

# **GUATEMALA: HUMAN RIGHTS VIOLATIONS AND IMPUNITY (53rd session of UN Commission on Human Rights)**

## **Human rights violations and impunity in Guatemala**

A peace settlement was signed on 29 December 1996 between the government and the armed opposition, the Guatemalan National Revolutionary Unity, *Unidad Revolucionaria Nacional Guatemalteca (URNG)*, ending the longest running internal armed conflict in Central America. If implemented fully, the six accords contained in the settlement could produce a substantial improvement in the human rights situation in Guatemala.

In spite of the continuation of the peace process throughout 1996 and a cease-fire agreed between the government and the URNG in March 1996, human rights violations such as extrajudicial executions and torture, ill-treatment and death threats, continue. Amnesty International has received reports of more than one hundred extrajudicial executions in 1996 and continues to receive scores of reports of torture and ill-treatment. Reports of politically motivated "disappearances" have decreased in 1996 but scores of short term abductions, in some cases "disappearances", for extortion purposes, by or involving members of the security forces and, in some cases, members of the armed opposition groups, have been reported.

Human rights defenders, critics of government policy and those working to bring to account members of the security forces involved in human rights violations, are frequently targeted for repression. They include judges, lawyers, witnesses, journalists, trade unionists and students. Those classified as "undesirable" or "disposable", mainly criminal suspects, street children and members of street gangs, are also the victims of violations. Victims often include those from the poorest sectors of society, such as peasant farmers and labourers disputing land rights or seeking better working conditions in remote rural areas.

Cases documented by AI from March 1994, when the Global Human Rights Accord was signed, demonstrate that recent violations are still being committed by members of the security forces and its auxiliaries, particularly the *Comité Voluntario de Defensa Civil (CVDC)*, Voluntary Civil Defence Committee, ex-military commissioners or those acting on their behalf or with their complicity.

In Guatemala, these crimes are directly related to a long-standing state of impunity in which the overwhelming majority of those who commit, order, plan or cover up human rights violations are never brought to justice. The lack of accountability of those responsible effectively means that the perpetrators are free to commit further abuses, without fear of being punished or having to answer for their actions. In contrast, the victims and their relatives, defenceless and without hope of learning the truth or seeing that justice is done, frequently face complete despair.

During the 1970s, 1980s and early 1990s human rights violations corresponded to a policy of counter-insurgency planned at the highest echelons of the state apparatus to eliminate possible or suspected government opponents or critics. In Guatemala today human rights violations do not occur on the massive scale seen at the end of the 1970s and the beginning of the 1980s. Since 1994 most cases of human rights violations reported in Guatemala have been perpetrated by members of the security forces and authorized or permitted only at certain levels of the state and only by certain state officials. However, the Guatemalan Government is fully responsible for all human rights violations, past or present, committed by any state agents and for ensuring that the perpetrators are made accountable for their actions. Amnesty International's position on impunity is that the perpetrators of human rights violations must be brought to justice, whether they be current or former government officials, and independently of whether they are agents of the security forces or of semi-official paramilitary groups. Those accused of human rights violations must be brought to public trial, conducted in accordance with international fair trial standards and concluding with a clear verdict of guilt or innocence.

The first legal executions in Guatemala in more than 13 years took place in September 1996. More than one hundred persons are currently in detention on a variety of charges, mainly killings and kidnapping, and face the risk of being sentenced to death<sup>1</sup>.

### **The Independent Expert of the UN Commission on Human Rights**

The Commission on Human Rights (the Commission) has been considering the situation of human rights in Guatemala since its 35th session in 1979. In 1983 a Special Rapporteur was appointed with a mandate to make a detailed study of the human rights situation in Guatemala. In 1986, the Commission changed the designation to that of Special Representative; his mandate was to receive and evaluate information from the government about the implementation of the new legislation intended to protect human rights. In 1987, at the Commission's request, the Secretary-General appointed an expert to assist the government in adopting the necessary measures for the subsequent restoration of human rights. In 1990, as requested by the Commission, the Secretary-General appointed an Independent Expert to examine the human rights situation and to continue giving assistance to the government in the field of human rights.

The current Independent Expert of the Commission on Human Rights, Argentinean national Mónica Pinto, was appointed by the Secretary-General on 28 October

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<sup>1</sup> In many of these cases the appellate processes have not yet been completed.

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1993 to examine the situation of human rights in Guatemala, provide assistance to the government in the field of human rights and to report to the Commission assessing the measures taken by the government in accordance with the recommendations made to it<sup>2</sup>. In 1996, at the Commission's request, the Secretary-General extended the Independent Expert's mandate to "continue to examine the situation of human rights in Guatemala, taking into account the work of MINUGUA"<sup>3</sup>.

### **Amnesty International's recommendations to the UN Commission on Human Rights**

Amnesty International remains concerned that, despite some positive steps taken by the Guatemalan Government, such as the approval by the Congress in June 1996 of new legislation enabling cases of human rights violations perpetrated by members of the army to be passed from military to civilian courts and the demobilization of CVDC members, serious human rights violations continue to be committed by members of the security forces.

Amnesty International is concerned about "the fact that situations of impunity continue to exist and that, in cases of human rights violations, there has not been sufficient progress in the investigations and/or judicial proceedings" as stated by the Commission in its 19 April 1996 resolution<sup>4</sup>. The Sub-Commission on Prevention of Discrimination and Protection of Minorities in August 1996 urged the government to continue to combat impunity, to remove those persons mainly responsible for human rights violations from their posts and to bring them to justice and to prevent the proclamation of amnesties or of any other mechanism that grants impunity to violators of human rights<sup>5</sup>.

Amnesty International considers that the role played by the international community in the last few years, through the Independent Expert and MINUGUA, has helped to bring to light a clear picture of the human rights violations in Guatemala. With concrete recommendations, the Independent Expert is contributing to efforts to prevent them.

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<sup>2</sup>49th Commission resolution 1993/88

<sup>3</sup>52nd Commission resolution 1996/59

<sup>4</sup>52nd Commission resolution 1996/59

<sup>5</sup>48th Sub-Commission resolution 1996/106

The mandates and functions of the Independent Expert and MINUGUA are different but complementary. As stated in the Independent Expert's report to the 52nd Commission in 1996, the two mechanisms have the common objective "to improve conditions for the enjoyment and exercise of the human rights protected by the international instruments binding on Guatemala"<sup>6</sup>. There are also some differences. The Independent Expert has a mandate from the international community based on the Charter of the United Nations, while MINUGUA operates with a mandate from the government and URNG. MINUGUA plays a concrete role in verifying several peace agreements, some of them related to human rights and others not; the mandate of the Independent Expert entrusts her with the mission of reporting exclusively on the "general human rights situation in Guatemala."<sup>7</sup>

Amnesty International considers that it is still necessary for the international community to continue to keep the human rights situation in Guatemala under review, for the reasons articulated in the conclusion of the Independent Expert's 1996 report. To that end the organization recommends that the Commission request the Secretary-General to extend the mandate of the Independent Expert. Amnesty International also calls on the Commission to urge the Guatemalan Government to:

- bring to justice in the course of fair trials those responsible for human rights violations such as extrajudicial killings, "disappearance", torture, ill-treatment and death threats, after carrying out immediate, independent, impartial and full investigations into the allegations;
- afford remedies and compensation to victims of human rights violations committed by state officials, or by individuals acting with the consent of the state. Amnesty International believes that such reparation should include restitution, financial compensation and the means of rehabilitation, including care and medical assistance to help the victims and their relatives overcome the consequences of physical and psychological injury. It should also include the legal means necessary for restoring the victim's dignity and reputation and satisfaction and guarantees of non-repetition.
- improve state competence and capacity to fully, independently and impartially investigate human rights violations; to ensure that such investigations are carried out without interference by members of the security forces and that

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<sup>6</sup>E/CN.4/1996/15 para 148

<sup>7</sup>E/CN/1996/15 para 6

those engaged in conducting investigations or providing information to them are protected from interference by members of the security forces;

- demonstrate their political will to fight impunity by not introducing new amnesty laws or pardon measures which may prevent the truth being discovered and justice being done;
- implement fully the recommendations made by the Independent Expert;
- implement fully the recommendations made by MINUGUA concerning human rights;
- take immediate steps to fully implement the Global Human Rights Accord and those parts of human rights accords reflected in other accords signed between the two parties as part of the final peace agreement;
- stop carrying out executions and take steps to abolish the death penalty;
- implement fully the recommendations made by the Human Rights Procurator's office.