

GUATEMALA

Summary of Amnesty International's Concerns (January 1995-January 1996)

Introduction

A pattern of systematic human rights violations

Amnesty International continues to document a disturbing pattern of human rights violations in Guatemala. Extrajudicial executions, "disappearances", torture, death threats, harassment and intimidation persist. The violations have been directed at many sectors of society including: trade unions and popular organizations, human rights defenders, journalists, students, religious personnel, those attempting to investigate past human rights violations, witnesses, former refugees and displaced people returning to their lands and street children. Of particular concern is the alarming level of threats and attacks that have been reported against human rights defenders during the year. Some have been the subject of verbal or written death threats as a result of their work. Others have been attacked and killed.

The perpetrators of these human rights violations are mainly the police and military and army-created civil patrols. In addition and citing the rise in urban crime, the government reportedly promoted the creation of new civilian "self-defence" squads to be armed and trained by the military. Both these and other new vigilante-style groups, also apparently working with official complicity, have allegedly engaged in "social cleansing", killing members of youth gangs and others involved in petty crime. These new "death squads" have also been implicated in human rights violations against those perceived as being opponents of the government, reportedly disguising the attacks as common crimes to escape official accountability.

There has been little progress in clarifying the tens of thousands of past abuses. Those responsible for human rights violations continue to benefit from almost total impunity. In August, the United Nations (UN) Subcommission on Prevention of Discrimination and Protection of Minorities expressed deep concern at the impunity enjoyed by the perpetrators of human rights violations and at the inability of the judicial system to bring intellectual and material perpetrators of such acts before the courts. The Subcommission, reflecting reports and statements by MINUGUA, the United Nations Mission in Guatemala and Mónica Pinto, the UN Special Expert, found that the majority of the violations breached the rights to life, integrity and personal security, and that state

agents were either directly implicated or had failed in their duties to assure these rights to its citizens.

To date, none of those responsible for the deaths of thousands of people during the late 1970s and early 1980s at the height of the army's counter-insurgency campaign, have been brought to justice. During 1995, independent forensic groups undertook further exhumations at sites where large-scale extrajudicial executions had been reported during this period. Several hundred remains were uncovered, but Amnesty International knew of no case where official bodies undertook investigations to determine how the victims died nor who was responsible. Instead, family members, witnesses and human rights defenders involved in the exhumations were themselves threatened and harassed.

Peace talks brokered by the United Nations (UN) between the Guatemalan Government and the armed opposition, the Guatemalan National Revolutionary Unity (*URNG, Unidad Revolucionaria Nacional Guatemalteca*), continued throughout 1995. The negotiations, originally scheduled to have been completed in December 1994, had not been concluded by the end of the year. Once a peace agreement is finally signed, the Commission for the Clarification of Violations of Human Rights and Acts of Violence which Caused Suffering to the Guatemalan People during the Armed Conflict (*Comisión para el esclarecimiento histórico de las violaciones a los derechos humanos y los hechos de violencia que han causado sufrimiento a la población guatemalteca*) agreed in June 1994 is scheduled to begin its work. Its mandate is seriously limited however in that it is not empowered to name those responsible for human rights violations nor initiate legal proceedings against them.

In March, the two parties signed an agreement on the Identity and Rights of Indigenous Peoples (*Acuerdo sobre identidad y derechos de los pueblos indígenas*). The UN Mission for the Verification of Human Rights in Guatemala (*MINUGUA, Misión de las Naciones Unidas de Verificación de Derechos Humanos en Guatemala*), implementing the Global Human Rights Accord that was signed by the two parties in March 1994 recorded scores of human rights violations throughout the year. Similarly breaches of the Accord for the Resettlement of Populations Uprooted by the Armed Conflict signed in June 1994 were reported, most notably with the massacre of 11 former refugees and displaced persons at Xamán, Chisec, Alta Verapaz on 5 October 1995.

In June 1995, former President Ramiro de León Carpio announced the demobilization of the more than 24,000 military commissioners (*comisionados militares*) as of 15 September in line with the March 1994 human rights accord. The military commissioners have acted as local agents of the army since the 1930s, and have been responsible for enforced military conscription, providing information to the army and eliminating suspected political opponents. They have been implicated in numerous cases

of human rights violations including the murder of Presbyterian pastor Manuel Saquic Vásquez in June 1995. Cases of enforced recruitment continue to be reported despite government claims that the practice has ended. Local human rights groups are concerned that the commissioners, who are reportedly still armed, will continue operating as civilians, their formal dissolution merely serving as a *de facto* amnesty.

In the run-up to November elections, the government and the armed opposition agreed a cease-fire in August, the first in thirty-five years of civil conflict. Prior to that, the government repeatedly accused the opposition of causing unnecessary property damage, putting the civilian population at risk while attacking military installations, and demanding war taxes from civilians.

Extrajudicial executions`

Amnesty International has continued to receive reports of extrajudicial executions during 1995. In September, Guatemala's Human Rights Procurator said that he had already recorded 159 such killings during 1995; some Guatemalan human rights groups had significantly higher figures. In most cases, the main government agencies responsible for investigating such incidents, in particular the Public Ministry (*Ministerio Público*), the National Police (*Policía Nacional*) and the judiciary failed to take proper action and to bring those responsible to justice. The following are some of the cases that have been reported to Amnesty International.

The body of evangelical pastor, Manuel Saquic Vásquez, was recovered from an unmarked grave on 7 July 1995. His throat had been slit and he had 33 stab wounds. Manuel Saquic, who was also coordinator of a Kaqchikel Maya Human Rights Committee (*Comité de Derechos Humanos*) in Panabajal, Chimaltenango Department, "disappeared" following his abduction on 23 June. Residents of Panabajal said that the local military commissioner and his two sons, both army security agents, killed Pastor Saquic in reprisal for his human rights work and because he was the sole witness to the previous short-term abduction of another member of the Human Rights Committee in Panabajal. The authorities were widely criticised for withholding information about the body and for refusing to cooperate with the Presbyterian Church and MINUGUA.

His death came nearly a year after the killing of another member of the Committee, Pascual Serech, who was murdered in August 1994. Pascual Serech had been active in pressing for an end to forced service in the so-called civil patrols and for an end to the forced military recruitment of village youths. He had also been calling for an end to the many human rights violations, including "disappearances" and extrajudicial executions that the military have reportedly carried out in the area. Villagers believed that the local military commissioner and his two sons were involved. The judge assigned to investigate Pascual Serech's death was himself shot-down execution-style in August 1994 shortly after

ordering the detention of those believed responsible for Pascual Serech's death. The detainees were then released.

In the following months, three members of the church, including the General Secretary of the Conference of Protestant Churches, Rev. Vitalino Similox, received death threats warning them against pursuing their investigations into Manuel Saquic's death. The death threats were signed by a group calling itself the Jaguar of Justice. Members of Manuel Saquic's family and colleagues were also reported to have received death threats. To Amnesty International's knowledge, there has been no progress in the investigations into the death of Manuel Saquic.

On 5 October, 11 people died and some 17 were wounded when soldiers opened fire on former refugees and displaced persons resettled at Xamán, Chisec, Alta Verapaz Department. The villagers considered the army's presence in their community to be in breach of UN-brokered agreements guaranteeing the security of returned refugees and displaced people. A scuffle broke out after the villagers said they were going to report this to MINUGUA. The commanding officer ordered his soldiers to open fire having first spoken over the radio. Among those killed was an eight-year-old boy who was reportedly shot as the soldiers retreated. Three soldiers were also reportedly wounded, hit by their own fire. Officials initially denied the army had been involved but subsequently claimed that the patrol had been attacked after entering Xamán at the villagers' invitation. General Mario Enríquez, the Minister of Defence, resigned over the incident and President de León announced the formation of a high-level commission of inquiry. The entire patrol has reportedly been arrested and placed under the jurisdiction of a military court.

At the end of January 1996, the Fifth Chamber of the Appeals Court of Jalapa (*Sala Quinta de la Corte de Apelaciones*) in an unprecedented move ruled that the case be transferred to civilian jurisdiction. Attorney General (*Fiscal General*) Ramsés Cuestas called the decision by the appeals court, "historic for Guatemalan jurisprudence" ("*histórico para la jurisprudencia guatemalteca*") and said, "the criteria that members of armed forces should be judged by the military themselves cannot be sustained when they commit crimes against civilians. In these cases, the accused should be tried in civilian courts" ("*no se puede sostener el criterio de que los militares deben ser juzgados por militares, cuando éstos cometen delitos contra civiles. En esta clase de casos los imputados deben ser juzgados en los tribunales del orden común*").

The body of Lucina Cárdenas, a Mexican national and founder of a women's textile cooperative in Quetzaltenango, Guatemala, was found on 2 December 1995. The body bore signs of torture, including cigarette burns and gunshot wounds. She had been abducted on 27 November after unknown assailants fired shots at the truck she was travelling in from the Mexican border to Quetzaltenango. Although it is not clear who was responsible for her death, several similar cases have been reported in the area. In

most cases, reports indicate that people passing through customs posts at El Carmen and Tecun Uman on their return from the United States of America and Mexico, have subsequently been attacked and robbed in or around the same area. Some have been abducted and killed. There are indications that local police, members of the army, customs employees and private security guards may be involved in these attacks. In every case, investigations that should have been conducted by the appropriate authorities, namely the Public Ministry, and the police have reportedly either been insufficient or non-existent.

In some cases, relatives who have tried to investigate the case have themselves received death threats.

“Disappearances”

“Disappearances”, though fewer in number, continued to be reported in 1995. Among the cases reported to Amnesty International was that of Arnoldo Xi. On 23 March 1995, Arnoldo Xi, an indigenous peasant and member of the National Indigenous and Peasant Coordination (*Coordinadora Nacional Indígena y Campesina, CONIC*) was shot and abducted. He and another man were walking by the road near the community of Matacu, Purula, department of Baja Verapaz when heavily armed men in a red car approached them and opened fire. Arnoldo Xi was hit, dragged into the car and driven away. His companion escaped uninjured. The attack took place in the context of a land dispute between members of the Tixila community and a local landowner who wanted the peasants to leave the land he claims to own. The peasants, who had been working the land for several years, were challenging the landowner’s title to the property. It is believed that armed private security guards employed by the landowner are responsible for the shooting and abduction of Arnoldo Xi. Private security guards often operate with the cooperation and acquiescence of the official security forces; frequently they are licensed by the National Police. Arnoldo Xi remains “disappeared”.

Torture

Torture, mainly of criminal suspects, continued. The National Police was the force most frequently cited in torture complaints but cases involving members of civil patrols and military commissioners were also reported. The methods of torture included beatings, wounding with knives, burning with cigarettes, electric shocks and the use of drugs. In November 1995, the United Nations Committee against Torture considered the initial report submitted by the Guatemalan Government under article 19 of the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment. In its final communiqué, the Committee welcomed some positive measures adopted by the government such as the incorporation of the definition of torture and associated penalties into penal law. Nevertheless, it expressed its deep concern that torture and other cruel, inhuman and degrading treatment or punishment appeared to be endemic in Guatemala

and that the competent authorities were failing to take prompt and effective action to investigate and prosecute those responsible.

Among the cases reported to Amnesty International was that of Juan Sirín Raxjal. On 1 March 1995, he was stopped by a military commissioner and a member of the local civil patrol. They reprimanded him for not reporting for duty to the patrol and when he maintained that participation in the patrols was voluntary, they are reported to have beaten him and dragged him along on the ground. They accused him of belonging to the armed opposition and threatened to kill him. He suffered a broken femur and other injuries as a result of his ordeal and had to undergo emergency treatment in hospital.

Death threats

People linked to organizations or activities attempting to protect and investigate human rights were among those targeted for death threats in the last twelve months as were priests, members of trade unions or from the maquila sector, witnesses of human rights violations and students. Some were threatened verbally or received threatening messages.

Others were physically attacked. MINUGUA reported that Guatemala's Attorney General, Ramses Cuestas had acknowledged that prosecutors (*fiscales*) from the Public Ministry (*Ministerio Público*) were receiving from three to four death threats a month and that attacks on them were also frequent. MINUGUA said that it had also received similar reports and that in at least one case, the person threatened was later killed. In another, the victim was forced to leave the country.

Oswaldo Enríquez, member of the executive board of the Guatemala Human Rights Commission (*Comisión de Derechos Humanos de Guatemala, CDHG*) and Vice-Chairperson of the International Federation of Human Rights received death threats in July and December 1995. On both occasions, telephone calls were made to the office of the CDHG. In December, the caller is reported to have said, "*Stop it damned Oswaldo, this coming year you are going to die for sure*" (*Para Oswaldo, este año que viene sí te vas a morir*). On 23 January 1996, as Oswaldo Enríquez was driving home with his 15-year-old son, his car was pursued from zone 7 to zone 5 in Guatemala City by two men travelling in a blue minibus. The minibus is reported to have tried to get close to them during the journey and to have passed by their home at least twice before disappearing.

In November 1995, César Ovidio Sánchez Aguilar, member of the non-governmental Myrna Mack Foundation (*Fundación Myrna Mack*) was forced to go into hiding after receiving death threats from members of the local civil defence patrol. He had organized a workshop with local indigenous communities to disseminate information about the Accord on Identity and Rights of Indigenous Peoples in conjunction with MINUGUA and other non-governmental organizations. He sent a copy of the materials to be used in the

workshop, including a copy of the accord, to the local mayor and was subsequently summoned to the mayor's office where he was criticised for working with the Myrna Mack Foundation and accused of belonging to the armed opposition by members of the mayor's office and by two members of the local civil patrol. On leaving the building, he was assaulted by an unknown individual and threatened with death because of his work. A meeting organized with the local mayor the following week had to be abandoned after members of the civil patrol present hurled insults and death threats at César Sánchez and his family. Members of MINUGUA present at the meeting were also insulted.

Trade unionist Ernesto Bol, member of the executive of the Municipal Workers Union of Cobán (*Sindicato de Trabajadores de la Municipalidad de Cobán*) was the victim of a violent assault in November 1995 which left him badly bruised with serious facial and dental injuries. He had been campaigning for reinstatement following dismissal from his job over 20 months before by the mayor of Cobán. The attack against him was reportedly carried out by six unidentified masked men

Workers in textile assembly plants (*maquilas*) have been targeted apparently to prevent unionization at the plants and keep wages low. Débora Guzmán Chupén has been subjected to death threats and harassment since workers at the Lunafil factory in Amatitlán, Guatemala Department, began protesting in May 1994 against what they said was the illegal and unjustified closure of the factory. In February 1995, she was violently abducted and held for 24 hours during which time her captors drugged and beat her. She was told to warn her husband, Félix González, a trade union leader at Lunafil, to stop his activities or she would die.

Catarina Terraza Chávez, an Ixil Maya from Laguna, Nebaj, El Quiché department was threatened and harassed by a named member of G-2, military intelligence after participating in an Ixil caravan from Nebaj to Guatemala City from 6-12 March 1995. The agent reportedly broke into the building from which a broadcast was being made to inform residents about the results of the caravan and accused Catarina Terraza of having visited the guerrillas in the mountains. In January 1994, the same G-2 agent and a colleague assaulted her when she seven months pregnant. From that date, she had been a constant target of their threats. Catarina Terraza is a leader of the National Coordinating Committee of Widows of Guatemala (*Coordinadora Nacional de Viudas de Guatemala, CONAVIGUA*) which brings together women who lost their husbands during the army's savage counter-insurgency campaign in the late 1970s and early 1980s. The caravan had been organized by CONAVIGUA and other indigenous groups to protest at the human rights violations which indigenous people in the area continued to suffer at the hands of the the military - particularly members of G-2, military commissioners and the civil patrols. The participants had also called on the authorities to bring those responsible for earlier violations to justice and for their area, the "Ixil Triangle" to be demilitarized.

Death penalty

Amnesty International is unconditionally opposed to the death penalty believing it to be the ultimate form of cruel, inhuman and degrading treatment and a violation of the right to life, as embodied in the Universal Declaration on Human Rights and other international human rights instruments.

The last executions were carried out in 1982 and 1983 under an emergency decree promulgated by the *de facto* administration of General Efraín Ríos Montt which established secret military tribunals able to impose the death penalty for a wide range of political offences. Until 1992, no death sentences were handed down by the courts. After that date, several people were given the death penalty, though there are currently no prisoners facing death sentences. In March, Congress passed a law extending the death penalty to material and intellectual authors of kidnapping or abduction, their accomplices and those attempting to cover-up such crimes. However, President Ramiro de León Carpio neither ratified nor vetoed the law within the legally-specified period, leaving its status unclear. If this law were to come into force, however, it would be in violation of article four of the American Convention on Human Rights to which Guatemala is a party.

Awaiting justice

Tens of thousands of people were the victims of serious human rights violations during the country's long-term civil conflict, including extrajudicial executions, "disappearances" and torture, threats and harassment. Countless others have suffered the loss of a loved one or have lived in fear that they or their families could be the next to be targeted. With the return of civilian rule in Guatemala in 1986, hopes rose that the country would at last return to the rule of law. To date, these hopes have not been realized.

Those responsible for human rights violations continue to benefit from almost total impunity. In the few cases in recent years in which the perpetrators of human rights violations have been prosecuted, it has usually been where a particular element, usually the foreign nationality or high social status of the victim, has focussed high-level national and international attention on the case. There have been no convictions of those believed to be responsible for the gross human rights violations committed at the height of the army's counterinsurgency campaign of the late 1970s and early 1980s when thousands of people were killed or "disappeared". Those responsible for human rights violations committed under General Efraín Ríos Montt's administration between March 1982 and January 1986 received a military-promulgated amnesty on the eve of civilian President Vinicio Cerezo's accession to office in January 1986.

During 1995, independent forensic groups carried out further exhumations at sites where large-scale extrajudicial executions had been reported during the army's counter-insurgency campaign. In July 1995, members of the independent Argentinian Forensic Anthropology team (EAAF, *Equipo Argentino de Antropología Forense*) completed their work at the site of Las Dos Erres in the Department of El Petén where 350 inhabitants had reportedly been killed by members of the Guatemalan army in 1982. They recovered the remains of at least 171 people. Sixty-seven of those exhumed were children under 12. Some victims were bound; others had bullet wounds to their skulls. No official efforts have been made in this instance nor in any others to identify the victims and bring those responsible to justice. In the case of Las Dos Erres, the local military commissioner reportedly tried to impede the investigations by threatening witnesses, relatives, Guatemalan human rights monitors and members of the forensic team.

Efforts by relatives of a number of victims of extrajudicial execution to exhume a site at the military base at Las Cabañas, La Montañita, Malacatán in San Marcos Department site where reports have suggested their loved ones remains may be buried also continued to meet with obstruction on the part of civilian and military officials. Among the relatives trying to have the site at the base exhumed is United States citizen Jennifer Harbury. Her husband, Efraín Bámaca, was a guerrilla commander who "disappeared" after having been wounded in combat with the Guatemalan army in 1992. The Guatemalan military maintained that he died in combat, but in March, US Congressman Robert Torricelli made public information confirming that Efraín Bámaca had been taken into custody by the army, tortured, then extrajudicially executed, and that US officials had known this for some time before informing Jennifer Harbury. Congressman Torricelli's information also suggested that both the death of Efraín Bámaca, and of US citizen Michael Devine, killed in 1990, had been carried out by troops under the command of a Guatemalan colonel, who was being paid by the US Central Intelligence Agency (CIA) at the time of their deaths. US President Bill Clinton ordered an official inquiry into these and other cases involving US citizens. This led to disciplinary action against several CIA employees; two were dismissed.

In Guatemala those named as implicated in the cases have not been arrested or charged. Jennifer Harbury, a former soldier with information about the case and Lic. Eduardo Arango Escobar, the Public Ministry prosecutor assigned to its investigation were intimidated and threatened with death. Dr. Arango withdrew from the case after shots were fired at his office in June; the soldier left Guatemala. On 5 January 1996, a bomb partially destroyed the car of Ms. Harbury's lawyer in Washington, The following day, shots were fired at Ms. Harbury's residence in that city.

Amnesty International is concerned at the failure by successive governments to bring to justice those responsible for human rights violations. On taking office in January 1996, President Alvaro Arzú Irigoyen said that the state would fight impunity in order to fulfil its human rights duties. Amnesty International urges the new government to address fundamental issues relating to the administration of justice and to institute essential reforms within the justice system, including the Public Ministry, the judiciary and the National Police. The independent and unobstructed judicial investigation of alleged violations of human rights is of the utmost importance, both from the point of view of the victim and his or her relatives and to prevent the recurrence of similar violations. Amnesty International is particularly concerned at continuing attacks on human rights defenders who play a pivotal role in the struggle against impunity in Guatemala and calls on the new government to see that the perpetrators of such actions are brought to justice. Amnesty International is convinced of the need for such measures as a clear official signal that human rights violations will not be tolerated under any circumstances.

