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# £GUATEMALA

## @Impunity - A Question of Political Will

### INTRODUCTION

For over 20 years Amnesty International has documented and denounced tens of thousands of serious human rights violations, including torture, "disappearances" and extrajudicial executions reportedly carried out by Guatemala's security forces, acting in uniform or in plain clothes in the guise of the so-called "death squads", as well as by civil defence patrols or military commissioners<sup>1</sup> acting under military control.<sup>2</sup>

When the first civilian government for nearly 20 years took office in 1986 there was new hope for an end to human rights violations in the country, after President Vinicio Cerezo Arévalo's administration publicly committed itself to returning the country to the rule of law. However, the new hopes have failed to materialize: the administration did little to investigate and punish human rights violations, even in those cases where there was clear evidence of the involvement of the security forces.

President Jorge Serrano Elías took office in January 1991, the first civilian president in four decades to be handed power by another civilian president. During his presidential campaign he had pledged to ensure protection of human rights, and, in his inaugural speech on 14 January 1991, he stated:

"As President of the Republic, I reiterate before the people of Guatemala and its elected representatives, as well as before all the peoples of the world and their governments, my solemn engagement to carry out all efforts to reestablish the full enforcement of human rights in Guatemala... I am willing to abide by the law and ensure that the law is complied with without discriminations. No hierarchies, no special jurisdictions or financial wealth can be opposed to the majesty of justice. He who violates the law shall be punished, without exception".

Since that day, some positive developments on several human rights issues have been made and some initiatives have been taken by the Guatemalan Government in the field of human rights, such as the judicial proceedings and a few convictions of security force personnel for human rights violations and the establishment of a presidential commission to coordinate executive policies on human rights matters, as well as government-sponsored education programs on human rights. Regardless of these developments, Guatemalans are still the victims of numerous human rights violations, including extrajudicial execution, "disappearance", torture and ill-treatment, harassment and death threats; and the "majesty of justice" still encounters serious obstacles and is virtually not applied at all. Although the overall number of extrajudicial executions and "disappearances" has decreased in 1992, and progress was made in initiating criminal proceedings against select individuals believed to be responsible for human rights violations,

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<sup>1</sup>Military commissioners are civilian agents of the army, serving under army discipline. Civil defence patrols, or *Patrullas de Autodefensa Civil* (PAC), are civilian auxiliaries of the armed forces.

<sup>2</sup>See *Guatemala - The Human Rights Record*, AI Index AMR 34/04/87; and *Human Rights Violations under the Civilian Government*, AI Index AMR 34/07/89.

AI Index: AMR 34/17/93 Amnesty International May 1993

Amnesty International has documented a serious and marked increase in other human rights abuses - in particular serious death threats, harassment and other serious acts of intimidation. The repressive structures have not been dismantled, and this increase in harassment and threats, coupled with the heavy surveillance of real or suspected government opponents, suggests the continued existence of an extensive apparatus for population control and repression.

No investigations into abuses committed under previous governments have been opened, despite repeated requests from relatives of victims of human rights violations. A bill for a national commission to investigate past "disappearances", proposed in 1991, again failed to be discussed in Congress and become law in 1992. Those cases in which investigations have been carried out and convictions for human rights violations been obtained are still the exception, not the rule, being mainly the result of sustained efforts by relatives of the victims and human rights groups. In those proceedings resulting in convictions, the courts have tended to impose sentences on lower-ranking personnel, and have exonerated higher officers implicated in human rights violations. Impunity still largely prevails.

The human rights violations described in this report took place in the context of talks between the government and representatives of the armed opposition coalition, Guatemalan National Revolutionary Unity (URNG), which were initiated in April 1991. A preliminary agreement on the Civil Defence Patrols (PAC), was reached in August. Although voluntary according to the Constitution, civil patrols are in effect compulsory. Those refusing to take part in them have been branded "guerrillas", and many were subjected to human rights violations, including harassment and attacks, "disappearance" and extrajudicial execution. Amnesty International has also documented numerous cases of extrajudicial execution, abduction and "disappearance" and threats and harassment carried out by the civil patrols since their creation as a component of the military's counter-insurgency strategy in 1982. The agreement reached was that the military would not create new civil patrols unless requested to do so by the population, with the Human Rights Attorney being responsible for monitoring that no coercion had been used to promote the creation of the new patrols. There was concern, however, that given the current climate of intimidation and threats against those who refuse to participate in the civil patrols, it might not always be possible to carry out a thorough verification that new patrols were freely demanded by the population.

## Amnesty International's concerns

The human rights situation in Guatemala, with its continuing occurrence of extrajudicial executions, "disappearances", and a dramatic increase in harassment and threats is one of serious concern to Amnesty International. While the absolute numbers of human rights violations have decreased since President Serrano took office, Amnesty International is concerned that they are still occurring, and that the methods used and the victims remain virtually the same as in the past.

As in past years, some victims were shot dead or seized by security force personnel, either in uniform or in plain clothes in the guise of "death squads". Others were killed or seized by civil patrols, operating under military control. However, increasingly, victims have been stabbed or shot with weapons of a calibre different to those used by the security forces, in an apparent effort to disguise the fact that they had been extrajudicially executed. Several other victims of human rights violations "disappeared"; others were interrogated, tortured or otherwise ill-treated, then released. Many of the victims had received threats prior to the abduction or extrajudicial execution. Many more were the object of attacks, assassination attempts, repeated death threats and intimidatory surveillance.

Harassment has also included statements by government officials trying to discredit those carrying out their legitimate professional activities, accusing them of being the "civilian arm" of the armed opposition or of responding to "insurgent directives". Amnesty International has been particularly concerned at such

statements made by President Serrano against human rights workers and journalists.

During 1992 Amnesty International was also seriously concerned at reports that URNG forces were responsible for a number of human rights abuses, and at the time of writing, was seeking to verify the information it had received.

The organization was, however, extremely concerned at reports of the execution-style killing of Ernesto Rivera, military commissioner of La Primavera, El Petén department, by members of the URNG in March 1992. According to the information received by Amnesty International, Ernesto Rivera was taken from his house in the early hours of the morning by a group of guerrilla soldiers, after they had arrived in the area. Ernesto Rivera was tied up and forced to reveal the address of other local military commissioners. He was then taken to a gathering called by the URNG in the central square and accused of being an army informant. Ernesto Rivera was then taken to a side street, untied and told he could go. As he was walking away, he was shot.

## Victims of human rights violations

People from all sectors of society have been the target of human rights violations in Guatemala. Human rights monitors, peasants, trade unionists, students and academics, journalists, street children, the displaced, real or suspected opponents to the government, real or suspected members of the armed opposition, judicial officials and street children are among those now most at risk of human rights violations - ranging from extrajudicial execution and "disappearance" to ill-treatment, attacks, death threats and harassment. Peasants, mainly indigenous, opposed to civil patrol service, indigenous widows pressing for exhumations of clandestine cemeteries, those protesting the practice of press-gangng youths for military service, as well as those opposed to compulsory military service, have also increasingly become targets. While Amnesty International is not able in all cases reported to attribute responsibility for such human rights violations, the evidence available in the cases detailed in this report and the conditions under which these violations took place suggest official responsibility. In any case, the information available on such cases should be sufficient for the authorities to initiate full investigations and identify and prosecute the perpetrators; in practice, however, identification of the perpetrators has rarely been attempted, and the large majority of the cases remain pending investigation.

## Human rights monitors

Those trying to document and investigate human rights violations in Guatemala have traditionally been themselves main targets for human rights violations, on repeated occasions paying with their own lives for their efforts. Although local human rights groups have been able to report occurrences of human rights abuses on a more regular basis than in the past, they remain the object of constant human rights abuses and direct verbal attacks by members of the government, including President Serrano himself.

In mid-November President Jorge Serrano Elías and Minister of Defence General José García Samayoa signalled three human rights monitors as "responding to the directives of the URNG". The three human rights workers mentioned were Amílcar Méndez, president of the Council of Ethnic Communities "We are all Equal", (CERJ), together with Factor Méndez Doninelli, director of the Centre for the Investigation, Study and Promotion of Human Rights, (CIEPRODH), and Ronalth Ochaeta, Director of the Human Rights Office of the Archbishopric of Guatemala, (ODHAG). The allegations were made the strongest on the case of Ronalth Ochaeta, about whom he said that there was "clear and conclusive" evidence that he was responding to URNG directives. The president was unable to provide evidence substantiating his allegations, which were adamantly denied by Ronalth Ochaeta and the Guatemalan Episcopal

Conference. ODHAG has been instrumental in pushing for judicial proceedings against perpetrators of human rights violations. President Serrano had singled out the three human rights defenders prior to an international conference held in Washington D.C., United States of America, on torture in Guatemala. The President accused them of "destroying the image of the country and making us look like savages... The army doesn't torture and the government doesn't torture", he said.

The main target appeared to be, as in previous years, CERJ, and in particular its president Amílcar Méndez Urizar. CERJ was formed in 1988 to protect indigenous peoples' rights, and has been particularly active in protesting against peasants being forced to join the ostensibly voluntary PAC (see below). Since then more than 15 CERJ members have been extrajudicially executed, seven have "disappeared", and scores have been subjected to intimidation or harassment by members of the security forces, civil patrollers, military commissioners or civilians acting in connivance with the military.

In September 1991 President Serrano, while holding a meeting in the United States with Amnesty International and other human rights organizations, repeatedly accused the CERJ of having links with the armed opposition. The President also made direct allegations against Amílcar Méndez, but was unable to provide any substantiating evidence.

In late January 1992 Amílcar Méndez's name appeared in a typewritten death threat by the "Anti-Communist Unit"<sup>3</sup> death squad, together with the names of Byron Morales, Organizing Coordinator of the Guatemalan Workers' Union (UNSITRAGUA); Armando Sánchez, General Secretary of the National Federation of Guatemalan State Workers' Unions (FENASTEG); Juan Mendoza, leader of the Committee of Peasant Unity (CUC); Nineth Montenegro de García, president of the Mutual Support Group for the Appearance of Our Relatives Alive (GAM), and Rosalina Tuyuc, president of the National Coordinating Committee of Guatemalan Widows (CONAVIGUA). The threat had been handed to Armando Sánchez by an unknown man, who approached him as he was driving home. Amílcar Méndez, the death threat said, would be one of the "last of the communist popular leaders to be massacred". Amnesty International called upon the Guatemalan Government to protect the security of those threatened and to investigate the origin of the threats, but it is not aware of any measures taken by the Guatemalan Government to that effect.

On 10 May 1992 a grenade exploded outside Amílcar Méndez' family home in Santa Cruz del Quiché, causing damage to the outer wall. Hours after the threat, his sister received a telephone call saying that this was a "warning". Both Amílcar Méndez and other CERJ members continued to receive written and telephone threats throughout the year. Following the grenade attack on his house in May, Amílcar Méndez and some of his children moved to Guatemala City. However, his wife, who works in El Quiché as a nurse, remained in Santa Cruz del Quiché. That same month, CERJ member Esteban Tojín, 32 and the father of five, a merchant from the hamlet of Cruzché II, El Quiché department, "disappeared" during a work trip to Guatemala City. Esteban Tojín had, since February, received repeated death threats from civil patrollers from his hamlet because of his opposition to civil patrol service. Despite efforts by CERJ and Esteban Tojín's family to locate him, no news of his fate and whereabouts have emerged and he remains "disappeared".

CERJ continued receiving threats throughout the year. One such threat was received in mid-September, at the time of a visit to El Quiché by Amnesty International delegates. A telephone call was received in the CERJ office at about 11.00 pm. The caller, who did not identify himself, invited Amílcar Méndez and his wife to a "party" at the military base nearby.

At the end of October 1992, Amílcar Méndez went to the United States to give a series of talks on the human rights situation in Guatemala. His wife, María (known as Miriam) Buthy Dardón Tejada, reported that following her husband's departure from the country, she and her family were subjected to constant

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<sup>3</sup>*Ejército Secreto Anticomunista*

harassment, including telephone calls day and night. The unidentified callers threatened to kill her and her family. She also reported seeing two unidentified armed men who apparently kept their house under constant surveillance, as well as two uniformed members of the National Police who apparently watched the house from a nearby shop. The family, which includes six children, feared to leave the house.

On 21 November 1992, days after Amílcar Méndez was again accused of having links with the armed opposition by President Serrano and the Minister of Defence, Miriam Dardón was walking in the town of Santa Cruz del Quiché while approximately 150 members of the civil defence patrols were staging a demonstration against Amílcar Méndez, which took place outside the house of the Governor. She was accosted by two members of the PAC who wanted to force her to go to the microphone and told her to make denunciations against her husband. She was able, however, to rid herself of her assailants and fled the place. Sources in Guatemala report that the demonstrators, who came from various parts of the department of El Quiché, including the city of Chichicastenango and the village of San Pedro Jocopilas, were there at the behest of the armed forces.

The demonstration in Santa Cruz del Quiché was linked to an arrest warrant issued on 6 November 1992, on the orders of the Attorney General, against Amílcar Méndez who was in the United States at the time. The arrest warrant related to the arrest on 22 October 1992 of two indigenous CERJ members, Juan Ren González and Alberto Calvo González, in Santa Cruz del Quiché by members of the National Police. The men were accused by the police of being in possession of a pamphlet bomb containing URNG publicity. Both men were taken before a judge on 23 October. Initially, one of the men appeared to have accused Amílcar Méndez as being responsible for giving them the alleged bomb. The two had been interrogated in court without the presence of a lawyer or an interpreter, despite the fact that Spanish is not their mother tongue; the two later denied all charges against them, and claimed that they had made their statements under threat by men who claimed to be representatives of the Human Rights Attorney's Office and the Public Ministry. They also stated they had been ill-treated while in custody. The Human Rights Attorney, in his resolution of 8 December, confirmed that the two had been threatened, and identified those who had threatened them as members of the Quiché military base.

Amílcar Méndez returned to Guatemala on 22 November and, following the intervention of foreign embassy officials he was not arrested, but was immediately taken to Santa Cruz del Quiché to appear before a judge. He appeared that evening before the Justice of the Peace of El Quiché and was questioned for approximately six hours. He was subsequently granted provisional liberty on grounds of lack of evidence, but still under investigation. While the Human Rights Attorney stopped short of condemning the judicial proceedings initiated against Amílcar Méndez, the United Nations (UN) independent Expert on the situation of human rights in Guatemala, Christian Tomuschat, in his report for the 49th Session of the UN Commission on Human Rights, stated that he considered it "highly improbable that Amílcar Méndez had participated in illegal actions supporting the guerrilla forces".

In late January 1992 a member of CONAVIGUA, Rosa Pú Gómez, was held at gunpoint in the street by a man who asked her about several leaders of grassroots organizations and her husband Luis Solís Pajarito, a displaced people's leader who "disappeared" in 1990. Rosa Pú was taking part, together with many other indigenous and grassroots leaders and members, in a march to commemorate the 12th anniversary of the Spanish Embassy siege, in which at least 37 people were burned to death when the Guatemalan security forces attacked the building. Rosa Pú's assailant also accused her of belonging to the armed opposition. She then started walking and came upon a policeman. The policeman told the man to go away, as Rosa Pú was with a "lot of people".

The car driving indigenous leader Rigoberta Menchú Tum was attacked by men driving another car as she was going to Quetzaltenango in July 1992, and she and those associated with her received numerous death threats during 1992.

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Kakchikel indigenous teenagers Cristina Par and Matea Par, members of the Maya Coordination "The New Dawn"<sup>4</sup>, were attacked in Guatemala City on 19 October 1992, dragged by the hair for several blocks, beaten, threatened and stripped naked in the street by two women and one man who accused them of being guerrillas because they were wearing indigenous clothes. The assailants told the two girls that they had seen them in the celebrations held in Guatemala City of the announcement on 16 October that Rigoberta Menchú had won the Nobel Peace Prize.

CONAVIGUA members and leaders reported receiving many death threats throughout the year, and widows in rural areas organized by CONAVIGUA were repeatedly accused by the military and civil patrols of participating in guerrilla activities. The accusation was based on the grounds that they left their homes to meet with other widows in different communities. Leaving one's community too frequently is taken by the military and their agents as a sign of links with the guerrilla.

On the weekend of 21-22 November, unidentified people broke into CONAVIGUA's Guatemala City office while members were attending the burial of victims of human rights violations in the early 1980s whose bodies were exhumed in August 1992 from a clandestine cemetery in San José Pachó Lemoa, El Quiché department. Although the break-in had the appearance of a robbery, Amnesty International is concerned that the attack may have been carried out by members of the security forces or people acting in connivance with them, as CONAVIGUA's filing cabinets were searched and overturned and information concerning reports of human rights violations and cases of forced recruitment of indigenous youths was stolen from the files. CONAVIGUA members informed the National Police of the break-in upon arrival from San José Pachó. The police went to the office on the evening of 22 November, but did not take any evidence crucial for investigation, such as photographs or fingerprints.

**Graffiti linking Nobel Peace Prize Winner Rigoberta Menchú and the *Consejo de Comunidades Etnicas "Runujel Junam"* (CERJ), Council of Ethnic Communities "We are all equal" to the URNG guerrilla**

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<sup>4</sup>The *Coordinadora Maya Majawil Q'Ij* is an indigenous umbrella organization formed in October 1990. Amnesty International May 1993AI Index: AMR 34/17/93

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**movement, Santa Cruz del Quiché, September 1992.**

Other human rights monitors were singled out for abuse, and harassment and death threats against them were widely reported. In not one known case did the authorities appear to take effective measures to prevent these abuses. In May 1992 Chiquimula City's delegate of the CIEPRODH, José Nerio Osorio, was stabbed by two men as he was on his way home, reportedly because of his investigations of human rights violations in the area. CIEPRODH's offices in other cities received death threats. On 12 October a bomb exploded near the entrance of GAM's office, a week after they noticed heavy surveillance and increased threatening telephone calls.

**Peasants opposed to civil patrol service**

The PAC or Voluntary Civil Defence Committees, CVADC were set up in 1982 under the military government of General Efraín Ríos Montt as a component of the military's counter-insurgency strategy. Initially compulsory, they are voluntary under the terms of Article 34 of the 1985 Guatemalan Constitution which states that "No one is obliged to join nor to belong to self-defence groups or associations or other similar groups". However, in practice civil patrols are still compulsory. Those refusing to take part in them have been branded as "guerrillas", and many have been subjected to human rights violations, including harassment and attacks, "disappearance" and extrajudicial execution. Amnesty International has also documented numerous cases of extrajudicial execution, abduction, "disappearance" and threats and harassment carried out by the civil patrols since their creation in 1982.

**Signpost of the "destacamento" of the civil patrol in Santabal, El Quiché department.**



**Civil patroller in the department of El Quiché.**

In April 1992 Pedro Raguez was stabbed and killed with a *coup de grâce* (finishing shot) to the head reportedly by two leaders of the civil defence patrols in the hamlet of Xoljuyú, San Pedro Jocopilas, El Quiché. He had only recently returned to his home, having fled earlier because of threats and intimidation because of his refusal to participate in the patrols. In August 1992 peasant Catarino Chanchavac Larios from San Pablo, San Pedro Jocopilas, El Quiché, "disappeared" on his way home after a rehearsal of the Catholic choir he participated in. His body, showing stab wounds, was found the next morning in a nearby corn field. Catarino Chanchavac had received numerous death threats because of his refusal to participate in civil patrol service. Several days after Catarino Chanchavac's death, in September 1992, two men ambushed Pedro Pérez López as he was on his way to work with his wife. Pedro Pérez was in charge of the windmill project set up by CONAVIGUA in the area, and was well known for his opposition to patrol service. He eventually managed to escape his assailants, and was able to identify one of them as a member of the San Pedro Jocopilas civil patrol. After the attack, he took refuge in the office of CERJ in Santa Cruz del Quiché, where he has remained since then.

**Pedro Pérez López and his family. Pedro Pérez had asked AI delegates to take a photo of him with his family "in case something happens to me").**

Also in September, Francisco Hernández López, from the hamlet of La Primavera in the municipality of San Pedro Jocopilas, was attacked by men whom he later identified as working with the municipal civil patrol chief. He too had refused to take part in civil patrols. Villagers from different hamlets in San Pedro Jocopilas reported being the object of threats and harassment from civil patrol members in order to force them to take part in patrol service.

### **Francisco Hernández López, his wife and baby son William**

#### Trade unionists

Trade unionists and their relatives were also continued targets for attack. On 29 March 1992 Perfecto Us, of the Electrical Workers' Union, (STINDE), was abducted by heavily armed men who threatened to kill him if he persisted in his trade union activities. He was allegedly beaten and left tied up overnight beside a road. He was released later by local farmers. STINDE was involved in a labour dispute which included the occupation of several premises from late March to early April.

The young sons of STINDE conflicts secretary Víctor Hugo Alvarez, Marlon Paul Alvarez Juárez, 13, and his brother Hugo Ricardo, 10, were abducted on 27 May 1992 by two unidentified men while walking home after school in Chimaltenango, Chimaltenango department. The men reportedly forced the children into a van, covered their mouths with handkerchiefs, took them to Antigua (about 36 km away) and then released them. The children spent the night among market stalls and sought help the next day to go back home.

In mid-April, as the labour conflict had reached its most serious point, the two children had been pursued by unknown men as they were on their way home from school. On that occasion the children managed to evade their pursuers by mixing with the population in the local market. On 6 July unidentified men went several times to the home of Luis Humberto Fuentes Morales, secretary of the union in the private company Duralex, inquiring about his whereabouts, but did not find him. The same men followed his young daughter from school, and his wife was threatened when she tried to make a telephone call from a public booth after the girl was followed.

On 19 October 1992 Byron Morales, Secretary of Organization of the Union of Workers of Guatemala, (UNSITRAGUA), Romeo Monterrosa, a leader of the University Students Association, (AEU), and Rony Iván Véliz, a photographer and journalist with Reuters news agency in Guatemala known for his long-standing support of the grassroots movement, were walking in Guatemala City after a forum on the 1944 Guatemalan Revolution when men driving a vehicle and armed with high-calibre weapons approached them and threatened to kill them. The threats are believed to be connected with the announcement that indigenous leader Rigoberta Menchú had won the 1992 Nobel Peace Prize. Both the AEU and UNSITRAGUA had actively supported her candidacy.

#### Students and academics

Students, teachers and academics have for years been the object of "disappearance", torture and extrajudicial execution carried out by the Guatemalan security forces or by "death squads". The autonomous University of San Carlos (USAC), was characterized by previous military regimes as a "centre of subversion", and its staff and students have been the victims of human rights violations for many years. The AEU of USAC has been a target of human rights violations since the 1960s. This situation has barely changed since President Serrano took office. In 1992 alone, at least five students and four academics were apparently extrajudicially executed, and many more were subjected to death threats and intimidation.

On 30 January 1992 a bomb exploded in the AEU offices of USAC, causing serious damage to the building, furniture and office equipment. The AEU believed the bombing was linked with two meetings

which they had organized shortly before on the subject of the El Salvador peace accords and the ongoing peace negotiations in Guatemala. It was also apparently linked with their participation in the march held on 31 January to commemorate the 12th anniversary of the Spanish Embassy siege. The AEU was to provide accommodation for members of the CUC, who had come from the countryside to attend the march. In February, another bomb was deactivated in the Rectoría, and another exploded outside the old Faculty of Law building. In March a bomb exploded in the School of Chemistry and Pharmacy, and yet another one exploded in the AEU building on 5 October, following a series of death threats against those AEU members involved in a law suit against the security forces (see below).

At least five students and four academics were killed in circumstances suggesting their extrajudicial execution, and many more, including USAC Rector José Alfonso Fuentes Soria and AEU president Otto Peralta, were subjected to death threats and intimidation. History professor Manuel Estuardo Peña was shot dead on 10 February 1992, the night his daughter answered a phone call by an unidentified man who was asking for him. Shortly afterwards a young man in plain clothes arrived at his home in Guatemala City and questioned his wife about her husband's whereabouts. His wife said he was not at home, and the man left. His wife reported that the man waited outside the apartment for her husband's return. She then heard three shots being fired and found her husband dead outside the house. A 38 calibre<sup>5</sup> bullet was found near the body. Manuel Estuardo Peña was well known for his left-wing ideas, and also worked in an organization involving the internally displaced. He and his assistant at USAC, Pedro Us Soc, had received death threats in late 1991. Like the political killing of anthropologist Myrna Mack Chang in 1990 and of agronomist Julio Quevedo Quezada in 1991, the authorities initially stated that the killing was a crime of passion. However, Manuel Peña's family, friends and colleagues, as well as local human rights organizations, have maintained that his killing was politically motivated. Although versions have differed regarding the circumstances of his killing, Amnesty International remains concerned that the authorities appear to have made no efforts to investigate his killing. Several days after Manuel Peña's death, Pedro Us Soc and his wife Floridalma Ixtahualán, secretary at the Mayan Presbyterian Fraternity, received two threatening telephone calls, telling them to "remember what happened to your friend, we are not joking", which they took as referring to Manuel Peña. The couple went into hiding. Pedro Us Soc who, along with his wife, belongs to the Quiché indigenous ethnic group, is originally from the municipality of Chinique, El Quiché department. Besides working at the USAC, he is an assistant professor at the Faculty of Theology of the Mariano Gálvez Catholic University. He is also a leader of the Association of Guatemalan Teachers (AMG), and the National Teachers Assembly (ANM). He also represented the teachers as a delegate at the Continental Campaign for the 500 years of Indigenous, Black and Popular Resistance, in the Second Continental Encounter of Indigenous and Popular Organizations held in Guatemala from 7-12 October 1991.

On 10 April 1992 university student Julio Cuc Quim was killed and seven other wounded by members of the security force unit *Hunapú*, made up of the National Police, the Treasury Police and the Mobile Military Police after *Hunapú* members arrived at a house where students were making preparations for an annual parade, the *Huelga de Dolores*. Other students, believing *Hunapú* agents were detaining students, gathered outside. An argument ensued, and *Hunapú* agents opened fire on the students. Julio Cuc Quim, a student of the Training College for Secondary School Teachers (EFPEN), died from gunshot wounds. Legal proceedings against 31 *Hunapú* members were subsequently initiated. Students involved in the proceedings and their relatives received death threats warning them to stop. In November six *Hunapú* agents belonging to the National and Treasury Police, were convicted of the killing of Julio Cuc Quim and the wounding of seven other USAC students. The commander of the group, however, was found not guilty and released from custody. The USAC appealed the sentence against the acquittal of the

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5.38 Calibre is standard army issue.

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commander and 15 other members of *Hunapú*. Those agents belonging to the Mobile Military Police are being tried under a military court, and are currently awaiting the outcome of their prosecution.

In May, Andrés Ramírez Lara, a 40-year-old lecturer in the faculty of Economics at USAC, was apparently extrajudicially executed as he was arriving at his home in Guatemala City with his family on the evening of 14 May 1992. He was shot at point-blank range by two unidentified gunmen who had, according to witnesses, been waiting for him outside his home. It is believed that Andrés Ramírez Lara has previously received anonymous death threats. Several hours later, psychology student Juan José Arana Paz was shot dead in reportedly similar circumstances by two unknown assailants, as he was on his way home in Zone 1 of Guatemala City at approximately 11.00 pm.

### Secondary school students

Several secondary school students, many of them minors, were tortured or otherwise ill-treated in April 1992 following demonstrations. The students were demanding better conditions in schools which resulted in clashes with the police. After the demonstrations, National Police agents entered two schools for boys, the National Central Boys' Institute, and the Teachers' Training College, and arrested some 170 students.

Among those arrested and tortured was 13-year-old Amado López Hernández, who was beaten and forced by a police officer to drink bleach. Amado López Hernández subsequently underwent major stomach surgery and remained hospitalized for two weeks. His father, Jorge Luis López, filed a complaint against the National Police and both he and Amado López testified in court, but no progress has apparently been made in the inquiry. It was reported to Amnesty International that, according to the judge in charge of the case, the police had not submitted a list of names of the officers assigned to the school that day. A photograph showing Amado López being led out of the school by a police officer appeared in the press on 2 May. However, the judge made no attempt even to summon the police officer in the photograph for questioning. Amnesty International also received information that two unknown men who claimed to be journalists visited Amado López while he was in hospital, and asked him for the name of his parents and his address. In June 1992, shortly after Jorge Luis López appeared in court, he was approached near his home in Colonia Colombia, Guatemala City, by two unknown men who asked him to produce his identification papers. He gave them his identification document and his driving licence. One of the men reportedly tore up the licence but kept the other document. He then told Jorge Luis López that if he ratified the complaint in court his family would pay. The family has now left the country.

Shortly after the arrest and ill-treatment of secondary students in late April, law student and administrative secretary in the department of training of the Guatemalan Institute of Agrarian Transformation (INTA), Danilo Porras Colorado, was stabbed to death near his work in Guatemala City. He had reportedly assisted in the release of secondary school students arrested by the police in late April.

### The press

Members of the press have also been the object of serious harassment and threats throughout the year. For example, in May 1992 *Prensa Libre* editor Néstor Hernández left the country following death threats against him and an attempt on his father's life, after the newspaper published a photograph of an army lieutenant who had allegedly detained a group of journalists. Néstor Hernández had also reportedly received threats because of his coverage of the legal proceedings against Presidential Chief-of-Staff Sergeant Noel de Jesús Beteta for the killing of Myrna Mack. On 29 May, Antonio Ortega Hernández, the father of *Prensa Libre* journalist Catalino Ortega, was shot dead by several unknown men who reportedly attacked him as he was walking along a street in El Progreso department. Two days earlier, on 27 May,

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members of the security force unit *Hunapú* reportedly turned their weapons on a group of journalists trying to interview a suspected drug trafficker as he was about to be taken to the airport for extradition to the United States. Some of them were reportedly ill-treated by members of *Hunapú*.

Radio journalist Ricardo Castro, the producer of *Línea Directa*, a political opinion programme for the state radio station "TGW", was shot and wounded on 19 June 1992. A man in plain clothes driving a maroon pick-up van, who went to his home, threatened his young son when he answered the door and then shot the journalist when Ricardo Castro arrived at the door. Ricardo Castro later reported that he had been the object of an attack by an unknown individual who threw a gallon of petrol with a burning wick at his house several days earlier. He also said that he had been able to catch the assailant, and hit him. According to Ricardo Castro, a day after that incident, two unknown men approached one of Ricardo Castro's young sons and told him "Do you remember what happened yesterday? Don't tell the police, because if you do you will suffer the consequences. Up to now, it has only been a warning"

In September 1992 the Guatemalan Chamber of Journalists denounced the death threats made against several of its members. On 5 October a bomb exploded at the offices of the weekly magazine *Tinamit* (People). *Tinamit* magazine had published articles critical of the government, including many articles concerning human rights issues, and reported receiving several death threats before the attack. In November a bomb was deactivated at the radio studios of "Guatemala Flash". In December 1992 Axel Cocón, director of the Guatemalan news agency, *Agencia Guatemalteca de Noticias* and a correspondent for a Colombian radio station, *Radio Caracol*, left the country following repeated death threats.

On 3 December 1992 *Siglo XXI* newspaper journalist Omar Ranferi Cano Herrera, together with two members of the National Council of Protected Areas (CONAP), one member of the Institute of Anthropology and History (IDAEH), and three Treasury Police agents, was attacked by a group of 25 armed civilians in El Petén department, as he was investigating illegal logging in protected zones. They were captured and reportedly severely beaten for about three hours. Photographic and journalistic material was destroyed, and one of the cameras was smashed several times against Omar Cano's back, causing him serious injury. Omar Cano also sustained slash wounds on his body and a broken nose. After the attack, the assailants handed Omar Cano and the others over to the nearby Military Zone No. 23, saying, according to Omar Cano, "mission accomplished". Omar Cano said that he had been attacked by men in civilian clothes, but alleged to have information that the Treasury Police agents had been beaten by military men. Days later, a court in El Petén ordered the arrest of seven men, apparently all civilians. To Amnesty International's knowledge, the arrest warrants were never enforced. Omar Cano received repeated death threats, and eventually left the country in early 1993.

### The displaced

Those targeted for human rights abuses also included those displaced by the armed conflict in the early 1980s. The National Council for the Displaced in Guatemala (CONDEG), was formed in September 1989 to defend the rights of the displaced population, mostly indigenous peasants, who fled areas of conflict during the counter-insurgency campaigns of the early 1980s and later continued repression. The Guatemalan security forces have considered them and those working with them as "subversives", and they have become a target of human rights violations, including "disappearance", extrajudicial execution, intimidation and harassment. Shortly after its creation, CONDEG became a target for human rights violations itself. On 3 May 1990 CONDEG leader Luis Miguel Solís Pajarito, an indigenous displaced person from the village of Río Blanco, Sacapulas, El Quiché department, "disappeared" after leaving the CONDEG office in Guatemala City. Several days earlier he had survived an abduction attempt by a group of armed civilians and had reported heavy surveillance after that incident. No news of his whereabouts

has emerged since his "disappearance", despite a writ of *habeas corpus* filed on his behalf, and he remains "disappeared". His wife, Rosa Pú Gómez, a member of the widow's organization CONAVIGUA, has herself received repeated threats ever since Luis Miguel Solís's "disappearance", none of which have been fully investigated by the authorities.

José Jiménez, a CONDEG leader in the municipality of San Ildefonso Ixtahuacán, Huehuetenango department, reported receiving threats in February 1992 from the leader of the civil patrols, who accused him of being a guerrilla. The civil patrol leader threatened to detain him and take him to the local military base in Huehuetenango. The threats came after CONDEG organized workshops in the municipality on subjects such as human rights, law, and the question of ethnic, cultural and religious identity. Three CUC members, Juan López, Juan Domingo and Juana López, had been killed in the municipality of San Ildefonso Ixtahuacán in mid-January 1992, and their bodies were found in a clandestine grave near their home. Local villagers insisted that they had been shot by the same patrol leader who had threatened José Jiménez, but witnesses reportedly refused to testify in court for fear of reprisals.

On 19 April 1992 another CONDEG leader, Lorenzo Pérez Mendoza, was reportedly grabbed by five armed men in civilian clothes as he was walking through the San Juan Gardens in Guatemala City. Two of the men grabbed his arms, while a third pulled him by the hair. A fourth man hit him in the stomach and asked him to hand over his money. One of the men then gave the order to kill him, and he was then grabbed from behind his neck in an armlock until he lost consciousness. Several weeks earlier, he had been followed by two men in a red car whose licence plates CONDEG believe may belong to the security forces. During April he noticed heavy surveillance of the CONDEG offices, with men in plain clothes standing outside and noting those entering and leaving.

In August 1992 CONDEG member Marco Antonio Díaz was killed at his home in Crique Grande, Izabal department, by individuals who identified themselves as "the authorities", entered his home and shot him in the chest. They then threatened his wife and stated that they would return to kill another man. Neighbours accused local military commissioners as responsible for his killing.

### Peaceful demonstrators

Peaceful demonstrators, particularly indigenous peasants and poor Guatemala City dwellers who led marches or sit-ins in Guatemala City in demand for land, were subjected to ill-treatment by the police. On 21 June some 500 peasants and 400 workers who had occupied Guatemala City's central square, the *Plaza Mayor*, since March were brutally evicted at about 3.00 am by anti-riot police and men in plainclothes. They were demanding reinstatement at farms and clothing assembly factories from which they had been fired, reportedly after attempting to unionize the workforce. The police and plainclothes agents violently pulled people from their beds and destroyed the tents that had been set up in the square, as a result of which many people, including several children, were hurt. Threats by the security force agents were also reported.

The eviction appears to be in contradiction with the provisions of the Guatemalan Constitution which prohibits any raid on houses even with a court order, between 6.00 pm and 6.00 am. The eviction was carried out without a judicial warrant. On that occasion, Presidential Spokesman Gonzalo Asturias Montenegro was quoted as saying that authorities in other countries in the world would not tolerate a situation such as that seen at Guatemala's central square, and therefore "the moment has arrived to apply a heavy hand through the Ministry of the Interior to avoid their repetition".

Exactly one month later, on 21 July 1992, over 500 Mam indigenous families who marched from the *Finca* (estate) Pampas del Horizonte in Cajolá, Quetzaltenango department to Guatemala City, were ill-treated by anti-riot police during a legal and peaceful demonstration in Guatemala's central square in front

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of the National Palace. The march had been authorized by the appropriate government authorities. The National Police reportedly tried to prevent the demonstrators from congregating in the central square as they tried to hand in a petition to President Serrano.

Many people, including elderly men and women, children and a pregnant woman, were kicked and beaten with clubs, and others, including several children, were badly affected by tear gas used. At least 11 people were reportedly wounded, and were taken to the San Juan de Dios Hospital. The pregnant woman who had been beaten later died after giving birth. Several hours earlier, the police, in full riot gear, had attempted to deny the peasants access to the National Palace and the Assistant Human Rights Procurator had to intervene with the police after she had verified the validity of the authorization of the march. The demonstrators had been allowed to proceed.

After this violent disruption of a lawful demonstration, Vice-President Gustavo Espina also promised a "heavy hand" against grassroots protests, saying that the government was ready to act firmly to stop disturbances to the public order, reportedly adding that he was unconcerned by a law suit filed against him by the indigenous peasants. Other government representatives later charged that the peasants were being manipulated by the armed opposition, a charge that the Cajolá peasants challenged the government to substantiate. They received no response. The then Ministry of the Interior, Fernando Hurtado Prem, responsible for the National Police, and who had stated that "the Guatemalan Police should be congratulated for their actions", later resigned. The Head of the Police, José María Menéndez, said that it was not the police who attacked the peasants, but that the peasants "were hitting their heads against the sticks of the National Police".



**Agents of anti-riot police beat Cajolá peasants, when they were violently ejected from the *Plaza Mayor* on 21 July c: Rony Iván Véliz.**

The peasants were later housed in the *Parainfo Universitario*, an unused university building in Guatemala City. Several weeks later, uniformed policemen reportedly tried to abduct and beat two Cajolá peasants, Cruz Vail and Obispo López, who were returning to the *Parainfo* after buying provisions. Shortly after the eviction, Cajolá peasants filed a writ of *amparo* with the Fourth Court of Appeal of Guatemala against the Vice-President and the Head of the National Police. The court ruled in favour of the Cajolá peasants, and ordered the Director of the National Police to guarantee the rights of the peasants. The court also declared that the Cajolá peasants' rights to freedom of assembly, movement and demonstration had been violated and had to be respected. Legal proceedings have been initiated against five members of the anti-riot police for the ill-treatment of *Cajoleño* peasants.

**Cruz Vail and Obispo López, two peasants from Cajolá who suffered an abduction attempt in August 1992, outside the *Parainfo Universitario* in Guatemala City.**

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## Street children

According to charitable agencies working with street children in Guatemala, there are some 5,000 street children living on the streets of Guatemala City. Over the last three years Amnesty International has been deeply disturbed at reports of human rights abuses, including beatings, torture, "disappearances" and extrajudicial execution, reportedly carried out against street children by the police, private security guards acting under licence from the Ministry of the Interior, and by men in plain clothes believed to be members of the security forces. Abuses against street children continue to take place in the context of police claims of a spiralling crime rate. The police maintain that gangs of street youths are responsible for high levels of crime. Although no extrajudicial killings of children were registered in 1992, Amnesty International remains concerned at a substantial increase in attacks and intimidation against street children and those working with them by the security forces.

In May 1992 Amnesty International published *Children in Fear: Street children and street educators continue to be targeted* (AI Index: AMR 34/24/92), which detailed continuing human rights violations directed against street children by the security forces in Guatemala, or by civilians acting in apparent cooperation with them, as well as by members of private security firms operating under licence from the National Police and Ministry of the Interior. In the document, Amnesty International described how testimonies given by the children on human rights violations have led to new abuses against them, their friends and those working on their behalf, as the police are apparently trying to intimidate, and even eliminate, those who have incriminated the police.

Since then, Amnesty International has learned of further threats and intimidation against Bruce Harris, executive director, and other staff members of *Casa Alianza*, Covenant House, an organization working with street children in Guatemala that has been crucial in pushing for and obtaining some convictions of police agents in cases of human rights violations against street children. These incidents have not been thoroughly investigated by the Guatemalan Government.

Since May Amnesty International has continued to receive numerous reports of ill-treatment, harassment and torture of street children. For example, on 20 September street child Daniel Estuardo Galán, aged 16, boarded a bus with four other street children in Zone 1 of Guatemala City. A member of the National Police and a member of the Treasury Police, who the children stated had followed them onto the bus, approached the children and shouted at them. The children tried to get off the bus and the National Police agent reportedly shouted at them to "Stop because I am going to take you as prisoners to the First Precinct if you don't give me the money that you have stolen". The children continued to get off the bus and the policeman took out his gun and fired at the children, wounding Daniel Estuardo Galán on the left buttock. The wounded child was grabbed by the policeman and hit over the head several times with the butt of his gun. He was left on the street -- no attempt was made to arrest the policeman by the Treasury Police agent, or to provide emergency medical treatment for Daniel Galán.

The other children told the two policemen that they were going to report them to the Legal Aid Office of Covenant House, to which the National Police agent replied "I'm not afraid of anything or anyone. Do what you like." The children took Daniel Galán to hospital to be treated for the wound where his left buttock was grazed by the bullet, and for a 3 cm wound on the left side of his head and a bruise on his forehead as a result of the beating by the National Policeman.

In a separate incident on 24 September, four street children were sleeping in front of the Covenant House refuge in Zone 1 of Guatemala City, when a white Volkswagen with two men inside drove past the refuge at high speed and shot at the sleeping children with a pellet gun. Luis Fernando Ortiz Pineda was hit on

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the head and Luis Gerónimo Calderón was hit on the left leg. Luis Ortiz was wounded on the left side of his head. The incident was witnessed by the security guard at the refuge, who was unable to identify the occupants of the vehicle because of the speed at which it was travelling. Several days earlier, on 21 September, three shots were fired from a passing vehicle outside the Covenant House group home "San Francisco" in Zone 7 of Guatemala City, which houses children between the ages of eight and 14. No one was injured in the incident.

On 2 October José Vidal Esquivel was walking Zone 1 along with seven other street children when a truck with several members of the *Hunapú* forces (PMA and PN) came up a street. Upon seeing the truck the boys started running in different directions. One of the soldiers pointed his rifle and opened fire, wounding José Vidal on the neck. The truck continued on its way. It was the other boys who took José Vidal to San Juan de Dios Hospital for treatment, where he remained overnight.

### Captured members of the armed opposition

Throughout 1992 Amnesty International has been concerned that several members of the armed opposition and others accused of belonging to the armed opposition were captured by the army and held under army custody without any legal basis, since by law the army has no powers of detention. Several of these were later presented to the media.

In January the army surrendered six alleged guerrillas to the Human Rights Attorney. According to the UN Expert on Guatemala, Christian Tomuschat, the Human Rights Attorney "found out that three of them had long since been serving in the army and that one additional person had never had any links with the guerrilla". That one additional person was Eliseo López Alcón, a member of the Communities of Peoples in Resistance (CPR),<sup>6</sup> captured by the army on 15 January 1992, together with another CPR member as they were travelling to buy provisions. He was later returned to his community in a delegation visiting the CPRs, and later claimed that he had been subjected to torture while held in Military Zone No. 20 in Santa Cruz del Quiché, El Quiché department, where he had allegedly been held for eight days. Verónica Ortiz, one of the two others, was reportedly captured and wounded in October 1991 in a clash between government forces and the guerrillas in San Lorenzo el Cubo, Sacatepéquez department, but the authorities, in reply to an inquiry by the UN Expert, denied holding her. The UN Expert eventually interviewed Verónica Ortiz in January 1992 while she was hospitalized at the military hospital in Guatemala City. According to the Expert, she claimed that it had been her personal wish not to inform the public about her capture because she feared that her relatives would be in danger. In the following months, however, contact with her was almost lost, and she later claimed that she was being forced by the military to identify alleged guerrillas, and that the military wanted her to go to the countryside to locate others. She said that because of her refusal to do so, she was being confined to her room. She was eventually able to inform the Human Rights Procurator's Office of her situation and subsequently left the country.

María Ángela Simón Misa was captured by the army in July 1992 and reportedly presented to the media as a guerrilla. According to army statements to the press in July 1992, she had deserted the guerrilla forces and had voluntarily requested to benefit from an amnesty law<sup>7</sup>. After that, no more news of her fate

<sup>6</sup>CPRs are made up of villagers who fled the army counter-insurgency campaigns of the early 1980s towards the mountains, and have since remained in areas outside army control. The army maintains they are guerrillas, and have made them the object of severe bombings and land attacks.

<sup>7</sup>Decree No. 32-88 of 4 July 1988, states in its Article 1 that "amnesty is granted to those persons who, in any form of participation, have committed, up to 23 June 1988, political crimes and connected common crimes against the political internal order, public order and public tranquility" ("*se concede amnistía a las personas que, en cualquier forma de participación, hayan cometido, al día 23 de junio de 1988, delitos políticos y comunes conexos contra el orden político interno, el orden público y la* Amnesty International May 1993AI Index: AMR 34/17/93

and whereabouts emerged and her family filed a writ of *habeas corpus* on her behalf in September. She was then presented again to the media, where she said that she had been told (*se me ordenó*) to present herself to the media to show that she was not "disappeared". Although there was no legal basis for her remaining under military custody, army spokesman Captain Julio Yon Rivera said that she would "remain in a military barracks until it is decided where to resettle her". At least three others were presented to the press by the army as having turned themselves in and subjected to the amnesty law. These were Jaime Adalberto Agustín Recinos and Reginaldo de Jesús Pérez, presented to the press in August 1992, and Tomás Velásquez Xon, who was presented to the press in September 1992. According to the army, he had surrendered to officers in Military Base No. 20 in Santa Cruz del Quiché, El Quiché department after being a member of the guerrilla, together with his family, for 11 years. However, his family have denied this. His mother is a catequist and a member of CONAVIGUA, and reported receiving death threats. Jaime Adalberto Agustín Recinos, who reportedly was captured when he went to a meeting he had arranged with María Simón Misa in August 1992, later escaped together with another guerrilla who had also been captured. The two presented their testimony at the 49th Session of the United Nations Commission on Human Rights in Geneva in February 1993. They claimed that they had been tortured and that they had seen a number of others in detention, including Efraín Bámaca Velásquez, known as "Comandante Everardo", who had been reported by the army as having died in combat in March 1992<sup>8</sup>. Teacher Maritza Urrutia, a member of the URNG, was abducted on 23 July 1992 in Guatemala City by three men whom she claimed were military agents. According to her testimony, the day before her abduction she noticed that she was being followed by a tall man who was later met by another, when she was taking her four-year-old son Sebastián Barrientes Urrutia to school. The next day, after she left her son,

"suddenly, a totally unknown man threw himself upon me and held me tight, immobilizing my arms and covering my mouth; at the same time, I felt that another man that came out from I don't know where, holding me from behind. A third man came near as if protecting the others and visibly carrying high-calibre weapons and communication sets. Almost simultaneously, a fourth individual came in a white luxury car and stopped suddenly, I saw the back door was open... All this happened on 5th Avenue of zone 13, ... a block and a half away from Liberación Boulevard, where the police do not allow traffic because of work being carried out by the Council and there are always at least two of them [policemen] in that area. The four abductors acted quickly, violently and with impunity".

Although she tried to resist, she was then forced into the car, which had tinted windows, and driven away. In the fight to resist, she lost one shoe and hurt her foot. Once inside the car, one of the men put Maritza Urrutia's head between his legs, pushing her head against the car seat, and put a jacket on top, while another man held her legs very tight. As soon as the car started off, one of the men sent a message over a radio: "We have her, go and get the other one". She was told that the other one was her son. Almost immediately, she was interrogated about her activities, about her family and about her former husband and father of her son, who is an active member of the URNG. She was also threatened on several occasions that her son would also be abducted. She was taken to what she thought was a garage and interrogated again. There her abductors covered her head with a cone made up of newspaper and handcuffed her and introduced her in another vehicle. She was interrogated again, shown photos of her and her family and letters she had written to her son's father.

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*tranquilidad social.*"). There has not been another amnesty law since then, and therefore decree law 32-88 does not apply to those falling into the categories described by Article 1 but whose activity has taken place after 23 June 1988.

<sup>8</sup>See Secret detention of hors de combat and non-combatant prisoners, AI Index: AMR 34/11/93, of April 1993. AI Index: AMR 34/17/93 Amnesty International May 1993

After a while, she was allowed to telephone her mother to ask her to go to her son's school to pick him up. She was moved to another car and taken to another place inside the same premises. She was then taken through a corridor and left in a small toilet. On the short way to the toilet she could see olive green rucksacks and large military weapons. Shortly after she had made her telephone calls, two men in civilian clothes came and took photographs of her and filmed her with a video camera.

She was interrogated again and repeatedly threatened, although she was never physically ill-treated. Her captors told her they were from a "very strong organization" independent from the government and that they even acted if someone from the army "caused problems". They said she was not being held by the army but by a "superclandestine organization" that took action against those acting against the security of the country: "subversives, drug traffickers and corrupt people". After several hours, she was taken to make another telephone call. One of her abductors said they were going to make the phone call in Zone 18 of Guatemala City. On several other occasions she was taken away to make telephone calls from public phones, many times in Zone 18. During her trips to make the telephone calls she said she could feel the vehicle passing over speed humps near the place she was being held.

The interrogations continued for several days, during which her captors repeatedly threatened her and her family. She remained in a room with a metal bunk bed, a desk, several metal folding beds piled up in a corner and several mattresses. Her right hand was handcuffed to the bed. A radio was kept playing loudly throughout her captivity, but she could recognize on several occasions movement of cars and sounds of drums in the mornings.

During one of the interrogations, in which she had been so severely threatened that she broke down and told her captors she would collaborate with them, Maritza Urrutia asked to benefit from the amnesty law. She was then left alone and asked to write everything she knew. Shortly afterwards, several men entered her room. She could only see part of one of them, who had shiny black shoes and khaki trousers like those used by military officers. She was then dictated a text giving her "story" and requesting an amnesty.

Over several days, she was made to record a video in which she admitted belonging to "subversive organizations". In the video in which she also denounced other people by name as being members of the armed opposition, she stated that she had not been abducted, but that she had staged her own abduction. The video was brought to a TV station by an unidentified woman on 29 July and broadcast the same day. Upon seeing the video, her family remarked that Maritza Urrutia appeared heavily made up, which they stated she did not normally wear. The make-up and the new clothes was given to her by her captors for the recording sessions showed price tags from Mega 6, a shopping centre in Zone 6. Maritza Urrutia claims that the place where she was being held was in the proximity of the Mega 6, as at one point, the clothes they brought her did not fit her and they took only minutes to take them back and come back with new ones. The recording sessions took several hours, as her captors wanted her to appear relaxed and natural.

At one point during her captivity, one of her captors entered her room, lowered the radio and told her "Take off the newspaper cone. Look at me. Look at me". As the man entered the room, Maritza Urrutia could smell marihuana. The man told her that he had watched over her and her son many times, and asked her if she knew where she was. "You're with the army. Where else?", he told her.

Maritza Urrutia was released on 30 July near the office of the then-Attorney General, Acisclo Valladares, who accompanied her to court to apply for amnesty. According to Maritza Urrutia's testimony, when she was taken to the office of the judge who granted amnesty, the judge asked for "the decree on which we worked this morning". Maritza Urrutia claims she was never questioned about what had happened to her, and after a very short time, she was given her amnesty papers to sign. Immediately following the granting of the amnesty, she gave a press conference, which had apparently been prearranged, where she said that she had stayed with friends for several days, because she needed that time to prepare for her decision to

stop working with the armed opposition.

Amnesty International was aware at the time of her release that Maritza Urrutia had been threatened by her captors that if she revealed what had happened to her, both her immediate family and the family of her ex-husband would suffer reprisals, and that she had decided not to denounce what had happened to her. Another condition of her release was that she would agree to work with the army to identify supposed guerrillas. One week after her release Maritza Urrutia, who had taken refuge in the Archbishopric of Guatemala following her release, left Guatemala with her son. At that time, she had requested that nothing be said about her abduction, as she feared for her family's safety.

Almost two months after she left the country, on 30 September 1992, Maritza Urrutia reported her abduction to the Inter-American Commission of Human Rights, of the Organization of American States (OEA), and made public the details of her abduction and captivity, directly implicating the army as the perpetrators. The government, however, insisted that she had not been kidnapped by the army, and some officials even questioned the Archbishop's Human Rights Office proper conduct in offering refuge to Maritza Urrutia. After Maritza Urrutia made her testimony public, government officials, including Interior Minister Francisco Perdomo, accused Human Rights Attorney Ramiro de León Carpio of covering up a crime, because although he knew of Maritza Urrutia's kidnapping, he had acceded to her request not to disclose what had happened to her.

Amnesty International knows of at least two other cases in which supposed members of the opposition were captured or abducted by the security forces, and forced to work with the military in identifying others. In those cases, Amnesty International was asked not to publish any details for fear of reprisals against the victims and their families.

Amnesty International has also been concerned at evidence that suggests that the army has extrajudicially executed members of the URNG rather than take them prisoner after combat. In at least one case, active members of the guerrillas were killed in circumstances suggesting their possible extrajudicial execution. On 13 September 1992 the army announced the death in combat of three guerrillas on the slopes of the *Volcán de Agua*, Sacatepéquez department. According to press reports, the army claimed that the insurgents had died in the morning, when a military unit patrolling the area clashed with members of the Javier Tambriz column of the Organization of People in Arms (ORPA), one of the armed opposition organizations forming the URNG. Journalists were flown to the area and shown the corpses of three men, whom the army identified as "Commander Gabriel", "Sublieutenant Martín" and "Patricio", scattered in three different places. The journalists were able to observe the bodies and take photographs on the site. Journalists who saw the bodies later told Amnesty International that they doubted the army's version, as the three men only showed a *coup de grâce*, finishing shot, to the head, and no traces of having been otherwise wounded or having fallen in combat. A forensic pathologist whom Amnesty International asked to examine the photograph of one of the killed guerrillas (see below) confirmed that the man could not have fallen in combat in the position in which it was shown to journalists and pointed to evidence that indicated that the body had been moved or tampered with after the death. He also confirmed that such a shot could only have been fired at a very short range.

**The corpse of a guerrilla on the slopes of the Volcán de Agua in September 1992, with a *coup de grâce* (finishing shot) to his head. c: Rony Iván Véliz.**

### The Situation of Returning Refugees

In the late 1970s and early 1980s, several thousand Guatemalans, the vast majority indigenous peasants, fled to Mexico in an attempt to escape the violence of the military counterinsurgency campaigns. Those who registered as refugees were resettled in refugee camps near the border with Guatemala, where on occasions in the mid-1980s they suffered attacks by the Guatemalan security forces. In October 1992 the government and the Permanent Commissions representing Guatemalan refugees (CCPP), in Mexico, reached an agreement for the return of some 45,000 refugees. The agreement recognized the right to freedom of movement, association and organization of the refugees, and guaranteed access to land and physical safety for those returning. It also provided for monitoring of their return by United Nations and local and international monitors.

Amnesty International has been seriously concerned that the right to life and physical security of returning refugees be respected. Over the years the armed forces have made repeated and unsubstantiated allegations that the refugees have links with the armed opposition, and Amnesty International has received reports that those working with the refugees or non-governmental organizations preparing for their return have been singled out for human rights violations by members of the security forces. In May 1992 a group working with refugees received written death threats warning them that unless they stopped working with refugees, they would be killed.

During 1992 Amnesty International was concerned at a series of incidents that occurred in areas where the refugees would be returned, and that appeared to be directly related to their return. On 31 August, Lucas Pérez Tadeo, a 35-year-old indigenous peasant of Chuj origin, was apparently extrajudicially executed by members of the armed forces in the village of Guaxacaná, municipality of Nentón, Huehuetenango department. He had "disappeared" shortly after attending a meeting of the Civil Defence Patrols held at the office of the village auxiliary mayor. After searching for him without success, villagers went to the military detachment in the neighbouring village of Las Palmas to enquire into his whereabouts. An army captain at the detachment at first denied all knowledge of his whereabouts, but after the villagers insisted, he told them that they should go to the road leading to Trinidad, a nearby village, and that they would find Lucas Pérez there. On 3 September, approximately 1.5 kilometres from the village on the road to Trinidad, the body of Lucas Pérez Tadeo, showing marks of torture, was found buried under a mound of earth. On top of the mound of earth villagers reported finding a lasso of the type normally used by the military, as well as empty food tins, and a make-shift shelter of branches (the villagers reported that it was raining on evening of 31 August), all indicating that Lucas Pérez may have been held prisoner and interrogated by the armed forces before being killed. The villagers also saw footprints which they believed were made by men wearing army-issue boots. On the evening that Lucas Pérez "disappeared", villagers from Guaxacaná and the neighbouring villages of Trinidad and Las Palmas reported observing troops from the Las Palmas military detachment under the command of a sergeant  
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major patrolling in the area and later heard shots.

According to a local teacher, a member of the army command from the Las Palmas military detachment visited him days after the killing of Lucas Pérez and reportedly stated that if the local people accused the army of the murder, they would not be perturbed because they would have at their disposal the best legal representation. The officer also reportedly stated that anyone coming forward with information on the army's involvement in the killing would be required to appear in court and give evidence against the army, which the teacher took as a threat against those who would testify. A formal complaint was made to the Auxiliary Human Rights Procurator.

The area of the municipality of Nentón was designated for the resettlement of several thousand Guatemalan refugees to be repatriated from Mexico in 1993. Guaxacaná villagers believe that there may be a connection between the killing of Lucas Pérez and the forthcoming repatriation of the refugees from Mexico and have stated that if there are any more incidents by the armed forces like that of the killing of Lucas Pérez, they too would seek refuge in Mexico.

Amnesty International's concern was made more pressing after army units launched an aerial and land operations in the area of Cuarto Pueblo, Ixcán, El Quiché department, on the last days of November and the first of December. During the operations the CPRs, in Cuarto Pueblo and Los Angeles came under serious attack. The area in which the military operation took place is adjacent to the area of Polígono 14, on the other side of Xalbal River.

Aerial bombings and land attacks on the CPRs have, since their establishment in the early 1980s, been an important component of army's counterinsurgency tactics. Scores of civilians have reportedly been injured, houses and crops destroyed and animals have been killed in such operations. The army have traditionally justified their attacks on the CPRs by claiming they are guerrillas, a claim severely disputed by members of the communities themselves, as well as by the Multi-Partite Commission, formed in 1991 and made up by the Human Rights Attorney's Office, the Guatemalan Episcopal Conference, the Guatemalan Religious Conference, the Unity of Trade Union and Popular Action, the Guatemalan Evangelic Church Conference, the Council of Development Organizations, the Permanent Assembly of Christian Groups, Christian Action for Peace and national human rights groups. The Multi-Partite Commission made several visits to the CPRs, and agreed to the recognition of their status as civilian non-combatant populations. The Commission also brought back extensive evidence of army bombings and land attacks specifically directed against the CPRs.

In August 1992 a CPR member, Domingo Pascual Juan, died when a booby trap reportedly placed by soldiers in a CPR food store exploded when he opened it. Another CPR member was wounded by shrapnel in the same incident. That same month Chief-of-Staff Colonel Otto Pérez admitted, in a press conference organized by the Minister of Defence to counter the statements by the Multi-Partite Commission, that the army was aware that there are civilian populations in the highlands and the Ixcán area of El Quiché department, but that such populations are being "used" ("*utilizada*") by the armed opposition. Serious attacks on the CPRs in the Ixcán area continued to be reported.

Amnesty International expressed its concern about the security of refugees to President Serrano in a letter on 11 December, in which the organization urged him to ensure that the rights to life and physical integrity as stipulated in the Accord for the Return of Refugees signed by the Guatemalan Government, represented by the National Commission for the Attention of Repatriates, Refugees and those Displaced (CEAR), and the Permanent Commissions of Guatemalan Refugees in Mexico would be respected. In January 1993 some 3,000 refugees returned to Guatemala from Mexico. Amnesty International continues to closely monitor their situation.



## Cases before Guatemalan courts

### Civilian Courts

Although in 1992 prosecutions were brought on several cases of human rights violations, the vast majority of them do not appear to have been seriously investigated and went unpunished. The few investigations and criminal proceedings that were carried out appeared to be generally flawed and subjected to delays. In most cases, this was due to the lack of cooperation from police or military authorities, who delayed the investigations indefinitely, and also to the lack of will of the judicial officials involved. During a conversation with Amnesty International delegates in September 1992, a provincial investigating judge went as far as to state that in fact, it was not his role but that of the police to carry out a criminal investigations. When asked whether he had any authority over the police in cases of criminal investigations, he replied that if the police did not cooperate, there was nothing he could do, and the case in question would remain "pending investigation" indefinitely. No mechanism appears to have been established by which a judge can enforce his authority, and the result of such investigations is therefore in many cases dependent in the willingness of the judge or prosecutors to actively take part on the case, or, conversely, the continued investigation may be dependent on the willingness and daring of relatives of victims and local human rights groups to continue pressing for prosecutions.

In the cases where convictions have been obtained, these appeared more the result of sustained efforts by relatives of the victims or local human rights groups as well as continuous pressure by the international community. In April 1992 the four policemen found guilty of the 1990 murder of 13-year-old street child Nahamán Carmona López, and who in 1991 had their convictions overturned on technical grounds, were retried and convicted again. The Appeals Court confirmed the convictions, but reduced the original sentences, ranging from 12 years and six months to 18 years to only twelve years for each of the four policemen. Similarly, a private policeman accused of killing Francisco Chacón in 1991 was sentenced to 10 years' imprisonment in 1992. The maximum sentence under Guatemalan law is 30 years. The majority of the cases in which convictions were obtained did not appear to have a clear political motive, and were the result of intense pressure by relatives of the victims and pressure at the local and international level.

One of the few political cases in which there was progress was that against former army Sergeant Noel de Jesús Beteta<sup>9</sup> for the killing of anthropologist Myrna Mack Chang, stabbed to death by two men in September 1990.

### **Myrna Mack's body at the scene of the crime, shortly after she was murdered c Rony Véliz.**

Myrna Mack, a staff member of the Association for the Advancement of Social Science (AVANCSO), in Guatemala, had been carrying out research on groups displaced by war. Noel de Jesús Beteta was at the time of Myrna Mack's assassination attached to the Presidential Chief-of-Staff<sup>10</sup>, but left the army soon

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<sup>9</sup>According to the Guatemalan Constitution, all cases which involve military personnel are tried in military courts. Noel de Jesús Beteta was tried in a civilian court because he left the army shortly after Myrna Mack's assassination, and therefore was tried as a civilian.

<sup>10</sup>In *Guatemala: A government program of political murder* (AI Index AMR 34/02/81) of 1981, Amnesty International described how a specialized presidential army agency situated in the Presidential Guard, and annexed to the National Palace, had Amnesty International May 1993 AI Index: AMR 34/17/93

after and went to the United States. He was extradited from the United States in December 1991. After more than two years of legal proceedings dealt with by 13 judges, Noel de Jesús Beteta was sentenced, on 12 February 1993, to 25 years imprisonment for the assassination of Myrna Mack, and to five years for a separate attack against a minor. The sentencing judge, however, denied the opening of judicial proceedings against Noel de Jesús Beteta's hierarchical superiors despite evidence of their involvement in the killing, as well as against a named man alleged to be the second killer. The court also dismissed the testimonies of two witnesses to the killing, who decided to give their testimony only in late 1992, because too much time had passed between the killing and their statements.

Since legal proceedings into Myrna Mack's murder began, judicial officials, witnesses, relatives of the victim, and virtually anyone associated directly or indirectly with the case have been threatened and harassed. The case was handled by 12 different investigating judges before reaching the sentencing judge. On 5 August 1991 José Miguel Mérida Escobar, Head of the Homicide Section of the Criminal Investigations Department of the National Police, who was in charge of the investigation into the killing, was himself shot dead in front of his wife and child in broad daylight only meters away from the National Police headquarters, in circumstances strongly suggesting security force involvement. At the time of his killing, José Mérida was about to leave for Washington, United States, to give testimony before the Inter-American Commission of Human Rights about Myrna Mack's testimony.

In December 1991, after the reconstruction of Myrna Mack's killing, José López Mendoza, head of the Procurator's Office of the Public Ministry, and Ernesto Corzantes Cruz, an official at the 4th Court of the First Instance, as well as two journalists working on the case, received telephone death threats warning them to abandon it. Other journalists denounced receiving similar threats throughout 1992. The harassment became more intense towards the sentencing stage of the trial. Two key witnesses to the anthropologist's killing, received repeated death threats warning them not to testify in court. On 23 January 1993 the house of one of the key witnesses was sprayed with gunfire shortly after the local press reported that the two men were to appear in court on 25 January, and further written threats were received by the two key witnesses on 24 January. As a result, their statements were rescheduled. Surveillance was noticeably stepped up on the offices of AVANCSO, and its staff were threatened and harassed. After the sentence against Noel de Jesús Beteta Alvarez was delivered, the harassment continued. Armed men in plain clothes came to the door of the AVANCSO office in Guatemala City and told the night porter that the building would be set on fire with him inside. Myrna Mack's sister Helen Mack was verbally abused by an unidentified man who intervened on the telephone line while she was having a telephone conversation with someone else hours after the sentence, and the mother of one of the main witnesses was threatened by an unidentified man who had been seen watching her for several days.

In most other cases, no serious efforts appear to have been made to bring to justice those responsible. The case of agronomist Julio Quevedo Quezada, shot dead in Santa Cruz del Quiché in July 1991 in circumstances strongly suggesting the involvement of the security forces, remained in the courts "pending investigation", and no efforts to continue the investigation had been made by the investigating judge in Santa Cruz del Quiché during 1992.

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the task of coordinating the Government's secret and extra-legal security operations - selection of who was to "disappear" or be killed, and execution of such decisions. The agency was known alternatively as the *Agencia de Inteligencia de la Presidencia* (Presidential Intelligence Agency) *Centro Regional de Telecomunicaciones* (Regional Telecommunications Centre), the *Policía Regional* (Regional Police), and later as the *Servicios Especiales de Comunicaciones de la Presidencia* (Presidential Special Services for Communications). According to Amnesty International's information, the presidential agency was directed by the joint head of the Presidential Chief-of-Staff and Military Intelligence.

### **Julio Quevedo Quezada**

Julio Quevedo Quezada worked in agricultural development projects as a member of the pastoral team of the Diocese of El Quiché, and worked in close collaboration with Bishop Julio Cabrera of El Quiché. Sources in Guatemala believe that he was killed because of his church work, which involved programmes for women who had been widowed as a result of the army counterinsurgency campaigns in the early 1980s and his work with the displaced, and interpreted his killing as an intimidation against the work of the Catholic Church in El Quiché.

The case of José Miguel Mérida Escobar, the police detective in charge of the investigation into Myrna Mack's killing who was himself assassinated in August 1991, also remains unresolved, after a court dismissed the case against two men accused of killing him. A local human rights group told Amnesty International that their own investigations had concluded that the two men were innocent, and had been used as "scapegoats" to disguise the killing as a common crime.

The case against the two civil patrollers accused of killing Juan Perebal Xirum and his son Juan Perebal Morales and of seriously wounding Diego Perebal León, another son of Juan Perebal Xirum, in Chunimá, El Quiché department, in February 1991, was dismissed for lack of evidence by the First Court of the First Instance of El Quiché department. The testimonies of Diego Perebal León, main witness and accuser, and other relatives were invalidated as having a "direct interest in the proceedings" while testimonies from other villagers were also dismissed as contradictory. The interrogations were conducted in Spanish, even though the witnesses were Quiché speakers, only several of whom were fluent in Spanish as their second language. The lawyer for the family appealed the sentence, but the appeal was still pending at the end of 1992. Since the attack, Diego Perebal León and his family have left Chunimá  
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and have been unable to return. Other Chunimá villagers have reported that they continue to receive threats from local civil patrollers.

**Diego Perebal and his family in Chichicastenango, September 1992. The family cannot return to Chunimá, their home village**

In January 1992 two members of the National Police and a civilian, indicted in April 1991 in connection with the killing by uniformed policemen of 17-year-old Anstrum Aman Villagrán Morales in June 1990 were acquitted by the Third Criminal Court in Guatemala City for "lack of evidence", despite the fact that a ballistics report had established that the bullet used to kill Anstrum Villagrán Morales had been fired from a gun issued to one of the policemen charged with his murder.

### Military Justice

Cases where evidence has revealed the involvement of active military personnel are referred to military courts. However, in the few cases investigated by the military courts investigations and proceedings appeared to be irregular or subjected to delays, and to exonerate higher ranking officers. In September 1992 five soldiers were sentenced to 30 years imprisonment for the 1990 killing of US citizen Michael Devine in El Petén department. The chief of intelligence at the nearby army base was acquitted despite consistent court testimony that he had ordered the killing. The Attorney General appealed the official's acquittal.

A case of particular note is that against 31 agents of the combined task force *Hunapú* for the attack on university students in April. *Hunapú* members of the Mobile Military Police were to be tried in a military court. The civilian court reached its verdict in November 1992 and sentenced six agents but released the commander of the squad. According to information received by Amnesty International, the military case was still under investigation at that date. The military defendants had not even participated in the reconstruction of the crime ordered by the civilian courts. Students involved in the law suit against *Hunapú*, as well as their relatives and friends, received numerous death threats warning them to abandon proceedings. The civilian case is now under appeal.

### Investigations of Human Rights Violations under Previous Governments

In the case of the thousands of human rights violations committed under previous governments, Amnesty International is not aware of any judicial proceedings initiated against those believed to be responsible. Thousands of "disappearances" and extrajudicial executions of Guatemalans thus continue without clarification and those who perpetrated them are allowed to walk free, despite the continued efforts of local groups to seek justice. Many of those pressing for such proceedings to take place were themselves subjected to death threats, and in many cases they decided to abandon their efforts that justice be done, even when the perpetrators had been clearly identified. This was the case, for example, with the relatives of those whose bodies were exhumed from clandestine cemeteries during 1991 and 1992, where it was widely known not only where the victims had been buried, but also who had carried out the killings.

In 1991 the bodies of 27 indigenous people were exhumed from clandestine graves in the village of

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Chontalá, El Quiché department. Foreign forensic experts took part in the exhumations, and reportedly handed in a report of their findings to the judicial officials in Santa Cruz del Quiché, capital of the department. The report, however, was "lost", as was the valuable data it contained, before it reached the Medical Legal Service of the Judiciary in Guatemala City. Families of the victims, who had initially pressed for judicial proceedings against civil patrollers allegedly responsible, later decided not to push for further investigations following increasing death threats. When Amnesty International raised this case with a high ranking judicial official, he said that he thought it was a "very intelligent" decision, and that it was best to wait until the time was right to seek justice.

**The bodies of those exhumed from clandestine graves in Chontalá are being transported to be buried.**

**A relative of one of those found in the grave in Chontalá sitting next to the body, before it is taken for burial. Professor Clyde Snow directing the exhumation in San José Pachoj Lemoa, while relatives of those buried there and other villagers look on.**

**Members of a team of forensic anthropologists at the site of the exhumation in San José Pachoj Lemoa.**

Other exhumations of clandestine cemeteries were carried out in El Quiché in 1992, including those in Tululché in April, San José Pachoj Lemoa in August and Tunajá in November. To Amnesty International's knowledge, no proceedings had been initiated on any of the findings from these exhumations. Judicial officials in El Quiché, in conversation with Amnesty International during a visit in September 1992, expressed their frustration that their efforts in seeing that justice be done were being thwarted by the courts and by threats against those pushing for justice.

### Intimidation against Judicial Officials

Fear has played an important role in the inefficiency of the judicial system, as has the authorities' failure to protect the security of those whose function is to see that justice is carried out. Frequently, judicial authorities are themselves the target of death threats and attacks because of their work to investigate cases of human rights violations under their jurisdiction and to press for legal remedies to end impunity.

In June 1992 the Attorney General's Office representative for Quetzaltenango, Manuel de Jesús Soto Rodríguez, was shot and wounded in the abdomen by two men in civilian clothes. José López Mendoza, Head Attorney of the Attorney General's Office, in charge of the investigation into the assassination of anthropologist Myrna Mack Chang, received repeated death threats since December 1991. In July, Judges Mario Guillermo Ruiz Wong, Napoleón Gutiérrez Vargas and Héctor Hugo Pérez Aguilera, all from the

Fourth Court of Appeal in Guatemala City, which also acts as a military court of appeals, denounced that they had been receiving threats. The three judges linked the threats to their involvement in judicial proceedings against the military and in drug trafficking cases. Other judges and judicial officials throughout the country reported similar threats.

## The Death Penalty

Amnesty International is unconditionally opposed to the death penalty, which it considers the ultimate form of cruel, inhuman and degrading treatment or punishment and a violation of the right to life, as embodied in the Universal Declaration on Human Rights. The Guatemalan Penal Code provides for the death penalty for aggravated homicide of the President or of a member of the defendant's immediate family, killing a kidnap victim and rape of a child under 10. It is optional for parricide, homicide and homicide of the Chief of State, but mandatory for rape and kidnapping when death results and the victim was under the age of 10.

The last executions were carried out in 1982 and 1983, on charges such as kidnapping and "subversion" under an emergency decree promulgated under the *de facto* administration of General Efraín Ríos Montt, which established secret military tribunals empowered to impose the death penalty for a wide range of political offences.

Amnesty International is concerned that in September 1992 the Guatemalan Congress approved a new law against drug-related activities, which in fact extends the scope of the use of the death penalty. The new law makes drug-trafficking activities which result in the death of others, either through drug consumption or acts of violence, punishable with the death penalty. This contravenes the American Convention on Human Rights, to which Guatemala is a party, which states that the application of the death penalty shall not be extended to crimes to which it did not apply at the time of the ratification of the Convention.

In August 1991 the Supreme Court confirmed the death sentence on indigenous soldiers Nicolás Gutiérrez Cruz and Eliseo Suchité Hernández for the killing on 17 January of Juan Xan Calel, Francisco Gideo Yax López, Juan Calel Grave and his nine-year-old son Marvin Xan Santizo, all members of indigenous displaced families, in Ciudad Peronia, Sololá department. The two soldiers subsequently escaped from the military barracks where they were held in May, after they were sentenced to death by a military appeals court<sup>11</sup>. Nicolás Gutiérrez was later recaptured, but Eliseo Suchité Hernández remains at large. Following the Supreme Court's decision, in August 1992, Supreme Court President Juan José Rodil Peralta stated that Nicolás Gutiérrez Cruz was to be executed within days, as all legal avenues had been exhausted. The Guatemalan Constitution does not contemplate the Presidential *indulto*, by which the President of the Republic can commute a sentence. However, *indulto* by the "competent authority" is contemplated in the American Convention on Human Rights, to which Guatemala is a party and therefore constitutionally binding<sup>12</sup>. The lawyer for Nicolás Gutiérrez Cruz submitted an appeal to the Constitutionality Court to rule on the matter. The Constitutionality Court overturned the ruling, arguing that the Supreme Court could only decide on charges against a military officer if converted to a military court, because according to the Constitution the military should only be tried before a military court. Nicolás Gutiérrez Cruz remained on death row at the end of 1992.

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<sup>11</sup>The two soldiers had originally been sentenced to 30 years' imprisonment, but following an appeal by the Attorney General, a military appeals court imposed the death penalty on them.

<sup>12</sup>Article 46 of the Guatemalan Constitution provides that in human rights matters, all treaties and conventions accepted and ratified by Guatemala take preeminence over national law.

## Government's initiatives in the field of human rights

Since President Jorge Serrano Elías took office in January 1991, his government has taken a number of initiatives which Amnesty International believes can positively influence the human rights situation in Guatemala if implemented, and if the political will exists to see them through. For the first time in many years, although it has been possible to pursue cases of human rights violations in the Guatemalan courts, significant results have been slow in coming, and convictions in human rights cases are still only a minor proportion of the proceedings initiated. Equally important in their potential for protecting and promoting the human rights of Guatemalan citizens are changes at the institutional and judicial level which have taken or are taking place at this time.

### Ratification of the International Covenant on Civil and Political Rights

In February 1992 the Government of Guatemala acceded to the International Covenant on Civil and Political Rights (ICCPR), which had been approved by the United Nations General Assembly in 1966. The International Covenant on Civil and Political Rights protects the right to life, the right not to be tortured or subjected to cruel, inhuman or degrading treatment or punishment, and guarantees the right not to be subjected to arbitrary arrest or detention. In particular, the ICCPR guarantees the right of all prisoners to be informed of the reasons of their arrest, to be brought promptly before a judicial authority, and to compensation if subjected to unlawful arrest or detention. Guatemala is bound by its own law to respect the provisions of the ICCPR and other international instruments it has ratified. Article 46 of the 1985 Constitution states that in human rights matters all international treaties ratified will have prevalence over national law.

### Establishment of the Presidential Commission Coordinating the Policies of the Executive Power in Human Rights Matters

The Presidential Coordinating Commission of the Policies of the Executive relating to Human Rights (COPREDEH), was created by governmental accord in July 1991. According to the accord COPREDEH would be composed of a personal representative of the President of the Republic, to be its chair, the Ministers of Foreign Affairs, the Interior and Defence and the Attorney General. Among its functions were the coordination of actions undertaken by the ministries or institutions of the Executive to implement the policy of human rights protection of the Executive; centralization of the information on reports of human rights violations, promoting its investigation through the Ministry of the Interior and the Public Ministry; establishment of a mechanism of constant monitoring of the investigations into human rights violations and judicial proceedings to inform the international community and international organizations, and the study and proposal to the President of the Republic of draft legislation relating to human rights. It became fully operative several months after its creation. COPREDEH has played an important role in disseminating human rights information to the international community; in practice, however, it appears to act more as an organization set up to justify and defend the government's human rights record before international organizations than as an effective and impartial monitor of the situation, and their reporting has often been incomplete and lacking in balance. COPREDEH produced its first report in June 1992. The report limits itself to updating a few particular cases of human rights violations, and states that "Individual human rights violation denouncements during these four months have dropped substantially as compared with the first four months of 1991 and it can be said that there have been almost

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none". The report also indicates that "... denunciations of threats and intimidations to trade union and popular leaders continue to be received. Apparently, their only objective is to cause sensationalism for those persons who are threatened or intimidated and who for years have been denouncing these threats against their lives...". In conversation with Amnesty International's delegates during their visit in September 1992, COPREDEH's chairman Bernardo Neumann stated that COPREDEH could not accept that extrajudicial executions took place in Guatemala because the concept implied the participation of the government, and the government did not execute its citizens.

In at least one case, COPREDEH has been instrumental in providing protection for a witness in a court case against National Police agents for human rights violations. Amnesty International does not know of any initiatives taken by COPREDEH in the legal field to improve human rights legislation.

## Human Rights Education

In addition, the government has set up a human rights education program within the Ministry of the Interior, the Education Project on Democratic Culture and Human Rights, which has published several information textbooks in Spanish and posters with the text of the Universal Declaration of Human Rights in several indigenous languages. Although limited in scope at the moment, one interesting aspect of the Project is that for the first time one government dependency is using the words "human rights" in a positive way, a welcome departure from the traditional association by the Executive of relating human rights with the insurgency or other forms of opposition to the government.

## Judicial Reform

In September 1992 the Guatemalan Congress approved a new code of penal procedures, to enter into force in September 1993. The new code of penal procedures provides for oral trials before a panel composed of three judges. If the language of one of the parties is not Spanish, translation will be provided. The new code also places criminal investigations, which in the current system are the responsibility of the investigating judge, under the responsibility of the Attorney General's Office and creates a special investigating procedure in the case of *habeas corpus* petitions, by which the Supreme Court can appoint the Human Rights Attorney, humanitarian associations and relatives of victims, special faculties and protection to carry out their own investigations.

Other reforms, such as the creation of a special criminal investigations force separate from the police, under the responsibility of the Judiciary, and the establishment of justices of the peace in every municipality in Guatemala City, are currently under study by the authorities.

## Amnesty International's Recommendations

Amnesty International is concerned that the measures described above, as well as the few convictions obtained in cases of human rights violations, appear to have been obtained only as a result of continuous pressure on the authorities, both by local and international human rights groups and institutions, as well as relatives of victims. Amnesty International remains concerned that the above-described measures taken by the Guatemalan Government can have an impact on the human rights situation in the country **only if the government has the political will to see them through**. In addition, Amnesty International believes that the following recommendations should be implemented urgently so as to put an end to human rights violations that are at present taking place in Guatemala, and in order to ensure a return to the rule of law.



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1. No exceptional circumstances, whatsoever, whether internal political instability, a state of war or any other public emergency, may be invoked as a justification for torture, "disappearance" or extrajudicial execution. Clear orders should be issued to all security forces and their auxiliaries that they must act within the framework of national and international law and that they must cooperate fully with the investigation of human rights violations.
2. Full and impartial investigations should be opened into all allegations of threats, harassment, abduction, "disappearance", torture and extrajudicial killings, whether past or present, including on each case cited in this report. Where those responsible are identified, they should be brought to justice.
3. Until such time as a criminal investigation force independent of the security forces is set up, measures should be taken to ensure that the police comply with investigations ordered by the courts. Internal court audits should also be implemented to ensure that judicial officials understand their duties and carry them out accordingly.
4. The judiciary should be allowed to function independently and steps should be taken to ensure the protection of lawyers, prosecutors, officials and witnesses, victims or relatives of victims involved in cases of human rights violations.
5. Military jurisdiction should not apply in cases of human rights violations. Military jurisdiction should only apply to crimes of a military nature, while cases involving human rights violations should be answerable before ordinary courts.
6. Special efforts must be made by the government in order to protect the security of all non-governmental human rights monitors, so that they can carry out their legitimate activities without risk. All harassment, threats and intimidation of human rights monitors, as well as government statements linking them with the armed opposition in order to discredit them, must immediately be put to an end.
7. The government should make clear to all security force personnel that alleged violations of human rights will be fully investigated, and that those responsible for such actions will be fully answerable to the law.
8. For this, the government must ensure strict control, including a clear chain of command, over all officials responsible for arrest, detention and imprisonment.
9. All security forces should keep records of the identities of those agents who participated in arrest, detention and interrogation of detainees and of officers and soldiers and civil defence patrollers and military commissioners deployed on counterinsurgency patrols.
10. All detainees should be held in officially recognized places of detention. Accurate information, on their custody and whereabouts, including transfers, should be made promptly available to their relatives and lawyers.
11. Any form of detention or imprisonment and all measures affecting the human rights of detainees, should be subject to the effective control of a judicial authority.

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12. All detainees should be brought promptly before a judge, and given prompt and regular access to lawyers, relatives and doctors. There should be regular independent visits of inspection to places of detention.

13. Statements obtained from detainees as a result of torture should never be admissible in legal proceedings, except against the perpetrators.

14. Clear orders should be issued to all security force personnel forbidding all occurrences of human rights violations, including illegal detentions, torture, and ill-treatment.

15. The death penalty should be abolished. Until such time as it has been abolished, all death sentences should be commuted and no death sentences imposed.

16. Children should have the right to full protection of the law, including the right to be considered innocent until proven guilty, to due process of law and not to be subjected to torture or cruel, inhuman or degrading treatment.

17. During 1993, the United Nation's International Year for the World's Indigenous Peoples, responsible authorities at all levels should take steps to ensure that indigenous peoples are effectively protected against human rights abuses; should ensure that effective mechanisms for identifying human rights abuses against indigenous peoples are put in place, and thorough and impartial investigations are conducted into all reports of such abuses in order to make the full truth known and bring the perpetrators to justice.