



Guatemala

Open Letter from Amnesty International to Guatemalan Presidential Candidates for the November 2003 Elections

19 September 2003

Amnesty International (AI), an international human rights organization with over one million members in over 100 countries around the world, has consistently expressed its concerns to consecutive Guatemalan governments about the grave human rights situation in this country. The November 2003 elections signify a key opportunity for the country to turn away from its dark past. In this electoral year, Amnesty International is writing to you, the candidates for the Presidency, in the hope that you will acknowledge the serious nature of this situation and commit yourselves to making respect for human rights a political priority.

Respect for human rights is a fundamental issue that traverses all aspects of public life. Respect for human rights is not a matter of rhetoric or appeasing the concerns of the international community. Human rights are a basic requirement for achieving human dignity. Ensuring respect for human rights means upholding the rule of law for all citizens, it means alleviating poverty and discrimination, it means equality and tolerance for the opinions of all sectors of society. The principles of human rights underpin democratic societies and form the bedrock of governments and state institutions dedicated to ensuring security and stability for all. While resources are an important factor in helping to improve human rights, in the experience of Amnesty International, the key factor for making respect for human rights a reality is political determination.

The internal armed conflict brutalised Guatemala, deeply dividing the country's population and militarising Guatemalan society; this left behind an intricate legacy of structural violence, militarisation and social fragmentation. This legacy has contributed to spiralling crime and homicide rates in post-conflict Guatemala. However, it has also allowed and encouraged the perpetuation of a culture of fear and impunity, gradually precipitating what has been termed a human rights 'meltdown'.

In this context, and as a result of their work, human rights defenders and members of the legal community campaigning for improvements in the human rights situation have been killed and are constantly subjected to harassment and death threats. Successful prosecutions for such crimes remain the exception.

AI acknowledges the complexity of the challenges facing a new Guatemalan government. However, it is the organisation's strongly held belief that concerted efforts must be made to overcome the legacy of the past, if the country is to enjoy long-term stability and security.

As the presidential candidates, you have a solemn duty and responsibility to express your unequivocal commitment to upholding international human rights standards and principles and the rule of law.

In this context, support for the framework for socio-political, economic and cultural transformation achieved through and enshrined in the United Nations brokered Peace Accords and the recommendations of the Comisión de Esclarecimiento Histórico (CEH), should be an urgent national political priority.

AI believes that strict adherence to the commitments of the Peace Accords and the recommendations of the CEH should represent the cornerstone of a renewed national political agenda to address the causes and consequences of Guatemala's thirty-six year civil conflict and to provide some guarantees that the atrocities of the past are not repeated in the future. Moreover, the successful implementation of such an initiative is critical if international support for Guatemala's peace process is to continue, as underlined by the Consultative Group at its meeting in May 2003.

Central to Guatemala's success in overcoming its past is a coherent program to strengthen the judicial system and the administration of justice and to ensure the restitution of the rule of law. This initiative must ensure that the Ministerio Público and all Special Prosecutors Offices receive sufficient resources and enjoy the political support to allow them to carry out exhaustive, impartial and prompt judicial investigations. A comprehensive witness protection program must be an integral element of such a policy.

Moreover, the endemic ineffectiveness of the judicial system permits continued pernicious and widespread impunity for the perpetrators of the gross human rights violations carried out during the armed conflict, which, in turn, further weakens those institutions responsible for the administration of justice. Candidates therefore have a duty to commit to supporting domestic and international initiatives to bring to justice those responsible for past human rights violations, not only as a means of ensuring adherence to national legislation and international law, but in order to arrest any further deterioration of the judicial system.

In this regard, candidates must also make clear their explicit commitment to support investigations into and subsequent legal proceedings against those groups and individuals involved in illegal armed groups and structures who are implicated in ongoing attacks against human rights defenders, activities linked to corruption and past human rights violations. Unless such parallel structures are dismantled, the nexus between impunity, human rights violations and militarisation will not be broken and long-term stability in Guatemala will be increasingly unlikely.

AI would also like to take this opportunity to express its concern over the crucial importance of committing to measures aimed at consolidating civilian power over and oversight of the armed forces. As has been widely documented, the Guatemalan Armed Forces and members of the Civil Patrols (PACS), their civilian adjuncts, were responsible for systematic atrocities against the civilian population during the armed conflict. Notably, in its final report, the UN-sponsored CEH accused the State of genocide against the Mayan population in four regions of the country during the 1980s.

While a degree of progress has been made in reining in the power of the military since the end of the civil conflict, significant commitments in the Agreement on the Strengthening of Civilian Power and the Role of the Armed Forces in a Democracy remain yet to be implemented. The armed forces continue to take part in internal security operations, through joint military-police units named the *Fuerzas Combinadas* and the utilisation of troops in regular law enforcement activity. Furthermore, while the present government of President Alfonso Portillo has committed to dismantling the infamous *Estado Mayor Presidencial* (EMP) by the end of October 2003, AI is seriously concerned that the legislation governing its replacement civilian agency, the *Secretaría de Asuntos Administrativos y Seguridad de la Presidencia* (SAAS), actually consolidates military power over civilian affairs and 'recycles' the personnel of the EMP within the SAAS. Moreover, the budget of the Armed Forces has not yet been brought in line with the commitments enshrined in the Peace Accords. As a result, resources set-aside for other Ministries and social programs have consistently fallen short.

Poverty incidence continues to be shaped by an acute ethnic dimension in Guatemala. The indigenous population, having borne the brunt of the violence of the armed conflict, remain statistically the most socially and economically excluded population and, according to the United Nations Development Program (UNDP), demonstrate the lowest human development

indicators. They, above all, also suffer the consequences of Guatemala's highly unequal system of land distribution. In recent years, however, both indigenous and non-indigenous people have experienced the severe crisis in rural Guatemala that has led to widespread malnutrition and chronic unemployment.

AI believes it to be imperative that you, the presidential candidates, commit to rural development and poverty alleviation programs that introduce measures that facilitate access to resources, including land, for the campesino population; such policies should also include measures to ensure the peaceful and harmonious resolution of land conflicts, as stipulated in the Peace Accords. Without the urgent implementation of such a program, there is likely to be an unprecedented societal crisis in rural Guatemala, the human rights implications of which, are extremely disturbing.

The challenges that lie ahead are considerable, they are not, however, insurmountable. The Peace Accords and the recommendations of the CEH provide a clear framework for social improvements in Guatemala. Furthermore, international observers, such as the UN Special Representative on Human Rights Defenders and the Special Rapporteurs on the Independence of the Judges and Lawyers and on the Rights of Indigenous Peoples, have submitted detailed reports and recommendations to the government of Guatemala, which could significantly contribute to the development of comprehensive political policies in these areas.

In closing, AI would like to make clear its serious concern over the political violence that has accompanied the electoral campaign to date. In recent months, Guatemala has experienced the killing of political party activists and candidates, attacks and intimidation against members of the judiciary, human rights defenders and journalists, and an extreme rise in killings of and violence against women. This escalating wave of violence and intimidation not only demonstrates the severity of the present human rights crisis, but also threatens the degree to which free and transparent elections can take place.

AI urges you, the presidential candidates, to lead by example, by condemning all political violence and impressing upon society at large the importance of maintaining the rule of law during the potentially unstable months ahead.

Finally, Amnesty International believes it to be critical that you to take into account the concerns voiced in this letter and the recommendations that accompany it. We hope that all presidential candidates and the future government will be willing to accept our offer to engage in an open dialogue with AI and other human rights organisations to discuss further these issues of utmost importance and urgency.



Amnesty urges the candidates to commit to implementing the following recommendations in their electoral programme so that the forthcoming presidential term may culminate in the full restoration of the rule of law in Guatemala. Some of these measures will require administrative directives, others the introduction of new legislation and constitutional amendments. Many will require only the effective implementation of provisions already existing in Guatemalan legislation and the Peace Accords. All require, first and foremost, political will:

On the Peace Accords and the Conclusions and Recommendations of the *Comisión de Esclarecimiento Histórico* (CEH), Commission for Historical Clarification

- To establish a national agenda for the revitalization of the Peace Accords as an urgent State priority, drawing up a programme of goals, responsibilities and deadlines for implementation of the agenda, with particular focus on human rights-related aspects;
- To face up to the historic ethnic and racial discrimination, urgently and fully implementing the Accord on the Identity and Rights of the Indigenous Population;
- To evaluate implementation of the CEH recommendations to date and establish mechanisms for implementing those recommendations outstanding;
- To urgently implement the national system of reparation for victims of the armed conflict and to guarantee a budget for this. To desist from remunerating those accused of having violated the population's human rights during the internal armed conflict.

On Strengthening of the Justice System and Combating Impunity

- To strengthen the *Procuraduría de los Derechos Humanos* (Office of the Human Rights Ombudsman) and the *Fiscalías Especiales* (Special Prosecutors Offices), increasing their human and budgetary resources and providing political support to their roles;
- To implement the witness protection programme immediately and with an adequate budget;
- To strengthen the justice system, bringing an end to impunity and an urgent resolution of past and current cases of human rights violations, such as the Mack, Gerardi and Dos Erres cases and the cases of genocide that are currently before the national authorities;
- To support the immediate establishment of the *Comisión para la Investigación de Cuerpos Ilegales y Aparatos Clandestinos de Seguridad* (Commission for the Investigation of Illegal Bodies and Clandestine Security Apparatus- CICIACS) and to undertake to provide follow-up to its report and final conclusions, including those relating to the prosecution of individuals indicated as being responsible for human rights violations; to ensure the collaboration of the State institutions, in particular the Armed Forces, in the work of CICIACS;
- To approve pending legislation in the area of information access (*La Ley de Acceso a la Información o Hábeas Data*/Law on Access to Information or Hábeas Data and the *La Ley de Clasificación y Desclasificación de la Información Estatal Reservada*/Law on Availability of Secret Files) as well as the *La Ley de Catastro* (Land Registry Law);
- To take measures for the total abolition of the death penalty, beginning with a moratorium on its application and the commutation of those sentences outstanding.

On the Armed Forces and National Security

- To immediately announce appropriate measures for the elimination of the *Estado Mayor Presidencial*

(Presidential General Staff, also translated as the Presidential Guard or Presidential High Command) and incontrovertibly implement concrete, effective and public measures to prevent the practices carried out by this body, which were a threat to human rights and the rule of law, from persisting;

- To adopt, without delay, the necessary measures such that legitimate intelligence activities can be allocated to a new body, of an essentially civilian nature, which will be under the supervision of and accountable to civilian authorities. In this respect, the body to be created must contribute to promoting a culture of peace and not one of militarization;
- To reform the armed forces, as established in the Peace Accords, including a reduction in the military budget and an end to the joint military-police units known as the *Fuerzas Combinadas* (Combined Forces);
- To apply the stipulations of the Peace Accords with regard to the subordination of military authorities to civilian authorities.

On Human Rights Defenders

- To formulate a plan aimed at the effective fulfilment of the principles of the UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms;
- To formulate and launch a public campaign to promote human rights work, and which dignifies those who undertake such work.

On Violence against Women

- As required by the Peace Accords, to develop a policy aimed at eliminating discrimination against women, both indigenous and non-indigenous, based on the provisions of the Convention on the Elimination of All forms of Discrimination against Women and the recommendations issued by the UN Committee supervising fulfilment of this treaty on the part of the Guatemalan government;
- To confront the growing wave of violence against women, carrying out prompt, exhaustive, effective and impartial investigations, encouraging the prosecution of those responsible, and providing the necessary resources for this purpose.

Commitments concerning the Indigenous and Local Producers Sectors

- As established in the Peace Accords, and in accordance with the local producer and indigenous sectors, to develop programmes to overcome the rural crisis in Guatemala promoting, among other things, actions to alleviate rural poverty and to achieve the urgent resolution of land ownership and tenure problems, providing access to land and ensuring the provision of sufficient resources for the rural population.

Commitments concerning International Human Rights Instruments and the International Community

- To implement the human rights recommendations made by the Consultative Group following its meeting in May 2003;
- To implement the human rights recommendations of the experts who visited Guatemala recently, including the UN Special Rapporteurs on the Rights of Indigenous Peoples and on the Independence of Judges and Lawyers and on Human Rights Defenders, along with the various experts from the Organization of American States (OAS) and the precautionary measures granted by the Inter-American Commission on Human Rights (IACHR);
- To support the establishment of a permanent presence on the part of the UN Office of the High Commissioner for Human Rights, endowed with sufficient powers and resources to fulfil tasks of monitoring of and support to the effective respect of fundamental rights in Guatemala;
- To ratify the Rome Statute of the International Criminal Court and to pass the internal regulations permitting its full and effective implementation with regard to Guatemala.