had been ordered by the Inter-American Court of Human Rights.

An Office of the UN High Commissioner for Human Rights was established in September.

More than 650 people died in Guatemala in the wake of Hurricane Stan which caused extensive damage and casualties in Central America in October.

Efforts to make progress on a UN-backed proposal to establish a commission to investigate illegal organizations and clandestine groups failed to materialize despite previous government assurances. The proposed commission had been rejected by Congress in 2004.

Violence against women

According to police figures, up to 665 women were murdered in Guatemala, an increase from the 527 killed in 2004. The attacks were often accompanied by sexual violence and extreme brutality. Little progress was made in bringing those responsible to justice. In January cases were transferred to a new investigating agency with more resources, but this did not result in successful prosecutions.

A law which considers sexual relations with a female minor a crime only if the woman is "honest" remained in force. However, a law which allowed rapists, in certain cases, to escape prosecution if they marry their victim, was suspended in December by the Constitutional Court, the country's highest court.

Nineteen-year-old Claudina Velázquez's body was found on 13 August. She had died from a gunshot wound to the head. There were bruises on her cheek and knee and traces of semen were found. There were serious concerns about the effectiveness of the investigation. For example, tests on the principal suspects, to ascertain if they had fired a gun, were not carried out and the investigating prosecutor attempted to return her clothes to the family, who insisted that they be kept as a potential source of future evidence.

Economic, social and cultural rights

Twenty-two evictions of rural communities were reported to have been carried out in 2005. The authorities showed undue partiality towards individual, normally wealthy, landowners in issuing eviction orders. The evictions themselves were characterized by destruction of homes and excessive use of force which sometimes resulted in injuries.

Threats and intimidation

During 2005, 224 attacks on human rights activists and organizations were reported. The timing and nature of many of these attacks suggested the involvement of illegal clandestine groups.

The Rapporteur for Guatemala of the Inter-American Commission on Human Rights visited in July and noted the difficult situation faced by human rights defenders. While commending the government's public declaration of support for defenders, the Rapporteur concluded that impunity was a structural problem and little progress was being made in investigating present and past human rights violations against activists.

In January, Makrina Gudiel, a campaigner against corruption and the daughter of a prominent human rights defender who was murdered in December 2004, was attacked. Her car was drenched in gasoline in an attempt to burn her alive. She managed to escape and remained in hiding for most of 2005.

In May, the office of a national rural workers' organization was raided. Computers were taken containing important information on the organization's work and members, while many other objects of value were left behind. The organization had been active in opposing CAFTA and forced evictions of rural communities.

Impunity

There was no progress in trying past cases of genocide or crimes against humanity in Guatemala.

In February, the Constitutional Court halted a trial in the case of the 1982 massacre in Dos Erres, in which over 200 people were killed by the Guatemalan Army. The Court determined that due process had been violated. The case was pending at the end of the year.

In September, the Spanish Constitutional Court ruled that the case for alleged genocide against Guatemalan General Rios Montt, military ruler of Guatemala between 1981-82, and other officers, could proceed in Spain.

Death penalty

In April President Berger announced he would seek to abolish the death penalty. Legislation was presented to Congress in May where it remained pending at the end of the year.

In two separate cases in June and September, the Inter-American Court of Human Rights ruled that articles of the Criminal Code relating to the application of the death penalty for murder and kidnapping were unclear and therefore could not be applied. The Court ordered a reprieve for the two prisoners who presented their cases and for a further 18 prisoners condemned to death for kidnapping. If implemented, the judgments could reduce those on death row from the current 29 to nine.

No executions took place in 2005.

2005

Forced violent evictions in rural areas increased sharply. Human rights defenders continued to suffer intimidation and persecution. Violence against women, in particular murders, increased. Impunity remained endemic, including for past human rights violations.

Background

Óscar Berger took office as President in January. In his inaugural speech he promised to strictly adhere to the 1996 Peace Accords. The Vice-President promised to prioritize the exhumation of massacre sites where hundreds of victims of past human rights violations were buried in clandestine graves during the internal armed conflict.

In February the UN Verification Mission in Guatemala (MINUGUA) called on the government to reaffirm its commitment to implementing recommendations made in 1999 by the Historical Clarification Commission. The government subsequently took some positive measures including modernization of the army and establishing a National Reparations Commission. MINUGUA's mandate and presence in Guatemala ended in November.

Throughout the year former members of the Civil Defence Patrols pressured Congress, including by the use of threats, to pay them compensation for services rendered during the internal armed conflict. Congress agreed in August, despite a June ruling by the Constitutional Court that such payments would be unconstitutional. During the conflict, which ended in 1996, members of the Civil Defence Patrols were implicated in hundreds of cases of human rights violations. Very few have ever been brought to justice.

In August the Constitutional Court delivered its opinion on the creation of a UN-backed Commission for the Investigation of Illegal Bodies and Clandestine Security Apparatus, which had been approved by the previous government. It stated that significant parts of such a commission would be unconstitutional. The government announced it would present alternatives to carry the process forward. By the end of the year discussions were still ongoing.

A proposed Office of the UN High Commissioner for Human Rights was delayed due to the government's reluctance to allow it to submit a "detailed and analytical public report on the country's human rights situation". An agreement, which would still require ratification by Congress, was due to be signed by the government and the UN in January 2005.

Economic, social and cultural rights

According to the UN, 56 per cent of the population were living below the national poverty line. MINUGUA's final report concluded that, despite advances in the political sphere, fundamental reforms envisaged in the 1996 Peace Accords had not been implemented. It noted the persistence of problems of severe racism and vast social inequality. It warned that if left unchecked, the problems could lead to social conflict, stunted economic development and the corrosion of democratic government.

An unofficial government policy of using forced evictions to resolve ongoing agrarian disputes was widely implemented. There were reportedly 31 forced evictions in the first six months of the year. Many were violent and contravened international norms on the use of force and guidelines for carrying out evictions. Following nationwide protests in June, the President promised to take specific action on the issue but in August another forced eviction cost the lives of four policemen and eight rural workers. According to the Human Rights Ombudsman's Office, the police allegedly extrajudicially executed five rural workers.

Violence against women

According to press reports, the national police recorded more than 527 women murdered in Guatemala, a significant increase from 2003. Many of those killed, mainly from the poorer sectors of society, were raped prior to death. Some were also mutilated.

The UN Special Rapporteur on violence against women found that the Guatemalan government was failing in its international obligations to effectively prevent, investigate and prosecute violence against women. In March a special police unit was established to investigate and prevent crimes against women but was reportedly insufficiently resourced to deal with the scale of the problem.

Impunity

There was minor progress in trying past cases of genocide or crimes against humanity.

The Inter-American Court of Human Rights ordered the Guatemalan state to pay compensation to victims' relatives in a number of prominent cases of past human rights violations for which the state had recognized its responsibility. In a landmark ruling in April, the Court found the Guatemalan state responsible for the massacre of 268 people in Plan de Sánchez, Rabinal, Baja Verapaz, in 1982.

In January, the Supreme Court confirmed a 30-year prison sentence imposed on Colonel Juan Valencia for ordering the murder of anthropologist Myrna Mack in 1990 and ordered his rearrest. He had been released in May 2003 after being acquitted on appeal and his whereabouts remained unknown.

In July, an army lieutenant and 13 soldiers were sentenced to 40 years' imprisonment for the extrajudicial execution of 11 returned indigenous refugees in Xamán, Alta Verapaz, in 1995. They had been found guilty of manslaughter in 1999 but the lieutenant had been acquitted on appeal.

Both the UN Special Rapporteur on the independence of judges and lawyers and the Inter-American Commission on Human Rights expressed concern about the state of the justice system and warned that if appropriate steps were not taken, the rule of law would be in danger.

Threats and intimidation

Human rights activists, witnesses and members of the judiciary involved in investigations of past human rights violations were subjected to persistent intimidation, death threats and attacks. Trade unionists and journalists were also targeted. Such attacks were frequently commissioned or perpetrated by quasi-official groups allegedly acting in collusion with members of the security forces.

In July, a cousin of one of the key witnesses in the 1992 abduction and killing of guerrilla commander Efraín Bámaca Velasquez was killed in what appeared to be an attempt to intimidate the family.

In December, Florentín Gudiel, auxiliary mayor of a small town in the south-east of the country, was shot dead. He had been campaigning against corruption and had previously been commended by the UN for his community work.

Death penalty

No executions took place but 34 people remained on death row.