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PERSPECTIVE SERIES

GUATEMALA: DEMOCRACY AND HUMAN RIGHTS

[PS/GTM/97.001]

JUNE 1997

DISTRIBUTED BY:

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WASHINGTON, D.C. 20536

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Research completed 30 April 1997

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I. Introduction

When Alvaro Arzú Irigoyen took the oath of office as President of Guatemala on January 14, 1996, he vowed to bring an end to three and a half decades of civil war and "to fight impunity head on."[1] Within days, he moved to restructure the armed forces, retiring half of the country's generals, and dismissing scores of police officers tied to criminal activities. A month later, he became the first President to meet with the guerrilla leadership. In September, he dismissed another nine senior military officers, signed an agreement with the rebels to reduce the size of the armed forces, and limit their involvement in domestic affairs. Before the end of the year—on December 29—he secured the signing of a peace treaty which ended the last insurgency in Central America.

Despite these historic developments, Guatemala still has a long way to go to create a society and polity capable of safeguarding the most basic human rights of its citizens. That is particularly true of its historically oppressed indigenous majority. Well over a hundred thousand Mayan peasants perished in the civil war, almost all at the hands of the armed forces, who frequently massacred entire villages. Though the war has receded, the racism that fed its savagery has not. As documented in this report, incidents of discrimination and violence directed at members of indigenous ethnic groups continue to be widespread.

Mayans are not the only group at risk. In urban areas, the Government's counter-insurgency efforts focused on eliminating dissent among whites and *ladinos* (persons of mixed European and indigenous ancestry). Death squads organized by the military and extreme right-wing organizations targeted human rights advocates, teachers, university professors, clergy, union leaders, judges, prosecutors—in short, anyone seeking, or suspected of seeking, change. Thousands were abducted, tortured, and killed, as a warning to others. Though President Arzú has acted to sever the links between the security forces and clandestine organizations, there are signs that many of the latter continue to operate as renegade criminal organizations, often with continuing ties to members of the police and armed forces.

In an interview just before the signing of the peace accord, President Arzú cautioned that "[w]e're done with the first stage, and now comes the hard part…It's going to be a real

[1]UN General Assembly. *Fourth Report of the Director of the United Nations Mission for the Verification of Human Rights and of Compliance with the Commitments of the Comprehensive Agreement on Human Rights in Guatemala* (Geneva: A/50/878, 24 February 1996), p. 18.

challenge."[2] The biggest part of that challenge is, as Arzú recognized in his inaugural address, impunity. Until members of the armed forces, police, death squads, and guerrilla organizations who have engaged in murder, torture, and rape are brought to account for their actions, such patterns of behavior will persist, as demonstrated in this report.

To date, few human rights violators have been brought before a court of law, and still fewer convicted and sentenced. Complicating the challenge of ending impunity is the National Reconciliation Law passed by the Guatemalan Congress on December 18, 1996, over the objections of the center-left New Guatemalan Democratic Front (FDNG) and the National Union of the Center (UCN). The law "extinguishes criminal responsibility" for crimes committed up until the date of passage by the legislature. Yet, in an improvement over previous amnesty laws in Argentina and El Salvador, this one specifically excludes from amnesty cases of forced disappearance, torture, and genocide. Guatemala is also a party to the *American Convention on Human Rights*, which does not permit extinguishing responsibility for other crimes, such as extrajudicial executions. On the other hand, interpretation of these provisions will ultimately rest with the Guatemalan judiciary, which has so far demonstrated little resolve to end impunity for human rights violations.[3]

The peace treaty signed on December 29 also creates a Commission for Historical Clarification, intended to provide an official account of human rights violations during the guerrilla war. But the Commission has only three members, a $50,000 budget, and six months to complete its work. It is, moreover, barred by its charter from naming individuals responsible for serious crimes. To counter that defect, Guatemalan human rights groups are producing parallel reports. The human rights office of the Roman Catholic Church (*Oficina de Derechos Humanos del Arzobispado de Guatemala*, ODHAG) is sponsoring the Project to Recover Historical Memory (REMHI), which since 1995 has been interviewing survivors of some of the worst atrocities. The Project, financed by donations from Scandinavian countries, has so far documented 483 mass killings, and received information about more than 300 clandestine cemeteries. Meanwhile, a coalition of 27 human rights organizations is pooling files on about 10,000 cases of forced disappearance, torture, and execution.[4]

Until the challenge of impunity has been met, none of the groups that have historically been at risk in Guatemala will be truly safe. It is therefore important for outside observers not to be lulled into complacency by the end of the civil war or by the obvious good intentions of President Arzú. In a more

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[2]Rohter, Larry. "Final Peace Near, Guatemala Braces for Complications," *New York Times* (New York: 29 December 1996), p. 8 - as reported on NEXIS.

[3]Robert F. Kennedy Memorial Center for Human Rights. *Update on the Guatemalan Amnesty* (Washington, DC: 17 March 1997), 8 p.

[4]Rohter, Larry. "Guatemalan Rights Group Tracing Abuses in War," *New York Times* (New York: 7 April 1997), p. 8 - as reported on NEXIS.

fundamental sense, the civil conflict will not be over until impunity is brought to an end, and the broader features of Guatemala's new political accord, including recognition of the rights of the indigenous majority, are implemented.

II. Historical Background to 1944

Among the factors bedeviling Guatemalan history and politics is that the country is the product of an incomplete conquest. Though Spanish *conquistador* Pedro de Alvarado subdued the native Mayan peoples in the 1520s and 1530s, they have to this day remained a majority. That is in sharp contrast with the outcome in such settler states as the United States, Canada, Australia, New Zealand, and (within Latin America) Argentina, Chile, Uruguay, and Costa Rica, where European populations quickly became majorities.

Guatemala is likewise a settler state, in that its political system is dominated by descendants of European settlers. But because the European-Americans have stayed a tiny minority, Guatemala has remained unstable, like other settler states in which minority populations of European ancestry have tried to govern native majorities. Examples include South Africa and Rhodesia (now Zimbabwe) before their conversion to majority rule, and present-day Bolivia and Peru, which, like Guatemala, have Amerindian majorities, and a long history of political instability.

The attempt to preserve minority rule in settler states has costly social and political consequences. One is the tendency to resort to violence – or a credible threat of violence – to contain pressures for majority rule. Such countries tend to become highly militarized, with armies whose primary purpose is not to defend the nation from external attack, but to maintain internal order.[5]

Because of their monopoly over the political system and the legal instruments of coercion, the descendants of settlers also have enormous advantages in education and business, advantages that accentuate the gulf between rich and poor. According to the World Bank, Guatemala has one of the world's most unequal distributions of wealth and income. The close association between ethnicity and poverty in turn reinforces widely-held racial prejudices, undermining ideals of shared nationality and citizenship that could (as they do in many Asian countries) help shape a consensus for social reform.

Sharp socio-economic stratifications also limit prospects for sustained economic growth and democracy. When wage-earners are prevented from organizing to defend their interests, low wages translate into meager incomes that perpetuate social distinctions and limit development of

[5]South Africa was a partial exception, because neighboring African states (the "Front Line States") identified with the country's repressed African majority during the Apartheid period.

the consumer purchasing power essential to building a modern economy. In so doing, they also inhibit the formation of broad-based middle classes that moderate tensions between rich and poor and provide a firmer foundation for democracy.

Guatemala's history is a testament to the destabilizing effects of its social structure. As a dependency of the Viceroyalty of Mexico, the Captaincy-General of Guatemala (encompassing all of present-day Central America as far south as Costa Rica) followed Mexico in declaring its independence from Spain in 1821. It remained part of Mexico until 1823, when it seceded and reorganized itself as the Central American Federation. The federation was at first governed by Conservatives headquartered in Guatemala City, but in 1829, Francisco Morazán, a Liberal general from Honduras, overwhelmed his adversaries. Moving the capital to San Salvador, Morazán enacted liberal reforms throughout the region. He abolished slavery and established *habeas corpus* and trial by jury. In 1832, the Liberals disestablished the Catholic Church, providing for full religious freedom, civil marriages, divorce, and lay education. Yet in their eagerness to modernize agriculture, the Liberals also alienated the Mayan majority. In 1829, they passed a law stripping Amerindian villages and families of any lands for which they lacked titles.[6]

The land grab sparked a revolution. Led by Rafael Carrera, a *ladino* who typified the plight of the Spanish-speaking, mixed-race population that was denied both the right to own land in Mayan villages and to hold public office, it quickly gained the support of the Amerindian population. In 1838, Carrera's hordes took Guatemala City. The following year, Carrera withdrew Guatemala from the Central American Federation. Though often characterized as a conservative for his reversal of Liberal measures affecting landholding and the Church, Carrera could more accurately be compared with the Mexican *mestizo* Emiliano Zapata, who likewise sought to prevent the wholesale seizure of Amerindian lands by modernizing elites. Following Carrera's death in 1865, Guatemala's indigenous majority began losing its ability to defend its land base. [7]

When the Liberals regained control of the Government in 1871, they took measures to prevent a repetition of the Carrera phenomenon. Dictator Justo Rufino Barrios built a modern army, with officers trained at the new *Escuela Politécnica* military academy. The armed forces quickly turned into the favored means of social advancement for *ladinos*, effectively splitting their interests from those of Amerindians.[8]

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[6]Handy, Jim. *Gift of the Devil: A History of Guatemala* (Boston: South End, 1984), p. 39, 40, 44, 50.

[7]Handy, Jim. *Gift of the Devil: A History of Guatemala* (Boston: South End, 1984), p. 51-53.

[8]Handy, Jim. *Gift of the Devil: A History of Guatemala* (Boston: South End, 1984), p. 70.

With military backing, Barrios carried out the Liberal reforms held back by Carrera. He secularized the University of San Carlos, expelled some religious orders, and barred clerics from wearing religious garb or holding processions in public. When the church excommunicated him, he expelled the archbishop.[9]

Once again, the Liberals set their sights on Mayan lands. In 1877, they enacted a law that forced villages to sell their communal holdings. This time, when the Mayan peoples tried to resist, they were subdued by the new, professional military dominated by their former *ladino* allies.[10]

The redistribution of land helped convert the economy from the subsistence agriculture of the Mayan peoples toward the export agriculture championed by Liberals. Not only did the expropriations open up new lands for cultivation of coffee, they also created a vast population of landless peasants, with little choice but to work the coffee plantations at subsistence wages. Coffee quickly became Guatemala's most important source of wealth, with exports multiplying five-fold in the first fourteen years of the Barrios dictatorship. Meanwhile the Mayan peoples – dispossessed and subjected to what the British consul described as "one of the most cruel despotisms the world has ever seen" – retreated into the isolation of their highland villages, mistrustful of and hostile to outsiders, a condition that in large measure persists to this day.[11]

In the first half of the 20th century, another tropical agricultural commodity – bananas – joined coffee as a pillar of the Guatemalan economy. Unlike coffee, the banana business was dominated by foreign firms, chief among them the United Fruit Company (UFCo). Though coffee remained the country's primary export, UFCo, through its control of railroads, ports, and company stores, controlled about 40% of the economy by the 1930s. By 1934, UFCo also held more than 3.5 million acres of land, of which 115,000 were under cultivation.[12]

Just as Justo Rufino Barrios had championed the interests of coffee cultivators, his godson Jorge Ubico became closely associated with the interests of both coffee planters and the United Fruit Company's banana empire. An admirer of Napoleon, he seized power in 1930, then quickly moved to consolidate his dictatorship. He reinforced the army, placing a former U.S. military attaché (whom he designated brigadier-general) in charge of the *Escuela Politécnica* military academy. He forced members of the Supreme Court to resign, then stacked the Court with political cronies. In the countryside, he replaced elected mayors (*alcaldes*) with town

[9]Handy, Jim. *Gift of the Devil: A History of Guatemala* (Boston: South End, 1984), p. 62-63.

[10]Handy, Jim. *Gift of the Devil: A History of Guatemala* (Boston: South End, 1984), p. 68-70.

[11]Handy, Jim. *Gift of the Devil: A History of Guatemala* (Boston: South End, 1984), p. 63, 74, 75.

[12]Handy, Jim. *Gift of the Devil: A History of Guatemala* (Boston: South End, 1984), p. 79-80, 82.

managers (*intendentes*) answerable to himself. When faced with the constitutional prohibition against reelection in 1936, he staged a referendum to remain in office.[13]

Ubico's *Vagrancy Law* required all landless peasants to work for an employer at least 150 days a year; those with some land only had to put in 100 days. That ensured that most Amerindians and rural *ladinos* would have to work on plantations for more than three months, providing a steady supply of cheap labor for the harvest. To further enhance the authority of the planters, a 1943 law gave them the right to shoot poachers or anyone else intruding on their lands.[14]

Ubico singled out the United Fruit Company for favored treatment. In 1936, he granted it a 99-year contract for a Pacific coast plantation, exempting the company from taxation and import duties, and guaranteeing low wages. To head off demands for higher wages elsewhere in the economy, Ubico set an upper limit of 50 cents a day on wages at UFCo. With a government-mandated ceiling on wages, and with a government-sanctioned monopoly on all transportation to the Atlantic coast, and on all shipping out of the only port on that coast, UFCo was able to set prices arbitrarily, guaranteeing handsome profits.[15]

By the 1940s, however, events elsewhere in the world would help doom the Ubico regime. The Great Depression had led to Franklin Roosevelt's New Deal in the United States; in neighboring Mexico, President Lázaro Cárdenas had nationalized the oil industry and launched a sweeping land reform. Then came the Second World War, and the crusade against fascism. By 1944, with Nazi Germany on the verge of defeat, Ubico's authoritarian rule seemed out of step with the times. Student-initiated protests gained support from respected businessmen and professionals, then from army cadets and the military Honor Guard. Ubico fled the country, to be replaced by a revolutionary junta consisting of Captain Jacobo Arbenz, commander of the cadets; Major Francisco Arana , commander of the Honor Guard; and a civilian. The junta held an election and transferred authority to the country's first freely-elected President.[16]

III. Guatemalan Politics Since the Election of 1944

The new President, Juan José Arévalo, was a university professor and admirer of Franklin Roosevelt who sought to implement a Guatemalan version of the New Deal. His reforms were far-reaching. The 1945 Constitution reinstated the ban on reelection, and mandated an apolitical

[13]Handy, Jim. *Gift of the Devil: A History of Guatemala* (Boston: South End, 1984), p. 93, 95-97.

[14]Handy, Jim. *Gift of the Devil: A History of Guatemala* (Boston: South End, 1984), p. 98.

[15]Schlesinger, Stephen; Kinzer, Stephen. *Bitter Fruit: The Untold Story of the U.S. Coup in Guatemala* (New York: Doubleday, 1982), p. 70.

[16]Handy, Jim. *Gift of the Devil: A History of Guatemala* (Boston: South End, 1984), p. 104-106.

military. All Guatemalans were granted freedom of association, including the right to form free labor unions. Literate women were given the right to vote.[17] Political parties (with the exception of Communists and other "foreign or international" parties) could form and contest elections freely, ending seventy years of Liberal dictatorship. The Constitution granted the University of San Carlos administrative autonomy, with a guaranteed two percent share of the national budget. In April 1946, Arévalo won passage of a *Social Security Law*, and in 1947, a new *Labor Code*. The latter established the right to strike and to collective bargaining, set minimum wages, and restricted child labor. By the end of Arévalo's term in 1950, urban wages had risen 80%. Arévalo also repealed Ubico's *Vagrancy Law*.[18]

Colonel Jacobo Arbenz, who had served as Arévalo's secretary of defense, won the 1950 presidential election with 63% of the vote in a three-way race. Arbenz tried to extend the revolution of 1944 to the countryside. Rather than nationalize UFCo monopolies, he sought to introduce competition. He began building a highway to the Atlantic and a new port to end UFCo's monopolies on transportation and shipping. Then, in 1952, he promulgated an *Agrarian Reform Law* intended to create a rural middle class of freeholders. *Decree 900* provided for expropriation of idle landholdings, with compensation based on the owners' self-declared valuations as filed for the 1950 tax assessment. Farms smaller than 219 acres were exempt, as were those between 219 and 488 acres in which three-quarters of the land was under cultivation. By June 1954, about 100,000 families (comprising half a million persons out of a population of three million) had obtained lands of their own. That reduced the supply of labor for the plantations, forcing rural wages above a dollar a day.[19]

These changes did not sit well with coffee planters and the United Fruit Company. Besides the higher wages, UFCo's management was infuriated by the expropriation of 209,842 acres of unused banana plantations, and by the $3/acre offered by the Guatemalan Government. Though the figure was based on the company's own stated valuations (for tax purposes), and though it had paid half that amount to acquire the land twenty years earlier, the U.S. State Department demanded $75 an acre. Possibly influencing the U.S. position was the fact that

[17]That still denied the vote to 76% of all women and 95% of Amerindian women, as of 1950. Jonas, Susanne. *The Battle for Guatemala: Rebels, Death Squads, and U.S. Power* (Boulder: Westview, 1991), p. 23.

[18]Handy, Jim. *Gift of the Devil: A History of Guatemala* (Boston: South End, 1984), p. 107-109; Schlesinger, Stephen; Kinzer, Stephen. *Bitter Fruit: The Untold Story of the U.S. Coup in Guatemala* (New York: Doubleday, 1982), p. 33-34; Jonas, Susanne. *The Battle for Guatemala: Rebels, Death Squads, and U.S. Power* (Boulder: Westview, 1991), p. 23.

[19]Handy, Jim. *Gift of the Devil: A History of Guatemala* (Boston: South End, 1984), p. 116, 128-129; Jonas, Susanne. *The Battle for Guatemala: Rebels, Death Squads, and U.S. Power* (Boulder: Westview, 1991), p. 26, 27.

Secretary of State John Foster Dulles had previously served as an attorney for UFCo, preparing the company's contracts with the Guatemalan Government during the 1930s.[20]

Denouncing the administration as Communist-dominated, President Eisenhower authorized the Central Intelligence Agency (CIA), run by Allen Dulles, brother of the Secretary of State and another former UFCo attorney, to proceed with covert actions against the Guatemalan Government. Though no Communist held any cabinet post, and the Guatemalan Communist Party (*Partido Guatemalteco de los Trabajadores*, PGT) never held more than 5 of 58 seats in Congress, Arbenz fell into a public-relations trap when he purchased arms from Communist Czechoslovakia in an effort to circumvent a U.S.-imposed arms embargo.[21] In June 1954, planes flown by CIA operatives began bombing and strafing military installations, fuel depots, and the presidential palace, while mercenaries led by former army Colonel Carlos Castillo Armas invaded from Honduras. On June 27, Arbenz resigned on the basis of a promise to preserve the gains of the Guatemalan revolution, and flew off into Mexican exile.[22]

Installed in the presidency by the United States, Castillo Armas returned lands expropriated under *Decree 900* to their former owners, including UFCo. He outlawed all political parties except his own National Liberation Movement (*Movimiento de Liberación Nacional*, MLN). He banned labor unions and peasant confederations, and restored Ubico's secret police chief. He decreed a *Preventive Penal Law against Communism*, providing for arbitrary arrest for up to six months of those designated as "Communists." Though the Guatemalan Communist Party had peaked at a membership of 4,000, the regime branded 72,000 citizens as "Communists," with no right of appeal.[23]

Col. Castillo Armas was assassinated in 1957, and succeeded by Gen. Miguel Ydígoras Fuentes, who had developed a reputation for cruelty as enforcer of Ubico's *Vagrancy Law*.[24] In 1963, to head off another presidential bid by Juan José Arévalo, the army took over, blocking Arévalo's return from exile. The new head of state, Col. Enrique Peralta Azurdia, formed a new

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[20]Handy, Jim. *Gift of the Devil: A History of Guatemala* (Boston: South End, 1984), p. 95; Schlesinger, Stephen; Kinzer, Stephen. *Bitter Fruit: The Untold Story of the U.S. Coup in Guatemala* (New York: Doubleday, 1982), p. 75-76, 139.

[21]According to Jonas, the Communists held 4 of 56 seats in Congress. Jonas, Susanne. *The Battle for Guatemala: Rebels, Death Squads, and U.S. Power* (Boulder: Westview, 1991), p. 31.

[22]Schlesinger, Stephen; Kinzer, Stephen. *Bitter Fruit: The Untold Story of the U.S. Coup in Guatemala* (New York: Doubleday, 1982), p. 14-17, 147-150, 199-201, 205-206; Handy, Jim. *Gift of the Devil: A History of Guatemala* (Boston: South End, 1984), p. 120, 140-141.

[23]Schlesinger, Stephen; Kinzer, Stephen. *Bitter Fruit: The Untold Story of the U.S. Coup in Guatemala* (New York: Doubleday, 1982), 221; Handy, Jim. *Gift of the Devil: A History of Guatemala* (Boston: South End, 1984), p. 120, 223.

[24]According to Jonas, Ydígoras had close ties with Dominican dictator Rafael Trujillo. Jonas, Susanne. *The Battle for Guatemala: Rebels, Death Squads, and U.S. Power* (Boulder: Westview, 1991), p. 59.

center-right party – the Institutional Democratic Party (*Partido Institucional Democrática*, PID) – modeled on Mexico's ruling Institutional Revolutionary Party. He also rewrote the Constitution, inserting a requirement that any new political party must first submit a list of 50,000 members. By questioning the validity of signatures, the Government was able to arbitrarily decide which parties could participate in elections, a power used over the next couple of decades to exclude center-left reformist parties. That kept not only Arévalo, but even Christian Democrats, off the ballot.[25]

Besides the center-right PID and rightist MLN, only the centrist Revolutionary Party (*Partido Revolucionario*, PR) was allowed to take part in the 1966 election.[26] Even so, its presidential candidate, Julio César Méndez Montenegro, won a plurality of the vote. As a condition to being allowed to take office, however, the army made Méndez Montenegro pledge not to interfere in its affairs.[27] In a context of tension resulting from the emergence of small guerrilla groups that kidnapped Government officials and politicians, the army took advantage of its autonomy to launch two fateful initiatives. One was a Cold War counter-insurgency campaign, advised and financed by the United States, that killed thousands of peasants in an effort to end civilian support for several hundred guerrillas. The other was the formation of death squads such as *Mano Blanca* (White Hand) in the cities, openly sponsored by MLN leader Mario Sandoval Alarcón, and widely believed to be covertly organized by the armed forces. Among the death squads' primary targets were students and professors at the University of San Carlos, and labor lawyers and activists. With the Defense Minister able to declare states of siege at will, President Méndez Montenegro was reduced to a figurehead, helpless to limit the country's slide towards violence and impunity.[28]

In 1970 the pretense of civilian government disappeared altogether. Méndez Montenegro was succeeded as President by Col. Carlos Arana Osorio, commander of the counter-insurgency campaign. Announcing "there will be no halfway measures against subversion in my Government," Arana declared a state of siege. By March 1971, there had been more than 700 political killings in the country, including those of nationalist politician and lawyer Alfonso Bauer Paíz and labor leader Jaime Monge Donís. Though elected with support from both the

[25]Handy, Jim. *Gift of the Devil: A History of Guatemala* (Boston: South End, 1984), p. 116, 157-158.

[26]The Revolutionary Party was founded in 1957 (after the assassination of Castillo Armas) by members of parties that had supported the revolution of 1944-1954 (hence its name). In 1959, left-leaning members were expelled. Barry, Tom. *Inside Guatemala* (Albuquerque: Resource Center, 1992), p. 21.

[27]A secret eight-point agreement, since made public, let the military name not only its chief of staff but the country's defense minister as well, and gave the army a free hand in confronting subversion. Perera, Victor. *Unfinished Conquest: The Guatemalan Tragedy* (Berkeley: University of California Press, 1993), p. 283.

[28]Handy, Jim. *Gift of the Devil: A History of Guatemala* (Boston: South End, 1984), p. 160-164.

PID and the MLN, Arana consolidated military control of the death squads. With the killing of the MLN President of Congress, reputed to be a director of the MLN-linked *Mano Blanca*, that group faded out, and was replaced by a group of new death squads more directly controlled by the army.[29]

For the 1974 presidential election, the military-linked PID chose Arana's Chief of Staff, Gen. Kjell Laugerud, as its candidate. To hold onto MLN support, it offered Mario Sandoval Alarcón the vice-presidency. Bowing to the reality of military control, the centrist Christian Democratic Party of Guatemala (*Partido Demócrata Cristiano de Guatemala*, PDCG) countered by nominating Gen. Efraín Ríos Montt, an officer they considered more honest and trustworthy than the rest.[30] With the more reform-oriented parties – Villagrán Kramer's Democratic Revolutionary Unity (*Unidad Revolucionaria Democrática*, URD) and the United Revolutionary Front (*Frente Unido Revolucionario*, FUR), led by popular Guatemala City mayor Manuel Colom Argueta – prohibited from taking part in the elections, these threw their support to Ríos Montt under the umbrella of the National Opposition Front (*Frente Nacional Opositora*, FNO). When early returns showed the FNO leading two-to-one, the Government delayed the count, then announced that Kjell Laugerud had won by a thin margin. The fraud was consummated when Arana persuaded Ríos Montt to accept a diplomatic assignment in Spain.[31]

Gen. Laugerud, who was more of a technocrat than a cold warrior, reduced the level of repression. Forming an alliance with the Christian Democrats, he cut off relations with the MLN altogether, and split with his patron Arana. A raid on the home of an Arana associate uncovered a cache of arms and uniforms presumed to have been used by a death squad. In the Mayan highlands, Laugerud supported the development of cooperatives organized by the Christian Democrats and the FUR.[32]

In the wake of the 1976 earthquake, however, this relaxation enabled peasants who had already benefited from the cooperative movement to form independent organizations that began to challenge the rural power structure centered on rural land barons and military commissioners. On its left fringe, this effervescence led to formation of a new guerrilla group, the Guerrilla Army of the Poor (*Ejército Guerrillero de los Pobres*, EGP). Under pressure from army commanders, Laugerud terminated his alliance with the Christian Democrats, and allowed the army to intensify

[29]Handy, Jim. *Gift of the Devil: A History of Guatemala* (Boston: South End, 1984), p. 168-169.

[30]The PDCG was founded as a right-wing party in 1955, the year after the coup against Arbenz. It became more of a reformist party in the 1960s, reflecting the values of the European Christian Democratic movement, which opposed socialist notions of class conflict, yet favored reform of market systems to ensure social justice. Barry, Tom. *Inside Guatemala* (Albuquerque: Resource Center, 1992), p. 18-19.

[31]Handy, Jim. *Gift of the Devil: A History of Guatemala* (Boston: South End, 1984), p. 170-171.

[32]Handy, Jim. *Gift of the Devil: A History of Guatemala* (Boston: South End, 1984), p. 172-173.

repression in rural areas. In response, President Jimmy Carter persuaded Congress to cut off military aid and credit to Guatemala in 1977.[33]

Gen. Fernando Romeo Lucas García, who had been Gen. Laugerud's Defense Minister, became President in 1978, following an election the *Washington Post* described as "a fraud…so transparent that nobody could expect to get away with it."[34] Continuing their tacit alliance with segments of the military, the Christian Democrats had nominated Col. Peralta Méndez. Lucas had countered by seeking a civilian Vice-President. After being turned down by Manuel Colom Argueta and possibly Alberto Fuentes Mohr, he settled on Francisco Villagrán Kramer, head of the Democratic Revolutionary Unity (*Unidad Revolucionaria Democrática*, URD).

Shortly after Gen. Lucas assumed the presidency, a new death squad was born. Run out of the national palace itself, the Secret Anti-Communist Army (*Ejército Secreto Anticomunista*, ESA), spearheaded a campaign of terror against labor unions, universities, and opposition politicians that exceeded anything seen under Arana. Among the victims were leaders of two opposition parties. Alberto Fuentes Mohr, founder and leader of the Social Democratic Party (*Partido Social Demócrata*, PSD), was killed on January 25, 1979, the day his party filed for formal recognition. Manuel Colom Argueta, a former mayor of Guatemala City and head of the United Front of the Revolution (*Frente Unido de la Revolución*, FUR), was murdered by three carloads of armed men in plainclothes on March 22, 1979, only days after registering his party. Colom and Fuentes were expected to be presidential running mates in the 1982 election.[35]

So severe was the repression that even Gen. Lucas García's running mate could no longer tolerate it. On September 1, 1980, Vice-President Francisco Villagrán Kramer resigned and fled to the United States, saying that "death or exile is the fate of those who fight for justice in Guatemala."[36] By 1981, virtually all that remained of the organized democratic opposition were the Christian Democrats. In August, party leader Vinicio Cerezo reported that 120 Christian Democrats had been murdered since September 1980, and withdrew all the party's deputies from Congress.[37]

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[33]Handy, Jim. *Gift of the Devil: A History of Guatemala* (Boston: South End, 1984), p. 173-174.

[34] Diuguid, Lewis H. "Guatemala Vote Count Halted amid Wide Charges of Fraud," *Washington Post* (Washington, D.C.: 7 March 1978), p. A13.

[35]Central American Historical Institute. *On the Road to Democracy: A Chronology of Human Rights and U.S.-Guatemala Relations* (Washington, D.C.: Georgetown University, September 1985), p. 10; Handy, Jim. *Gift of the Devil: A History of Guatemala* (Boston: South End, 1984), p. 177.

[36]Central American Historical Institute. *On the Road to Democracy: A Chronology of Human Rights and U.S.-Guatemala Relations* (Washington, D.C.: Georgetown University, September 1985), p. 10.

[37]Handy, Jim. *Gift of the Devil: A History of Guatemala* (Boston: South End, 1984), p. 179.

Though Gen. Lucas succeeded in virtually destroying the democratic opposition, he was ultimately trumped from where he least expected it – dissident elements of the armed forces themselves. When he sought to impose the by now routine transfer of power to his Defense Minister in the 1982 election, Gen. Efraín Ríos Montt, still smarting from the fraud that denied him the presidency in 1974, led a coup that removed Lucas from power. A broader motivation for the coup, however, was the concern of field commanders that Gen. Lucas' corruption and indiscriminate slaughter were undermining the effort against the guerrillas, who were now more numerous and powerful than ever before.[38]

Ironically, Gen. Ríos Montt became best known for implementing a plan designed by Benedicto Lucas García, the former President's brother. Named Defense Minister in the waning days of the Lucas regime, Benedicto drew on his French military training to put together a counter-insurgency plan modeled on the French experiences in Vietnam and Algeria. The idea was to force peasants to abandon their traditional villages for centralized and fortified towns where the army could maintain secure control. In practice, that entailed burning down entire villages, often massacring many or all of the civilian inhabitants. As a result of the slaughter, 200,000 refugees had fled to Mexico by the end of 1982, and somewhere between 300,000 and a million peasants had either gone into hiding in the mountains or swelled the ranks of the homeless in Guatemala City. This mass exodus led to worldwide protests, including an August 1982 condemnation by the United Nations.[39]

As part of his strategy, Gen. Ríos Montt also expanded the army's presence in rural areas, increasing the number of military zones from nine to 22, one for each of the country's 22 departments. Completing the militarization of the Guatemalan highlands, Ríos Montt also removed 324 village mayors, substituting his own appointees, and required that all men participate in civil patrols (*Patrullas de Autodefensa Civil*, PACs).[40]

To rebuild a base of support, however, Ríos Montt moderated repression in some key aspects. He curtailed the activity of urban death squads, which had already decimated the democratic opposition. Labeling his counter-insurgency program *frijoles y fusiles* (beans and rifles), he provided food to peasants relocated to strategic towns, and had the army launch numerous other "civic action" programs. For these reasons, he has maintained a strong base of support among some Guatemalans. [41]

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[38]Handy, Jim. *Gift of the Devil: A History of Guatemala* (Boston: South End, 1984), p. 182-183, 256.

[39]Handy, Jim. *Gift of the Devil: A History of Guatemala* (Boston: South End, 1984), p. 256-259.

[40]Handy, Jim. *Gift of the Devil: A History of Guatemala* (Boston: South End, 1984), p. 261.

[41]Handy, Jim. *Gift of the Devil: A History of Guatemala* (Boston: South End, 1984), p. 263, 266.

To open up a largely closed political system that had earlier denied him the presidency he had won at the polls, Ríos Montt also launched an overhaul of the electoral law. The number of signatures required to register a political party dropped from 50,000 to 4,000, making it virtually impossible for the Government to continue excluding center-left parties from the ballot.[42]

Yet Ríos Montt's flamboyant evangelism created fissures among Guatemalan civil and military elites. In 1978, he had converted from Catholicism to *El Verbo*, a fundamentalist Protestant church affiliated with the Gospel Outreach Church of Eureka, California. As President, Ríos Montt encouraged the spread of Protestant missionaries throughout the country, causing resentment among Catholics. On August 8, 1983, Defense Minister Gen. Oscar Humberto Mejía Víctores, backed by the military, ousted Gen. Ríos Montt, and assumed the presidency. [43]

Convinced that a return to civilian rule was essential to improving Guatemala's international image and undermining the credibility of guerrilla forces, Gen. Mejía Víctores held an election in July 1984 – under the new electoral law prepared under Gen. Ríos Montt – for a Constituent Assembly to draft a new constitution. The Constitution was promulgated in 1985, and was followed by a presidential election free of the fraud that had marred previous elections. [44]

In 1986, Christian Democrat Vinicio Cerezo became Guatemala's first civilian President since 1970. Having won a sweeping 70% of the vote, Cerezo was widely perceived as having a mandate to carry out the new constitutional provisions, the most important of which was to subordinate the army to civilian control.[45]

As it had earlier done with Méndez Montenegro, however, the army sought to tie the President-Elect's hands. Four days before Cerezo's inauguration, it promulgated an amnesty decree barring prosecution of members of the armed forces and police for prior violations of human rights.[46] Not only did Cerezo make no effort to challenge the decree, he took no action to end impunity for violations of human rights committed by the army and police subsequent to his assumption of the presidency. Furthermore, he allowed the police, which are constitutionally

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[42]Handy, Jim. *Gift of the Devil: A History of Guatemala* (Boston: South End, 1984), p. 272.

[43]Handy, Jim. *Gift of the Devil: A History of Guatemala* (Boston: South End, 1984), p. 270-271.

[44]The content of the Constitution of 1985 is discussed in Sections IV and V, respectively: Structure of Government and Constitutional Guarantees.

[45]Jonas, Susanne. *The Battle for Guatemala: Rebels, Death Squads, and U.S. Power* (Boulder: Westview, 1991), p. 157.

[46]Though *Decree Law 8-86* only covered the Ríos Montt and Mejía Víctores regimes, a prior amnesty covered the Lucas García regime. Barry, Tom. *Inside Guatemala* (Albuquerque: Resource Center, 1992), p. 35.

supposed to answer to the Ministry of the Interior, to be run by an army officer, effectively subordinating the nominally civilian police to the army.[47]

Cerezo was succeeded in January 1991 by Jorge Serrano Elías, a political crony of Gen. Efraín Ríos Montt, and leader of the Solidarity Action Movement (*Movimiento de Acción Solidaria*, MAS). Though Serrano beat Jorge Carpio Nicolle of the center-right Union of the National Center (*Unión del Centro Nacional*, UCN) decisively in the presidential run-off election, the MAS lost the congressional elections just as decisively. Center and center-right parties dominated, with the UCN taking 41 of 116 seats, the PDCG taking 27, and the National Advancement Party (*Partido de Avanzada Nacional*, PAN) taking another 12, while MAS was limited to 18 seats.[48]

The one bright spot in the Serrano administration was the appointment of Acisclo Valladares as Attorney General. Valladares was the first Guatemalan official to attempt vigorous prosecutions of human rights offenses. Yet before his initiatives could have any effect, he was removed from office on allegations of corruption – allegations later proved false in court. Like Cerezo, Serrano allowed the police to remain under control of the military, in defiance of the constitutional requirement that the police be subordinated to the Ministry of the Interior.[49]

Unable to control Congress, Serrano tried to assume dictatorial powers. On May 25, 1993, Serrano ordered the dissolution of Congress, the Supreme Court, and the Court of Constitutionality. The Court of Constitutionality, presided over by Epaminondas González Dubón, responded immediately, declaring Serrano's action unconstitutional. Human Rights Ombudsman Ramiro de León Carpio likewise denounced the new regime as unconstitutional. The Organization of American States (OAS) called for the restoration of constitutional rule, as did the Clinton administration, which suspended security and economic assistance, and threatened economic sanctions. After losing the support of the army, Serrano resigned on June 1. Four days later, Congress chose a new President, former Human Rights Ombudsman Ramiro de León Carpio.[50]

As expected, de León Carpio made a series of bold moves early in his presidency to try to limit impunity for human rights violations by the army and the police. On August 5, he ordered

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[47]Americas Watch & Physicians for Human Rights. *Guatemala: Getting Away with Murder* (New York: August 1991), p. 5, 6.

[48]Barry, Tom. *Inside Guatemala* (Albuquerque: Resource Center, 1992), p. 8.

[49]Americas Watch & Physicians for Human Rights. *Guatemala: Getting Away with Murder* (New York: August 1991), p. 6; Human Rights Watch/Americas. *Human Rights in Guatemala during President De León Carpio's First Year* (New York: June 1994), p. 7.

[50]Human Rights Watch/Americas. *Human Rights in Guatemala during President De León Carpio's First Year* (New York: June 1994), p. 126-129.

the closing of the Presidential Security Directorate, an infamous intelligence unit more commonly known as *Archivos* (literally "The Files"), which had previously prepared hit lists for government-sanctioned death squads. Unlike his predecessors, he also tried to wrest control of the police from the army. His new national police chief, Mario René Cifuentes, dismissed military advisers, terminated the joint army-police task force HUNAPU, and prepared to launch a new unit to investigate human rights violations. Yet by early 1994, the military had forced the dismissal of both the police chief and the interior minister, effectively canceling the reforms.[51]

Only in the waning days of his administration did de León Carpio attempt one further reform. On September 15, 1995, he announced his intent to terminate the system of military commissioners through which the army maintained control over civilians in rural Guatemala. A week later, Congress made the dissolution formal.[52]

On November 12, 1995, Guatemalans went to the polls to elect a new President, mayors, and Congress. The elections were clean, but hampered by the residual effects of fear and a widespread sense of the futility of elections in a country in which the military remained unaccountable to elected authorities. Less than half of the registered voters (47%) cast ballots.[53]

There were, nonetheless, important results. In a stunning advance over its weak showing in 1990, the PAN won an absolute majority in Congress, taking 43 of 80 seats. The largest opposition party, Gen. Ríos Montt's Guatemalan Republican Front (*Frente Republicano Guatemalteco*, FRG), won less than half that amount – 21 seats. Just as important, the newly-formed New Guatemala Democratic Front (*Frente Democrático Nueva Guatemala*, FDNG) won six seats, restoring a degree of representation to the center-left after decades of persecution.[54] Three of the FDNG representatives were leaders of human rights groups: Nineth Montenegro was president of the Mutual Support Group (*Grupo de Apoyo Mutuo*, GAM), an organization of relatives of the disappeared; Amílcar Méndez was director of the Runujel Junam Council of

[51]Human Rights Watch/Americas. *Human Rights in Guatemala during President De León Carpio's First Year* (New York: June 1994), p. 2-3, 4-6.

[52]UN General Assembly. *Fourth Report of the Director of the United Nations Mission for the Verification of Human Rights and of Compliance with the Commitments of the Comprehensive Agreement on Human Rights in Guatemala* (Geneva: A/50/878, 24 February 1996), p. 4.

[53]UN General Assembly. *Fourth Report of the Director of the United Nations Mission for the Verification of Human Rights and of Compliance with the Commitments of the Comprehensive Agreement on Human Rights in Guatemala* (Geneva: A/50/878, 24 February 1996), p. 4.

[54]Two of the FDNG seats were won by internationally-known human rights campaigners Nineth Montenegro and Rosalina Tuyuc (director of CONAVIGUA); three more were won in departments where the fighting has been heaviest. UN General Assembly. *Fourth Report of the Director of the United Nations Mission for the Verification of Human Rights and of Compliance with the Commitments of the Comprehensive Agreement on Human Rights in Guatemala* (Geneva: A/50/878, 24 February 1996), p. 4; "Conservative Ahead in Guatemala's Presidential Race, but Faces a Runoff—A New Leftist Coalition does Surprisingly Well," *New York Times* (New York: 15 November 1995), p. A4.

Ethnic Communities (CERJ), derived from the phrase "all are equal" in the Quiché language; Rosalina Tuyuc was president of CONAVIGUA, the National Coordinating Committee of Guatemalan Widows (*Coordinadora Nacional de Viudas Guatemaltecas*).[55]

PAN candidate Alvaro Arzú Irigoyen, who failed to win an absolute majority in the first round of the presidential election, won the January 7th runoff with 51.2% of the vote. In his inaugural address on January 14, he vowed to "fight impunity head on."[56] Five days later, on January 19, Arzú removed eight of the country's sixteen generals, as well as two notorious colonels linked to killings involving U.S. citizens. On January 26, he dismissed 118 police officers linked to criminal acts, including 85 precinct commanders.[57] In February, he became the first Guatemalan President to meet with the guerrilla leadership. In September, Arzú dismissed another nine senior military officers, including two more generals, and signed an agreement to reduce the size and power of the military. On December 29, a final peace treaty was signed in Guatemala City, formally ending the country's 35-year civil war.[58]

IV. Structure of Government

The Constitution of 1985 defines the Government of Guatemala as a representative democracy.[59] Elections are held every four years for a President and unicameral Congress.[60] Because of past experience with dictatorships masked by staged or fraudulent elections, the Constitution limits Presidents to a single term.[61] Should a President refuse to leave office at the conclusion of the term, control of the military passes to Congress.[62] To forestall a return to military rule, the Constitution also prohibits the candidacy of anyone who has served as an

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[55]Immigration and Refugee Board, Documentation, Information and Research Branch. *Guatemala: Human Rights Update* (Ottawa: September 1996), p. 3.

[56]UN General Assembly. *Fourth Report of the Director of the United Nations Mission for the Verification of Human Rights and of Compliance with the Commitments of the Comprehensive Agreement on Human Rights in Guatemala* (Geneva: A/50/878, 24 February 1996),p. 4.

[57]None, however, has yet been charged with any criminal offense. Amnesty International. *Guatemala: Human Rights and Indigenous Activist Attacked* (London: AMR 34/13/96 May 1996), p. 1-3; "Guatemalan Shakes Up Army and the Police," *New York Times* (New York: 7 February 1996), p. A4.

[58]"Pact Signing Ends War in Guatemala," *Washington Post* (Washington, D.C.: 30 December 1996), p. A1; "In a U.N. Success Story, Guatemalan Abuses Fall," *New York Times* (New York: 27 March 1996), p. A5; "Guatemala and Guerrillas Sign Accord to End 35-Year-Old War," *New York Times* (New York: 20 September 1996), p. A1.

[59]Constitution of Guatemala, Article 140.

[60]Constitution of Guatemala, Articles 157, 184. The constitution was amended in 1993 to reduce the presidential and legislative terms of office from five to four years. "Reformas a la Constitución Política de la República de Guatemala, Acuerdo Legislativo 18-93," *Prensa Libre* (Ciudad de Guatemala: November 1993), p. 1, 3.

[61]Constitution of Guatemala, Articles 184, 186(b), 187.

[62]Constitution of Guatemala, Article 165(g).

officer within the past five years, or who has taken part in a coup, or led an armed insurrection.[63] Underscoring the importance of the provisions against reelection and against allowing those who resort to arms to attain the presidency, the Constitution bars any amendments to the articles in question.[64]

The president and vice-president are elected by an absolute majority of votes cast. Should no ticket achieve such a majority in the first round, a runoff is held among the top two contenders.[65] The President appoints all ministers. Together with the Vice-President, these comprise the Cabinet (*Consejo de Ministros*), which is headed by the President.[66] In principle, the President is also Commander-in-Chief of the Armed Forces, although not until the presidency of Alvaro Arzú Irigoyen (1996) was any serious effort made to assert this authority in practice.[67]

The Congress of the Republic (*Congreso de la República*) consists of 80 deputies, 64 of whom are elected by plurality from single-member districts, and 16 elected nationwide by party list, in proportion to the vote received by each party.[68] Unlike the President, legislators may be reelected.[69] A Permanent Commission attends to pressing business during congressional recesses.[70]

The Supreme Court of Justice consists of thirteen justices (*magistrados*), who serve five-year terms, and may likewise be returned to office.[71] Members of the court are chosen by Congress from lists prepared by university presidents, law school deans, the bar association, and judges.[72] The Supreme Court, which oversees all the nation's courts, is guaranteed two percent of the national budget, and appoints all other judges.[73]

In principle, though not yet fully in practice, the Constitution sets an elaborate set of checks and balances on arbitrary rule. Laws may be proposed not only by the president and by Congress, but, in their respective areas of competence, by the Supreme Court, the Supreme

[63]Constitution of Guatemala, Article 186(a).

[64]Constitution of Guatemala, Articles 186(e), 281.

[65]Constitution of Guatemala, Article 184.

[66]Constitution of Guatemala, Article 195.

[67]Constitution of Guatemala, Article 182(c).

[68]Constitution of Guatemala, Article 157. Prior to amendment of the constitution in 1993, the Congress consisted of 116 deputies, 87 of whom were elected by plurality from single-member districts, and 29 elected nationwide. Barry, Tom. *Inside Guatemala* (Albuquerque: Resource Center, 1992), p. 13.

[69]Constitution of Guatemala, Article 157.

[70]Constitution of Guatemala, Article 163.

[71]Constitution of Guatemala, Articles 214, 208. Until 1993, the number of justices was nine.

[72]Constitution of Guatemala, Article 215.

[73]Constitution of Guatemala, Articles 213, 209.

Electoral Tribunal, and the University of San Carlos.[74] The President may veto acts of Congress, and Congress may override the veto by a vote of two-thirds of its total membership.[75] Constitutional laws, such as the electoral law and the law of constitutional protection (*amparo*), can only be modified by a vote of two-thirds of all deputies.[76] *Amparo* entitles any individual whose constitutional rights are threatened to sue for the "protection" of the courts, or where violations have already occurred, to sue for redress.

Congress may compel ministers to appear before it to answer questions.[77] If dissatisfied with a minister's performance, an absolute majority of deputies can so indicate with a vote of no confidence. The minister must then offer to resign. If the President does not accept the resignation, a vote of two-thirds of the deputies dismisses the minister.[78]

The Supreme Court may also find specific actions of the Executive Branch, or particular applications of laws, unconstitutional.[79] But rulings on the constitutionality of laws themselves are reserved for the Constitutional Court (*Corte de Constitucionalidad*).[80] The Court consists of five magistrates, who serve five-year terms, and are chosen respectively by the President, Congress, the Supreme Court, the national bar association, and the University of San Carlos.[81]

Another innovation in the Constitution of 1985 was the establishment of the Human Rights Ombudsman (*Procurador de Derechos Humanos*). The Ombudsman is chosen by Congress from a list of three candidates submitted by the Human Rights Commission, which is made up of one deputy from each of the political parties represented in Congress.[82] The Ombudsman holds office for a five-year term. Any citizen may submit a complaint to the Ombudsman's office. The Ombudsman's authority, however, is limited to investigating complaints and recommending a course of action to other branches and agencies of the Government.[83]

Regional government is tightly controlled from Guatemala City, while municipalities are allowed some degree of autonomy. Each of the country's 22 departments is run by a governor

[74]Constitution of Guatemala, Article 174.

[75]Constitution of Guatemala, Articles 178, 179. The president does not have a line-item veto.

[76]Constitution of Guatemala, Article 175.

[77]Constitution of Guatemala, Article 199.

[78]Constitution of Guatemala, Article 167.

[79]Constitution of Guatemala, Article 266.

[80]Constitution of Guatemala, Article 267.

[81]Constitution of Guatemala, Article 269.

[82]Constitution of Guatemala, Article 273.

[83]Constitution of Guatemala, Article 274.

appointed by the President.[84] Municipalities, on the other hand, are governed by councils consisting of a mayor (*alcalde*), councilors (*concejales*), and trustees (*síndicos*), elected for four-year terms, with reelection allowed.[85] Taxes are levied by the national government, but the Constitution reserves ten percent of the national budget for municipalities.[86]

One of the greatest challenges facing Guatemala's civil authorities is to enforce the constitutional provisions subjecting the military to civilian control. Though working in the context of military rule, the Constituent Assembly nonetheless sought to legislate military rule out of existence. To that end, the Constitution not only prohibits active-duty military personnel from voting and from holding public office, but bars even officers who have retired in the past five years from seeking the presidency, and prohibits those who have taken part in coups from ever running for the presidency.[87] This last provision was tested in 1993 when Vice President Gustavo Espina tried unsuccessfully to succeed Jorge Serrano following the latter's failed "self-coup," which Espina had backed. The provision was again tested in 1995, when retired Gen. Efraín Ríos Montt, who had led the 1982 coup, tried to run for President. In both cases, the Constitutional Court ruled they could not.

Though the army is still authorized to maintain "internal" as well as "external" security, it is admonished to remain "apolitical," and to stay within the bounds of the Constitution.[88] Not once, but twice, the Constitution emphasizes that the President is Commander-in-Chief of the Armed Forces.[89] The President is also responsible for military promotions.[90] In a provision aimed at terminating military-sponsored death squads, the Constitution prohibits the formation of armed groups not regulated by law.[91] It also stipulates that no civil or military functionary is obligated to carry out illegal orders, and that no civilian may be judged by a military court.[92]

V. Constitutional Guarantees

In general, there is a wide gap between the generous guarantees of human rights set forth in the Guatemalan Constitution and actual practice, though there have been some advances over

[84]Constitution of Guatemala, Article 227.

[85]Constitution of Guatemala, Article 254.

[86]Constitution of Guatemala, Article 257. Until 1993, that figure was eight percent.

[87]Constitution of Guatemala, Articles 248, 164(f), 186(e), 186(a).

[88]Constitution of Guatemala, Articles 244, 250.

[89]Constitution of Guatemala, Articles 182(c), 246.

[90]Constitution of Guatemala, Article 246(b).

[91]Constitution of Guatemala, Article 245.

[92]Constitution of Guatemala, Articles 156, 219.

the past decade, and the initiatives of the current administration of President Alvaro Arzú Irigoyen reflect a determination to effect far-reaching improvements.

Article 1 of the Constitution commits the state to "protecting the person and the family." Article 2 says "it is the duty of the State to guarantee to the inhabitants of the Republic life, liberty, justice, security, peace, and full personal development." Article 3 then establishes a right to life, originating from conception, not birth. Abortions are illegal, and the death penalty is prohibited for women, for men under 18 or over 60, or for political prisoners (including those convicted of committing common crimes in a political context).[93] In July 1995, the legislature amended the *Penal Code*, extending the circumstances under which the death penalty could be imposed for kidnapping.[94] In so doing, it may have violated the *American Convention on Human Rights*, a treaty previously ratified by Guatemala, which specifies that the death penalty "shall not be extended to crimes to which it does not presently apply."[95]

In practice, the right to life is frequently violated by death squads that in the past operated under direct military command, and may still have clandestine links to army intelligence.[96] As late as July 1996, the UN Mission in Guatemala (MINUGUA) reported that:

> The right to life continues to be seriously undermined. The enjoyment of this right is more difficult because agents of the State and persons or groups linked to them are known to be perpetrators of civilian homicides and the institutions involved are not carrying out proper investigations.[97]

By January 1997, following the end of the guerrilla war, MINUGUA was able to offer a more upbeat, though still cautious assessment:

> In particular, a trend was observed for the greater respect on the part of agents of the state for a number of the human rights given priority under the Agreement, including the right to life....Nevertheless, the enjoyment of human rights by the

[93]Constitution of Guatemala, Article 18.

[94]UN General Assembly. *Fifth Report of the Director of the United Nations Mission for the Verification of Human Rights and of Compliance with the Commitments of the Comprehensive Agreement on Human Rights in Guatemala* (Geneva: A/50/1006, 19 July 1996), p. 14.

[95]American Convention on Human Right, Article 4(2).

[96]This issue is addressed in detail in Section VIII: Security Forces.

[97]UN General Assembly. *Fifth Report of the Director of the United Nations Mission for the Verification of Human Rights and of Compliance with the Commitments of the Comprehensive Agreement on Human Rights in Guatemala* (Geneva: A/50/1006, 19 July 1996), p. 31.

> population as a whole is still precarious, and Government efforts against crime and impunity have achieved only partial results.[98]

Article 3 also mandates respect for "the integrity and security of the person," language intended to prohibit torture, the use of which is explicitly forbidden against prisoners.[99] Yet, at least until very recently, the army has continued to rely on torture to extract information from suspected subversives. According to the U.S. Department of State *Country Reports on Human Rights Practices for 1995*, "many bodies were found in various parts of the country bearing signs of severe disfigurement or mutilation."[100] The police also resort to torture in order to force the confessions that serve as a substitute for inadequate means of criminal investigation. "To control violence requires a police system of professional investigations and good equipment," President Alvaro Arzú told the *Washington Post* in June 1996. "We don't have it."[101] Common methods of torture include beatings, druggings, incisions with knives, cigarette burns, and electric shocks. The most notorious method – the *capucha* (hood or garotte) – is routinely used by both the army and the police against suspected subversives. In the words of a police detective:

> The *capucha* is a hood made of rubber, which has a kind of tie at the end which goes behind it. You put the hood over the person, down to his neck, and you tighten the strings so no air can enter. Before, you blindfold the person and you tie his hands and ankles from behind, and you put him face down and then someone strong steps on his lungs while another holds his feet, and another his head. Then the strong guy starts "rowing" the person's body while another is tightening the hood. What happens? He starts losing consciousness from lack of oxygen. And when he is just about to faint, they jump on him to bring him to or they throw cold water on his face, and slap him. They take off the hood and interrogate him. They say "Are you going to tell the truth?" and "Who is so and so?" If he doesn't know anything, they put the hood back on until he feels obligated to say something, or else he is very macho and doesn't speak, or to save his life, he invents just about anything. That's when it really gets started: torture. A lot of people can't take it. They die, and that's when they throw them on the roadsides about ten kilometers from the city. That's why you often see people with their hands tied behind them, blindfolded; they were the ones who couldn't withstand the hood. There are sessions that last an afternoon, a day, a week, a

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[98] UN. *Suplemento al sexto Informe del Director de la Misión de las Naciones Unidas de Verificación de Derechos Humanos y del Cumplimento de los Compromisos del Acuerdo Global sobre Derechos Humanos en Guatemala [MINUGUA]* (Guatemala City: February 1997), p. 8-9, para. 160, 162.

[99] Constitution of Guatemala, Article 19(a).

[100] U.S. Department of State. "Guatemala," *Country Reports on Human Rights Practices for 1995* (Washington, D.C.: U.S. Government Printing Office, February 1996), p. 423.

[101] "Crime Bedevils Guatemala: As Government Seeks to Root Out Military, Police Corruption, 'Demons' Strike Back with Surge of Carjackings, Kidnappings," *Washington Post* (Washington, D.C.: 17 June 1996), p. A10.

> month, depending on the seriousness of the alleged crime. Everything happens as easily as the way I am describing it.[102]

A common variation in the use of the hood is to spike it with insecticide, as described by a soldier:

> We give them the hood with Gamezán (insecticide) and they let it all out, against their will…It's effective. The hood makes your eyes burn, you feel asphyxiated. We put insecticide inside. It burns your nose, you can't take it, you feel almost dead…We give them the hood and they let it all out, even against their will. They tell the truth in the middle of torture.[103]

In November 1995, the United Nations Committee Against Torture expressed its deep concern that torture remains endemic in Guatemala, and that the authorities were not taking prompt and effective action against those responsible.[104]

By law, arrests and searches of a home may be made only with a warrant issued by a judge based on probable cause. The only exception is when someone is apprehended in the act of committing a crime; even then, that person must be brought before a judge within six hours. The clandestine detention centers that, at least until recently, were routinely used by the army and police to interrogate, torture, and kill "subversives" are explicitly prohibited, and the Constitution says that authorities who violate this precept will be held personally accountable.[105] To date, however, no one has been charged with any such infraction. Moreover, in January 1997, MINUGUA reported "an increase in the number of verified cases of illegal detention attributed to the National Police and the Treasury Police."[106]

Persons placed under arrest must immediately be told why they are being detained, and apprised of their rights to have an attorney present.[107] In practice, however, most Guatemalans cannot afford legal counsel, and public defenders are usually too poorly trained and

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[102]Simon, Jean-Marie. *Guatemala: Eternal Spring, Eternal Tyranny* (New York: Norton, 1987), p. 140-141.

[103]Simon, Jean-Marie. *Guatemala: Eternal Spring, Eternal Tyranny* (New York: Norton, 1987), p. 169.

[104]Amnesty International. *Guatemala: Summary of Amnesty International's Concerns (January 1995-January 1996)* (London: AMR 34/03/96, February 1996), p. 5. According to MINUGUA, "The practice of torture persists, particularly in connection with police action against ordinary crime." UN General Assembly. *Fourth Report of the Director of the United Nations Mission for the Verification of Human Rights and of Compliance with the Commitments of the Comprehensive Agreement on Human Rights in Guatemala* (Geneva: A/50/878, 24 February 1996), p. 8.

[105]Constitution of Guatemala, Articles 6, 10, 23.

[106] UN General Assembly. *Sixth Report of the Director of the United Nations Mission for the Verification of Human Rights and of Compliance with the Commitments of the Comprehensive Agreement on Human Rights in Guatemala* (Geneva: A/51/790, 31 January 1997), p. 12, para. 60.

[107]Constitution of Guatemala, Articles 7, 8.

overburdened by heavy caseloads to offer effective defense for their clients. Interrogations may only be conducted by judicial authorities. Confessions obtained from extrajudicial interrogations may not be submitted as evidence in a court of law.[108] In all cases, the accused must be presumed innocent.[109] The Constitution also provides for the right of *habeas corpus*, and the right to protection (*amparo*) from any other infringement of constitutional rights by the authorities.[110] According to the U.S. Department of State, however, "most accounts agree that the security forces routinely ignore writs of *habeas corpus* in cases of illegal detention."[111]

The Constitution mandates the inviolability of correspondence and private documents.[112] Yet, according to the U.S. Department of State, "the authorities regularly disregard these provisions. Elements of the security forces continue to monitor private communications."[113] In March 1993, for instance, a secret office of *Archivos* (the inter-agency intelligence unit discussed in Section VIII) was discovered in the main post office in Guatemala City, where it had been used to intercept mail.[114]

Guatemalans are guaranteed freedom of speech and freedom of the media, including the press.[115] The Constitution also provides for freedom of association, the right of petition, and the right of peaceful assembly.[116] All these rights, however, have, at least until recently, been under assault from death squads linked to the military and to political extremists, who have had long-established patterns of murdering journalists, politicians, professors, students, trade unionists, clergy, catechists, and others who they perceive as threatening their interests. Though Guatemala's recent civilian Presidents have not sanctioned the actions of the death squads, they have not made a concerted effort to arrest and prosecute their organizers. That has in turn fostered a culture of impunity that perpetuates the violation of the most basic human rights of Guatemala's citizens.

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[108]Constitution of Guatemala, Article 9.

[109]Constitution of Guatemala, Article 14.

[110]Constitution of Guatemala, Articles 263, 264, 265.

[111]U.S. Department of State. "Guatemala," *Country Reports on Human Rights Practices for 1995* (Washington, D.C.: U.S. Government Printing Office, February 1996), p. 424.

[112]Constitution of Guatemala, Articles 23, 24.

[113]U.S. Department of State. "Guatemala," *Country Reports on Human Rights Practices for 1995* (Washington, D.C.: U.S. Government Printing Office, February 1996), p. 425.

[114]Human Rights Watch/Americas. *Human Rights in Guatemala during President De León Carpio's First Year* (New York: June 1994), p. 6.

[115]Constitution of Guatemala, Article 35.

[116]Constitution of Guatemala, Articles 34, 28, 33.

According to MINUGUA:

> …In the current situation of impunity, the majority of serious crimes and human rights violations go unpunished. This is not because it is impossible to determine what has happened or to identify the perpetrators; it is due to the inefficiency of the national bodies responsible for investigation, judgment, and punishment, as well as the influence certain groups, mostly those connected with the State, have upon those bodies…State officials or persons close to them take advantage of their State connections, not only to commit crimes and human rights violations, but also to impede their investigation and evade punishment.[117]

A related problem is the widespread availability of guns. Article 38 of the Guatemalan Constitution goes well beyond the Second Amendment to the U.S. Constitution, by establishing a right to bear arms both in the home and on one's person. With citizens holding hundreds of thousands of guns (almost none of which are registered), many of which are worn concealed under their clothing, and with effective impunity for their use, it is not hard to understand why Guatemala has one of the highest homicide rates in the hemisphere. In 1992, there were 34 homicides per 100,000 inhabitants, compared with 10 in the United States and Panama, and 5 in Costa Rica.[118]

In the social and economic domain, Guatemalans have rights to health, "ecological equilibrium," social security, and education.[119] The State provides subsidies to religious schools.[120] It also guarantees the autonomy of the University of San Carlos, the country's only public university, which is reserved two percent of the national budget.[121]

Employees have a "right to conditions that guarantee" their families "a dignified existence."[122] These conditions include a minimum wage (currently just under $3 a day), an 8 hour work-day and a 44 hour work-week, and prohibition of child labor (under age 14).[123] According to the U.S. Department of State:

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[117]UN General Assembly. *Fifth Report of the Director of the United Nations Mission for the Verification of Human Rights and of Compliance with the Commitments of the Comprehensive Agreement on Human Rights in Guatemala* (Geneva: A/50/1006, 19 July 1996), p. 12.

[118]Barry, Tom. *Inside Guatemala* (Albuquerque: Resource Center, 1992), p. 27.

[119]Constitution of Guatemala, Articles 93, 97, 100, 71.

[120]Constitution of Guatemala, Article 73.

[121]Constitution of Guatemala, Articles 82, 84.

[122]Constitution of Guatemala, Article 102(a).

[123]Constitution of Guatemala, Article 102(f), (g), (l).

> The minimum wage is not sufficient to provide even a minimum standard of living for a worker and family. An estimated 80 percent of the population lives below the poverty line, including approximately 60 percent of those employed.[124]

Wages must be paid in cash, except in the case of agricultural workers, where, with their consent, no more than 30% may be paid in food, provided the food is valued at no more than cost.[125] Though employers are required to pay migrant workers their wages in full, this provision is flagrantly violated by plantation owners who fail to pay minimum wage, and by a judicial system that seldom seeks compliance.[126] Any employee who is dismissed without just cause must be given a month's severance pay for each year of employment.[127] Employees have a right to equal pay for equal work, and employers may not make distinctions between single and married women.[128]

Workers have the right to form free labor unions, and cannot be dismissed from their jobs for joining a union.[129] Unions may go on strike, but only to achieve socio-economic – not political – aims.[130] However, as pointed out in the State Department's *Country Reports on Human Rights Practices for 1995*:

...Labor code procedures make legal strikes cumbersome. Labor organizers criticize the requirement that two-thirds of the workers must approve a vote to strike, the prohibition of strikes by agricultural workers at harvest time, and the right of the Government to prohibit strikes which it considers seriously harmful to the national economy. A strike by employees of La Aurora Zoo in April [1995] was the first legally authorized strike in 25 years…lack of legal approval for a strike can be used as a threat against strikers. Workers can be suspended or fired for failing to show up for work if a strike has not been legally approved.[131]

As discussed in Section XI, Groups at Risk, trade unionists and labor lawyers have been frequent targets of death squads linked to the country's security forces, in effect undermining the right to organize.

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[124]U.S. Department of State. "Guatemala," *Country Reports on Human Rights Practices for 1995* (Washington, D.C.: U.S. Government Printing Office, February 1996), p. 433.

[125]Constitution of Guatemala, Article 102(d).

[126]Constitution of Guatemala, Article 69; Barry, Tom. *Inside Guatemala* (Albuquerque: Resource Center, 1992), p. 97.

[127]Constitution of Guatemala, Article 102(o).

[128]Constitution of Guatemala, Article 102(c), (k).

[129]Constitution of Guatemala, Article 102(g).

[130]Constitution of Guatemala, Article 104.

[131]U.S. Department of State. "Guatemala," *Country Reports on Human Rights Practices for 1995* (Washington, D.C.: U.S. Government Printing Office, February 1996), p. 431.

As a matter of law, though not necessarily in practice, wherever Guatemala has ratified international treaties, such as conventions of the International Labor Organization (ILO), and where the provisions protecting workers exceed those in Guatemalan law, the international provisions take precedence.[132] Guatemala has ratified both *ILO Convention 87*, on freedom of association, and *ILO Convention 98*, on the right to collective bargaining.

Though the Constitution provides for states of exception, these are severely restricted in order to avoid having them become a justification for the curtailment of basic human rights. Confronting the legacy of a long history of often brutal military rule, the Constituent Assembly prohibited suspension of most human rights under any circumstances. The right to life and to physical integrity can never be validly abridged. The only rights subject to suspension in an emergency are the freedoms of speech, movement, and peaceful assembly, freedom from arrest without a warrant, the right to be interrogated only by judicial authorities, the right to bear arms, and the right of public employees to go on strike. The President may suspend any of these rights by decree, specifying the rights and locations affected, but must submit the decree to Congress within three days for review. Even if confirmed by Congress, no decree can be in effect for more than 30 days.[133]

The Human Rights Ombudsman, moreover, is required to defend all underogable rights under a state of exception.[134] Instruction about the Constitution and human rights is made a mandatory part of the curriculum, and popular resistance to violations of human rights is declared legitimate.[135] And though Article 204 states that the Constitution prevails over ordinary laws and international treaties in other respects, Article 46 states that where human rights are concerned, international treaties ratified by Guatemala take precedence over domestic law.[136] That effectively incorporates the content of the *International Covenant on Civil and Political Rights*, and the *American Convention on Human Rights*, into domestic jurisprudence. Guatemala has also recognized the compulsory jurisdiction of the Inter-American Court of Human Rights.

VI. Cultural Factors - Ethnicity

In racial terms, the population of Guatemala is predominantly native American. About 55% of Guatemalans are Amerindian, and 42% are *ladino* (of mixed, but predominantly native

[132]Constitution of Guatemala, Article 102(t).

[133]Constitution of Guatemala, Article 138.

[134]Constitution of Guatemala, Article 275.

[135]Constitution of Guatemala, Articles 72, 45.

[136]As we have already seen, Article 102(t) similarly gives precedence to labor rights established by international treaties ratified by Guatemala.

origins). Only 3% are of predominantly European or (to a negligible degree) African origin.[137] To downplay the size of the native population, however, the Guatemalan Government measures ethnicity primarily by language and dress, reflecting a more general pattern of discrimination:

> Ethnic discrimination permeates Guatemalan society. To be an *indio* is to be dumb, lazy, crude, backward, and altogether less civilized in the stereotypical view of many *ladinos*. In fact, *indio* is a common term of insult in *ladino* society. Within the narrow bounds of indian communities, one can advance economically and socially while maintaining traditional dress and language. But to succeed in the dominant society, or even simply to get a decent job, an Indian is pressured to shed her or his cultural identity and assume *ladino* dress and behavioral patterns. For these reasons, low estimations of the indigenous population are sometimes questioned; and it is argued that without societal pressure and discrimination the numbers of self-identified indians would be greater.[138]

Since all *ladinos* speak Spanish, as does more than a third of the indigenous population, the linguistic balance tilts in favor of the dominant culture. About two-thirds (66%) of Guatemalans speak Spanish, with the remaining third speaking various Mayan languages.

There are four principal indigenous languages. Quiché, spoken by 13% of all Guatemalans, is concentrated in the departments of Quiché, Quetzaltenango, Sololá, Retalhuleu, and Totonicapán. Cakchiquel, spoken by 6% of Guatemalans, is heard in Antigua, and in the departments of Sacatepéquez, Chimaltenango, Sololá, and Guatemala. Mam, with 4%, is used in the departments of Huehuetenango, San Marcos, and Quetzaltenango. Kekchí, also at 4%, is distributed in the departments of Alta Verapaz, Izabal, and Petén. Another seventeen languages or dialects are spoken by the remaining 7% of the population. There are also two small populations that are neither European, Mayan nor *ladino*. About 10,000 Garífuna, descended from African slaves and Carib Indians, inhabit the Caribbean coast, and some 500 Xinca live near the border with El Salvador.[139]

Though Guatemala's original inhabitants – and their languages – are often collectively described as Mayan, the various ethnic groups have little sense of common identity. The major languages are sufficiently distinct as to be unintelligible to "Mayans" who speak other languages. Furthermore, beginning with the Spanish conquest, each community developed a distinctive form

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[137]U.S. Central Intelligence Agency, "Guatemala," *The World Factbook 1995* (Washington, D.C.: 1995), p. 175.

[138]Barry, Tom. *Inside Guatemala* (Albuquerque: Resource Center, 1992), p. 217-218.

[139]Barry, Tom. *Inside Guatemala* (Albuquerque: Resource Center, 1992), p. 220; U.S. Central Intelligence Agency, "Guatemala," *The World Factbook 1995* (Washington, D.C.: 1995), p. 175; the number of indigenous languages is from U.S. Department of State. "Guatemala," *Country Reports on Human Rights Practices for 1995* (Washington, D.C.: U.S. Government Printing Office, February 1996), p. 431; U.N. Guatemala Negotiations Team. *Summary of the Agreement on the Identity and Rights of Indigenous People* (11 April 1995), § 3. American University. *Guatemala: A Country Study*, Area Handbook Series (Washington, DC: U.S. Government Printing Office, May 1983), p. 51, 52.

of dress, or *traje*. The inhabitants of each native town distinguish themselves from the inhabitants of all other towns by the patterns in their brightly colored garments. "In the eyes of our community," says Nobel Peace Prize laureate Rigoberta Menchú, "the fact that anyone should even change the way they dress shows a lack of dignity. Anyone who doesn't dress as our grandfathers, our ancestors, dressed, is on the road to ruin."[140] Between language and *traje*, indigenous peoples have remained highly segregated, limiting possibilities for ethnic unity and political clout. [141]

Only in recent years have Mayans begun to overcome some of their differences, and to press for a more effective voice in the political life of the country. Ironically, the trend toward recognizing some degree of common identity originated in the severe repression of the 1980s. Mayans who remained in Guatemala received the same treatment from the security forces regardless of their specific ethnicity, while those who fled into Mexican exile intermingled and had to learn Spanish in order to communicate. The return of the refugees, with their language and organizational skills, and their sense of common purpose, has contributed to a growing movement for the recognition of Mayan cultural identity and for meaningful participation in government.

One sign of this movement is the formation, for the first time, of a pan-Mayan coalition – the Coordinating Council of Organizations of the Mayan People in Guatemala (COPMAGUA). Another is the increasing participation of Mayans in electoral politics. In the November 1995 general election, Mayan candidates won eight (10%) of 80 congressional seats and 40 (13%) of 297 mayoralties, a significantly greater proportion than ever before. Twenty-one of the new mayors were nominated by local civic committees instead of national political parties, a change made possible by electoral reform. These developments within Guatemala have been paralleled by recognition from abroad, as in the awarding of the 1992 Nobel Peace Prize to Mayan human rights activist Rigoberta Menchú. [142]

These emerging political realities, coupled with unfulfilled constitutional promises, are in tension with present reality. According to the U.S. Department of State, "[a]lthough the Constitution accords indigenous people equal rights, in practice they have only minimal participation in decisions affecting their lands, culture, traditions, and allocation of natural

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[140]Burgos-Debray, Elisabeth. *I, Rigoberta Menchú: An Indian Woman in Guatemala* (London: Verso, 1984), p. 37.

[141]Barry, Tom. *Inside Guatemala* (Albuquerque: Resource Center, 1992), p. 218-219.

[142]Cities with Mayan mayors include Quetzaltenango and Sololá. "From Passive to Political: Guatemala's Indian Majority Becomes an Independent Force," *Washington Post* (Washington, D.C.: 20 February 1996), p. A7; "Maya Mayor Triumphs over Entrenched Racism," *Miami Herald* (Miami: 15 January 1996), p. 1A; "Summary of the Agreement on the Identity and Rights of Indigenous People," U.N. Guatemala Negotiations Team, 11 April 1995, § 4.

resources."[143] The Constitution, moreover, is in other ways discriminatory. It recognizes Spanish as the country's only official language. The various Mayan languages are relegated to the nation's "cultural patrimony." Bilingual education is limited to regions of predominantly indigenous population – which, as of 1981, included the western highland departments of Totonicapán (97%), Sololá (94%), Alta Verapaz (89%), Quiché (85%), Chimaltenango (80%), Huehuetenango (66%), Quetzaltenango (61%), Baja Verapaz (57%), and Suchitepéquez (56%).[144]

Since 1995, progress has been made in recognizing the changes that need to be made to the country's legal structure to accord Mayans their due part in the political order. In March 1995, the Government and the Guatemalan National Revolutionary Unity (*Unidad Revolucionaria Nacional Guatemalteca*, URNG) signed the *Agreement on the Identity and Rights of Indigenous People*. The document acknowledges the historical damage suffered by indigenous peoples from the denial of rights, discrimination, exclusion from the judicial and political systems, and plundering of lands and natural resources – and affirms an "urgent need to overcome it."[145] It recognizes Mayan identity and the value of indigenous languages.[146] It requires that "all matters of direct interest to the indigenous people must be addressed by and with them,"[147] and specifies formation of consultative bodies. The agreement calls for legislation to recognize traditional forms of authority and adjudication at the municipal level, and to recognize collective rights to land and natural resources.[148] It also commits the Government to amend the Constitution in several ways: to define the Guatemalan nation as multiethnic, multicultural, and multilingual; to recognize the Mayan, Garífuna, and Xinca peoples; to make all indigenous languages official; and to recognize indigenous forms of spirituality. According to MINUGUA, however, resistance to recognizing indigenous forms of spirituality continues to be strong:

> During the period [August 1996 - January 1997], the most serious violations of the rights recognized in the Agreement on Indigenous Rights were associated with the exercise of

[143]U.S. Department of State. "Guatemala," *Country Reports on Human Rights Practices for 1995* (Washington, D.C.: U.S. Government Printing Office, February 1996), p. 431.

[144]Constitution of Guatemala, Articles 76, 143.

[145] U.N. Guatemala Negotiations Team. *Summary of the Agreement on the Identity and Rights of Indigenous People* (11 April 1995), § 6.

[146] U.N. Guatemala Negotiations Team. *Summary of the Agreement on the Identity and Rights of Indigenous People* (11 April 1995), § 7.

[147] U.N. Guatemala Negotiations Team. *Summary of the Agreement on the Identity and Rights of Indigenous People* (11 April 1995), § 9.

[148]U.N. Guatemala Negotiations Team. *Summary of the Agreement on the Identity and Rights of Indigenous People* (11 April 1995), § 15.

> Mayan spirituality. Accusations of witchcraft greeted the performance of traditional Mayan rites and triggered violent reactions against the physical and psychological integrity of the victims, as well as serious acts such as kidnapping, death threats, and even murder. There have also been collective trials and clashes between villages. Lastly, the Mission observed various ways in which access by priests and adherents of Mayan spirituality to their holy places was being obstructed by individuals and religious institutions, and even cases of destruction and vandalism. The Mission has received complaints from spiritual guides about the procedure for the issuance of credentials to Mayan priests, which they consider humiliating.[149]

On March 5, 1996, the Guatemalan Congress ratified the International Labor Organization's convention on indigenous rights, which specifies that indigenous peoples have a right to live on their ancestral lands, and to be educated in their own languages.[150]

Still, differences in basic indicators between Mayans and *ladinos* underscore the extent of the challenge that lies ahead. Life expectancy among *ladino* men is 64; among Mayan men, 47. Nationwide, illiteracy is at a staggering 50%, reaching 77% among Mayans (90% among Mayan women). In 1989, according to official statistics, two-thirds of those who were employed in rural areas lived in extreme poverty. Ultimately, any attempt to deal with the problem of rural poverty must either come to grips with the contentious issue of access to land, or create large numbers of jobs through expansion of the industrial and service sectors of the economy. [151]

VII. Land Issues and their Political Implications

Several factors contribute to the explosive issue of land ownership in Guatemala. One is the continuing importance of agriculture to the country's economy. As of 1993, two-thirds of Guatemala's foreign exchange earnings came from the sale of agricultural commodities. Somewhere between a third and a half of the labor force works in agriculture.[152]

A second factor is the combination of high population density and shortage of arable land. Roughly eleven million people – most of them rural inhabitants – live in an area slightly

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[149] UN General Assembly. *Sixth Report of the Director of the United Nations Mission for the Verification of Human Rights and of Compliance with the Commitments of the Comprehensive Agreement on Human Rights in Guatemala* (Geneva: A/51/790, 31 January 1997), p. 12, para. 91-92.

[150]"Guatemala Ratifies Convention on Indian Rights," *Reuters* (London: 5 March 1996); U.N. Guatemala Negotiations Team. *Summary of the Agreement on the Identity and Rights of Indigenous People* (11 April 1995), § 7, 9 & 15.

[151]Inter-American Commission on Human Rights. *Fourth Report on the Situation of Human Rights in Guatemala* (Washington, D.C.: 1993), p. 5; "From Passive to Political: Guatemala's Indian Majority Becomes an Independent Force," *Washington Post* (Washington, D.C.: 20 February 1996), p. A7.

[152]American Embassy. *Land Issues in Guatemala: Refugees, Land Invasions, and Peace Talks Bring Subject to the Forefront*,Unclassified Cable (Guatemala City: July 1995), ¶10.

smaller than Tennessee. Only 12% of the mostly mountainous land surface is arable, and only a third of that is in permanent crops, with the remainder in pastures. Exacerbating the problem is a rapid rate of population growth, which was about 2.5% per year in 1995.[153]

A third factor is an archaic, inaccurate, and confusing system of land titling. Because the uncertainties and legal voids favor those who can afford to hire lawyers and bribe bureaucrats, army officers, and judges, powerful landholders are content to keep the system as it is, because it helps them gain title to lands they never bought. On the other end of the social spectrum, peasants who have little prospect of obtaining a title treat the land as an expendable resource, slashing and burning their way ever deeper into virgin rainforests. Guatemala loses 153,000 hectares (378,000 acres) of forest each year.[154]

Superimposed on this is the ethnic factor. As elsewhere in the Americas, European settlers seized most of the lands originally held by indigenous peoples. In Guatemala, however, the indigenous peoples continued to be in the majority. The outcome is one of the most lop-sided distributions of land ownership in the Western Hemisphere. Two percent of farm owners – mostly of European extraction – hold about 72% of the precious arable land, and receive 90% of all farm credit. At the other end of the spectrum from these few *latifundios* (plantations or ranches) are about 550,000 *minifundios* averaging 4.6 acres apiece, which receive only 4% of all farm credit. Most rural Guatemalans don't own any land at all. The net effect is to reinforce positions of power and status little changed from colonial times. [155]

Agribusinesses and plantation owners justify the existing distribution of land by arguing that it promotes economies of scale and maximizes foreign exchange earnings needed to modernize the economy. They point out that large agricultural enterprises growing export crops can make efficient use of agricultural chemicals and machinery. Land reform, they argue, would pull land out of export agriculture into subsistence agriculture, starving the country of dollars for the purchase of imports. Moreover, without enough arable land to provide every family with a plot large enough to meet its basic needs, and with plots being subdivided among large numbers of children, the outcome would be economic ruin.[156]

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[153]U.S. Central Intelligence Agency, "Guatemala," *The World Factbook 1995* (Washington, D.C.: 1995), p. 174-175.

[154]Inter-American Commission on Human Rights. *Fourth Report on the Situation of Human Rights in Guatemala* (Washington, D.C.: 1993), p. 9; American Embassy. *Land Issues in Guatemala: Refugees, Land Invasions, and Peace Talks Bring Subject to the Forefront,* Unclassified Cable (Guatemala City: July 1995), ¶22 & 23.

[155]Inter-American Commission on Human Rights. *Fourth Report on the Situation of Human Rights in Guatemala* (Washington, D.C.: 1993), p. 6.

[156]American Embassy. *Land Issues in Guatemala: Refugees, Land Invasions, and Peace Talks Bring Subject to the Forefront,* Unclassified Cable (Guatemala City: July 1995), ¶15-16.

Advocates of the poor, however, counter that the present system results in abysmal living conditions for most Guatemalans, with no serious prospect for improvement. Though Guatemala ranks 85th in real GDP per capita ($3,400 in 1993) among 174 world nations, it places 112th in the Human Development Index (HDI), a combined measure of life expectancy, educational attainment, and income. Nowhere else in the Americas is the gap between these two indices even a quarter as great. In 1989, according to official government statistics, more than three of every four Guatemalans lived in poverty, more than one in ten children died before reaching the age of five, and more than a third of schoolchildren aged 5-9 were suffering from malnutrition.[157]

Were landless peasants to be employed in agriculture, or in newly-created industrial and service jobs, these grim demographics could be turned around. But there have been few meaningful development initiatives in rural Guatemala. According to Guatemala's Human Rights Ombudsman:

> [Guatemala's] development style allowed economic growth in some productive sectors and in the economy overall, while postponing the structural changes needed for this process to bring about the kind of national development that would benefit all Guatemalans. The result has been that the *latifundio-minifundio* dichotomy has become even more pronounced.[158]

A large proportion of rural employers, moreover, do not even pay their workers the legally-mandated minimum wage, which the U.S. Department of State describes as "not sufficient to provide even a minimum standard of living for a worker and family."[159] And the rural minimum wage has been declining in dollar equivalents, from $3.20/day in the early 1980s to $2.60/day in 1995. Emigrating to Guatemala City is no real answer, because the city is unable to provide employment for more than a fraction of the rural migrants who are already squatting in its cardboard and plastic slums. [160]

Facing these options, many if not most Guatemalan peasants would prefer to have their own land, even if it only ensured subsistence for their families. Indigenous peoples, moreover, value land not just as a commodity but as an essential component of their collective identity as a

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[157]Inter-American Commission on Human Rights. *Fourth Report on the Situation of Human Rights in Guatemala* (Washington, D.C.: 1993), p. 8; United Nations Development Programme. *Human Development Report 1996* (New York: Oxford University Press, 1996), p. 29, 136.

[158]Human Rights Ombudsman, "Los Derechos Humanos: un compromiso por la justicia y la paz 1987-1992," cited in Inter-American Commission on Human Rights. *Fourth Report on the Situation of Human Rights in Guatemala* (Washington, D.C.: 1993), p. 7.

[159]U.S. Department of State. "Guatemala," *Country Reports on Human Rights Practices for 1995* (Washington, D.C.: U.S. Government Printing Office, February 1996), p. 433.

[160]"El choque de dos mundos en el agro," *Notas de la coyuntura en Guatemala* (Ciudad de Guatemala: Fundación Myrna Mack, No. 4, April 1995), p. 2.

people. In Guatemala, maize (corn) is not just a staple food but a sacrament, the vital symbolic link between the earth, creation, and the human community. That is why Mayan organizations, peasant associations, the Catholic Church, and the URNG are all calling for land reform.

Guatemala's civil war added another wrinkle to the problem. As part of the counter-insurgency strategy applied in the early 1980s, the army destroyed hundreds of settlements, forcing their occupants into internal or external exile. Taking advantage of the opportunity, other peasants – almost all with ties to the army through the civil self-defense patrols (*Patrullas de Autodefensa Civil*, PACs) – occupied the vacated lands. Some of these peasants then obtained titles to the lands through a legal provision that allows for transfer of title wherever the land has been voluntarily abandoned.[161]

By any reasonable standard, however, the lands vacated by refugees could not be said to have been voluntarily abandoned. To persuade the refugees who fled to Mexico to return to Guatemala, the Government signed an accord in 1992 which committed it to remove squatters from lands owned by returning refugees, to assist refugees in asserting their prior claims against those issued subsequently to squatters, and where such efforts failed, to find land for them elsewhere. An unintended effect of this policy has been to pit one set of peasants against another, often leading to conflict. [162]

Since the arrival of the United Nations Mission (MINUGUA), there has also been an upsurge in land invasions on plantations whose owners have refused to pay their workers the legally-mandated minimum wage. Before MINUGUA, landowners would often respond to such takeovers with deadly force. Now, however, the risks are far less, and workers – primarily those organized by the National Indigenous and Peasant Coordinating Committee (*Coordinadora Nacional Indígena y Campesina*, CONIC) – have been occupying lands to demand either the back pay they are due or compensation in land.[163]

In 1996, outraged plantation owners succeeded in lobbying Congress to incorporate stiff sanctions against land invaders into the penal code. *Article 257* provides for two to six years imprisonment for "aggravated usurpation," which it defines as occurring under one or more of the following conditions: a) when more than five persons take part; b) they occupy land for more than three days; c) the owners are forced to leave; d) there is violence, disorder, intimidation, disguise, or breach of confidence; or e) damage is done to buildings, crops, roads, or natural

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[161]Costello, Patrick. *Guatemala: Displacement, Return and the Peace Process* (London: Writenet, April 1995), p. 5.

[162]American Embassy. *Land Issues in Guatemala: Refugees, Land Invasions, and Peace Talks Bring Subject to the Forefront*, Unclassified Cable (Guatemala City: July 1995), para. 3.

[163]"El choque de dos mundos en el agro," *Notas de la coyuntura en Guatemala* (Ciudad de Guatemala: Fundación Myrna Mack, No. 4, April 1995), p. 1, 4; American Embassy. *Land Issues in Guatemala: Refugees, Land Invasions, and Peace Talks Bring Subject to the Forefront*, Unclassified Cable (Guatemala City: July 1995), para. 7.

resources. The penalty is also applicable to those who encourage others to engage in such behavior.[164]

On May 6, 1996, the Government's Peace Commission (*Comisión por la Paz*, COPAZ) and the URNG signed a long-awaited socio-economic and agrarian agreement. Its provisions include: 1) a commitment to decentralize decision-making, and transfer more resources to municipalities; 2) a recognition on the part of the Government that it has an "undeniable obligation" to correct social inequities, coupled with commitments to boost spending on health and education (relative to GDP) by 50% by the year 2000, raise literacy to 70%, and cut infant and maternal mortality in half by the same year; 3) creation of a national "land bank" to provide landless peasants with access to land and credit; and 4) the doubling of tax collections by the year 2000.

Though the guerrillas were sufficiently pleased with the agreement to suspend their "war tax" on landowners, civic groups felt betrayed by what they saw as a series of unenforceable promises in lieu of immediate and concrete reforms. The Assembly of Civil Society (*Asamblea de la Sociedad Civil*, ASC), set up in 1994 to provide input to the peace negotiations from nongovernmental organizations and civilian groups, complained that its recommendations for broader reforms had been ignored. The National Indigenous and Peasant Coordinating Committee (*Coordinadora Nacional Indígena y Campesina*, CONIC) likewise protested that "the accord includes minimal commitments that do not satisfy the demands of the Mayan people and campesinos," and vowed that land invasions would continue.[165] Between January and May, 1996, about 15,000 campesinos from various groups have invaded more than 20 farms in six of Guatemala's 22 departments.[166]

According to Amnesty International:

> The [Government's] deliberate criminalization and intimidation of land activists is most evident in the case of El Estor, a municipality of 70 villages in the eastern department of Izabal. For more than two years Father Daniel Joseph Vogt, a Catholic priest, together with other members of his church and land activists in the municipality of El Estor, have been subject to death threats, intimidation, and killings by unidentified individuals. In the context of a land dispute between the

[164]"Usurpadores de terrenos afrontarán penas de cárcel de dos a seis años," *La República* (Ciudad de Guatemala: 10 December 1996), p. 3.

[165]Latin America Institute, University of New Mexico. "Guatemala: New Government-Guerrilla Accord on Socioeconomic Issues," *NotiSur - Latin American Political Affairs*, (Albuquerque, NM: 7 June 1996) - as reported on NEXIS.

[166]Latin America Institute, University of New Mexico. "Guatemala: Land Conflicts Intensify," *NotiSur - Latin American Political Affairs*, (Albuquerque, NM: 2 May 1996) - as reported on NEXIS.

community and a local land company, they have also been accused by the local authorities of crimes such as sedition and deforestation.[167]

In its January 1997 report, MINUGUA underscored the extent of the problem nationwide.

> The absence of institutional mechanisms for dealing with land disputes, which often involve the indigenous population, and for implementing expeditious procedures for resolving them, as well as the Government's inability to provide legal remedies and legal advisory services to apply them, have contributed to the occurrence and the aggravation of such disputes. The Mission observed with concern that there were repeated clashes during the period under review between a number of indigenous communities and villages and between members of these communities and farm-owners, resulting in an unknown number of deaths and serious injuries and keeping tensions high in the areas in question.[168]

VIII. Security Forces

Formally speaking, Guatemala has two principal security forces, the army and the National Police. The former is administered by the Defense Ministry, the latter by the Ministry of Government (*Gobernación*). Despite a constitutional requirement that the police be managed separately from the army, the police have until recently in fact been subject to military command. Even under the civilian presidencies of Vinicio Cerezo and Jorge Serrano, the number two position in the National Police continued to be held by military officers.[169]

There is no more powerful testament to the true purpose of the Guatemalan Armed Forces – acting as self-described bulwarks against domestic "subversion" – than the fact that they have been so completely interconnected with the police that it is impossible to treat the two separately. Not only has the National Police (*Policía Nacional*) long been under military leadership, the Mobile Military Police (*Policía Militar Ambulante*, PMA) has jurisdiction over civilians. Owners of rural plantations and urban private enterprises have even been able to hire PMA members to guard their property, or serve as personal bodyguards. The 2,100-member Treasury Police (*Guardia de Hacienda*), nominally under the Ministry of Finance, is supposed to run

[167] Amnesty International. *Guatemala: Appeals Against Impunity* (London: AMR 34/03/97, 22 April 1997), p. 19.

[168] By "farm-owners" MINUGUA refers to what are known in Guatemala as *latifundistas*, owners of agricultural estates or plantations who are generally of European or mixed ancestry. UN General Assembly. *Sixth Report of the Director of the United Nations Mission for the Verification of Human Rights and of Compliance with the Commitments of the Comprehensive Agreement on Human Rights in Guatemala* (Geneva: A/51/790, 31 January 1997), p. 18 , para. 90.

[169] Americas Watch. *Guatemala: Getting Away with Murder* (New York & Somerville, MA: Americas Watch and Physicians for Human Rights, August 1991), p. 6.

customs and control illegal stills. Yet, in cooperation with army intelligence, it has turned its power to conduct searches into a pretext to break into homes in pursuit of "subversives."[170]

Corruption is widespread. Army officers are poorly paid, and expected to supplement their incomes in one of two ways. One is to seek government appointments that provide them with *sobresueldos* (additional stipends). That contributes to political jockeying and intrigue. Another option is to seek private sources of income. Many officers moonlight, providing security services to plantation owners and businessmen. That can entail anything from expelling peasants from land they have occupied to murdering a nettlesome union leader. Higher-ranking officers often have the option of acquiring land, much of which is taken by force. Typically, they become landlords, collecting rent from peasant farmers.[171]

The most lucrative way of supplementing income, however, is providing protection to narcotics smugglers. According to the U.S. Drug Enforcement Administration, at least ten current or former military officers are suspected of involvement in cocaine trafficking. Lt. Col. Carlos Ochoa Ruíz, for example, was indicted in Florida for transshipping 1000 pounds of Colombian cocaine through Guatemala. In March 1994, Constitutional Court President Epaminondas González Dubón drafted a decision in favor of Ochoa's extradition to the United States. Days later, four men murdered the judge.[172]

Police officers are both poorly trained and poorly paid. The average policeman has a fourth-grade education, and earns about $150 a month. Low pay and impunity foster corruption. In 1995, an *ad hoc* committee on the National Police exposed the sale of positions in the Rapid Reaction Force – at 1,500 Quetzales apiece – to persons with police records and persons against whom arrest warrants had been served. According to the U.S. Department of State, "Rampant corruption continues to impede the proper functioning of the police force, and there are credible allegations of some police involvement in narcotics trafficking."[173]

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[170]Amnesty International. *Guatemala: A Government Program of Political Murder* (London: 1981), p. 11; Barry, Tom. *Inside Guatemala* (Albuquerque: Resource Center, 1992), p. 50.

[171]Adams, Richard Newbold. "Development of the Military," *Crucifixion by Power: Essays on Guatemalan National Social Structure* (Austin: University of Texas Press, 1970), p. 240-241.

[172]"Secret Guatemalan Military Unit, Linked to C.I.A., Dies and Is Born Again," *New York Times* (New York: 10 April 1995), p. A6; Human Rights Watch/Americas. *Los derechos humanos en Guatemala durante el primer año del Presidente de León Carpio* (New York: 1994), p. 42; U.S. Department of State. "Guatemala," *Country Reports on Human Rights Practices for 1996* (Washington, DC: U.S. Government Printing Office, February 1997), p. 458.

[173]U.S. Department of State. "Guatemala," *Country Reports on Human Rights Practices for 1995* (Washington, D.C.: U.S. Government Printing Office, February 1996), p. 425; "Crime Bedevils Guatemala: As Government Seeks to Root Out Military, Police Corruption, 'Demons' Strike Back with Surge of Carjackings, Kidnappings," *Washington Post* (Washington, D.C.: 17 June 1996), p. A10; UN Commission on Human Rights. *Report by the Independent Expert, Mrs. Mónica Pinto, on the Situation of Human Rights in Guatemala, Submitted in Accordance with Commission Resolution 1995/51* (Geneva, E/CN.4/1996/15, 5 December 1995), p. 31.

The National Police has also been involved in other criminal activities. Upon taking office in early 1996, President Alvaro Arzú fired 122 policemen, charging them with crimes ranging from auto theft to kidnapping. The courts may, however, reinstate most of the accused. In September 1996, President Arzú fired two more generals, including Vice Minister of Defense César Augusto García González, for involvement in a smuggling and robbery ring run by Alfredo Moreno Molina, a former military intelligence operative in the customs office. The President also dismissed sixteen other officials, including police officers, customs officials, and three colonels for their alleged involvement in the ring.[174]

The army has done little that is identifiably related to defending the nation from foreign threats. Guatemala has not had any recent history of conflict with either Mexico, El Salvador, or Honduras. Though it once claimed neighboring Belize as part of its territory, it has since renounced plans to seize the former British colony and has agreed to mediate a border dispute. Accordingly, all of Guatemala's 46,000-man armed forces are deployed to maintain domestic order. The country has only a nominal navy (1,000 sailors, 600 of whom are marines) and air force (1,300 members), both of which are under army control. Instead of being concentrated near the country's four borders, the army itself is distributed throughout the country in 22 military zones, one for each department.[175]

The army's central authority is its High Command (*Estado Mayor*), beneath which are five tactical commands. Personnel is D-1, Intelligence is D-2, Operations is D-3, Logistics is D-4, and Civil Affairs is D-5. The departmental counterparts are designated G-1 through G-5, and at the battalion level, S-1 through S-5. Civil Affairs, which originated in Intelligence, became a tactical command in 1982. S-5 operatives, who typically do not wear uniforms, advise military zone commanders in the use of psychological techniques and provision of social services as elements of counter-insurgency. G-2 is by far the most notorious branch of the army, for its role in the development and supervision of death squads.[176] According to journalist Allan Nairn:

> With a contingent of more than 2,000 agents and with sub-units in the local army bases, the G-2 – under orders of the army high command – coordinates the torture, assassination and disappearance of dissidents.[177]

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[174]Guatemala Human Rights Commission/USA. *Guatemala Human Rights Update* (Washington, D.C.: #19/96, 27 September 1996), p. 5; "Crime Bedevils Guatemala: As Government Seeks to Root Out Military, Police Corruption, 'Demons' Strike Back with Surge of Carjackings, Kidnappings," *Washington Post*. (Washington, D.C.: 17 June 1996), p. A10.

[175]Barry, Tom. *Inside Guatemala* (Albuquerque: Resource Center, 1992), p. 48.

[176]Barry, Tom. *Inside Guatemala* (Albuquerque: Resource Center, 1992), p. 48; Simon, Jean-Marie. *Guatemala: Eternal Spring, Eternal Tyranny* (New York: W W Norton, 1987), p. 158.

[177]Nairn, Allan. "C.I.A. Death Squad," *The Nation* (New York: 17 April 1995), p. 512.

A. Death Squads and "The Files"

Guatemala is reputed to have been the first Latin American country to develop death squads (*escuadrones de la muerte*) and their primary *modus operandi*, the "disappearance." Far from implying an unknown fate for the victims, "disappearance" has served as a euphemism for kidnapping, usually followed by brutal torture, and, with rare exceptions, murder. To further contribute to the sense of terror, the (typically mutilated) bodies of the victims are dumped in ditches, wells, garbage dumps, and on sidewalks and roadsides.[178]

Though the first self-described death squads were formed in the context of the counter-insurgency campaign of the 1960s, their roots go back to the CIA-backed overthrow of President Jacobo Arbenz in 1954. The new strongman, Col. Carlos Castillo Armas, decreed a *Preventive Penal Law against Communism*, providing for arbitrary arrest for up to six months of those designated as "Communists." Though the Guatemalan Communist Party had peaked at a membership of 4,000, the regime branded 72,000 citizens – most of them non-communist supporters of President Arbenz – as "Communists." Seventeen thousand were imprisoned, with no right of appeal. In 1963, these lists were incorporated into an expanded "National Security Archive" administered by Military Intelligence (G-2).[179]

Though outdated and compiled with little regard for accuracy, the "archives" would later be used to put together lists of victims for government-sanctioned and organized death squads. In September 1980, for instance, Lucila Rodas de Villagrán, a 60-year-old schoolteacher, was shot by unidentified assailants. Then, while hospitalized in Quetzaltenango under police "protection," death squad members shot her to death. Her only apparent act of subversion was to have belonged to the pro-Arbenz Revolutionary Action Party (*Partido Acción Revolucionario*) more than a quarter century beforehand.[180]

Just as the lists of alleged subversives first appeared in the aftermath of the 1954 coup, so did the organization that would form the first death squads. Founded by Col. Castillo Armas himself, the National Liberation Movement (*Movimiento de Liberación Nacional*, MLN) created White Hand (*Mano Blanca*) in the 1960s. Then-MLN leader Mario Sandoval Alarcón, who boasted of his role as "godfather of the death squads," actually served as Vice-President under Gen. Eugenio Kjell Laugerud (1976-1978).[181]

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[178]Delli Sante, Angela. *Nightmare or Reality: Guatemala in the 1980s* (Amsterdam: Thela, 1996), p. 15-17.

[179]Decree Law 9, 1963, Law for the Defense of Democratic Institutions (*Ley de Defensa de las Instituciones Democráticas*). Amnesty International. *Guatemala: A Government Program of Political Murder* (London: 1981), p. 8; Schlesinger, Stephen; Kinzer, Stephen. *Bitter Fruit: The Untold Story of the U.S. Coup in Guatemala* (New York: Doubleday, 1982), p. 221; Handy, Jim. *Gift of the Devil: A History of Guatemala* (Boston: South End, 1984), p. 120, 151.

[180]Amnesty International. *Guatemala: A Government Program of Political Murder* (London: 1981), p. 8, 13.

[181]Delli Sante, Angela. *Nightmare or Reality: Guatemala in the 1980s* (Amsterdam: Thela, 1996), p. 67, 77.

Under Gen. Romeo Lucas García (1978-1982), the Government took more direct control of the death squads. As White Hand faded, it was replaced by the Death Squad (*Escuadrón de la Muerte*) and the Secret Anti-Communist Army (*Ejército Secreto Anticomunista*, ESA). In 1979, the National Police (under the Ministry of Government) claimed the Death Squad had killed 1,224 "criminals," and that the ESA had killed 3,252 "subversives," in effect hinting at its responsibility. According to Elías Barahona y Barahona, who served as press representative for the Ministry of Government from 1976 to 1980, the Minister of Government stored blank letterhead of the Death Squad and ESA in his office.[182]

According to Amnesty International, the lists of death squad victims were prepared by an inter-agency office located in an annex of the National Palace, alongside the President's official residence. Commonly known as *Archivos* (literally "the files"), the agency was directed by the joint head of the Presidential General Staff (*Estado Mayor Presidencial*, EMP) and Military Intelligence (G-2). Decisions on who to make "disappear" were made jointly by the Ministry of Defense (overseeing the army), the Ministry of Government (overseeing the police), and the Army General Staff, which commanded the death squads. According to a high-ranking police official interviewed by Americas Watch, army intelligence would occasionally warn the National Police that "in such a sector at a determined time and on determined dates, the police ought not to intervene to avoid foul-ups in the operation."[183]

According to Amnesty International:

> No evidence has been found to support government claims that "death squads" exist that are independent of the regular security services. Where the captors or assassins of alleged "subversives" and "criminals" have been identified…the perpetrators have been members of the regular security services.[184]

Despite the nominal return to civilian rule in 1986, the military kept effective control over security by physically occupying much of the National Palace. In late 1993, the EMP, which housed *Archivos*, had 530 persons working within the offices of the Presidency.[185]

> The return to civilian rule in 1986 was accompanied by the growing influence of the EMP, as a principal vehicle for the military to develop and maintain a high

[182]Barahona resigned in September 1980, and fled to Panama, where he allied himself with the Guerrilla Army of the Poor (*Ejército Guerrillero de los Pobres*, EGP). Amnesty International. *Guatemala: A Government Program of Political Murder* (London: 1981), p. 5, 8.

[183]Americas Watch. *Clandestine Detention in Guatemala* (New York: March 1993), p. 15; Amnesty International. *Guatemala: A Government Program of Political Murder* (London: 1981), p. 7-9.

[184]Amnesty International. *Guatemala: A Government Program of Political Murder* (London: 1981), p. 6.

[185]Washington Office on Latin America. "Military Intelligence and Human Rights in Guatemala: The Archivo and the Case for Intelligence Reform," *WOLA Policy Brief* (Washington, D.C.: 30 March 1995), p. 3.

> degree of influence over the last three Presidents [Cerezo, Serrano, de León]. The Presidential General Staff has achieved this influence not only by offering the President intelligence reports, but also by gradually taking over presidential scheduling and advisory services. A 1992 *Crónica* article characterized then EMP-head General Francisco Ortega Menaldo…as the power behind the throne, whose duties included setting up President Serrano's appointments, administering the President's discretionary budget, pointing out important news events, and providing the President with advance biographical information on the people with whom he was scheduled to meet.[186]

The death squads, meanwhile, continued to operate, under new names. The ESA vanished, to be replaced in 1989 (during the Cerezo presidency) by the Avenging Jaguar (*Jaguar Justiciero*). Though the Government tried to portray these as the creations of right-wing extremists, the security forces' role again became obvious following the assassination of anthropologist Myrna Mack, who had been studying the Communities of Population in Resistance (CPRs) in the western highlands. The assassin – Noel de Jesús Beteta Alvarez – turned out to be an *Archivos* Sergeant Major Specialist. The police detective who uncovered the link to *Archivos* was himself murdered, and the police report altered in a futile attempt to conceal the involvement of *Archivos*. Under persistent pressure from the family of the victim and the U.S. Government, Myrna Mack's assassin was sentenced to 25 years in jail in 1993. The superiors who gave him his orders were finally indicted in 1996; they are awaiting trial pending a Supreme Court decision on whether the case should be tried by a military or civilian court.[187]

Though the numbers of political murders and disappearances have declined substantially since the early 1980s, clandestine organizations with ties to the nation's security forces continue to murder citizens with impunity. In its 1997 report on human rights in Guatemala, the U.S. Department of State said:

> Politically motivated killings continued with disturbing frequency, albeit at lower levels than in recent years. PAC members, police and military personnel, and right-wing extremist groups were all responsible for political and extrajudicial killings. Because of the scarcity of law enforcement resources and a weak and ineffective judicial system, the Government did not successfully investigate many killings or other crimes fully or detain and prosecute perpetrators. The

[186]Washington Office on Latin America. "Military Intelligence and Human Rights in Guatemala: The Archivo and the Case for Intelligence Reform," *WOLA Policy Brief* (Washington, D.C.: 30 March 1995), p. 5-6.

[187]Human Rights Watch. "Guatemala," *Human Rights Watch World Report 1997* (New York: December 1996), p. 100; Guatemala Human Rights Commission/USA. *Guatemala Human Rights Update* (Washington, D.C.: #11/96, 31 May 1996), p. 1; Barry, Tom. *Inside Guatemala* (Albuquerque: Resource Center, 1992), p. 52; Washington Office on Latin America. "Military Intelligence and Human Rights in Guatemala: The Archivo and the Case for Intelligence Reform," *WOLA Policy Brief* (Washington, D.C.: 30 March 1995), p. 6.

> Government's inability to identify, prosecute, or punish those responsible for such offenses remains an impediment to human rights progress.[188]

Archivos was supposed to have been dismantled on the order of President de León Carpio in August 1993. Yet in March 1995, Col. Otto Pérez Molina, then head of the EMP, told Human Rights Watch/Americas that *Archivos* was still in existence.[189] Its current fate is unclear, particularly since the contents of the archives themselves have never been made public. There is therefore no way of knowing whether the files have been transferred to the new civilian intelligence agency, retained by the military, or destroyed.

B. Role of the CIA

Through most of the past half-century, the Central Intelligence Agency has played a critical role in organizing and advising Guatemala's security forces. The agency plotted and oversaw the 1954 coup against the elected Government of President Jacobo Arbenz. For the next four decades, throughout the period of intense repression of the civilian population, the CIA maintained a close working relationship with Guatemalan intelligence. The close ties persisted at a clandestine level even when the White House – under Jimmy Carter, George Bush, and Bill Clinton – adopted public positions critical of the human rights record of the Guatemalan Government. Ultimately, the CIA's covert activities were exposed by disclosure that one of its "assets" – a G-2 colonel – had been responsible for the cover up of the murder of a U.S. citizen and the torture of the husband of another U.S. citizen, and that local and regional CIA officials had concealed that information from the White House, the State Department, and Congress.

In June 1990, American inn-keeper Michael DeVine vanished while inspecting the grounds of his ranch outside Poptún, 140 miles north of Guatemala City. His wife visited the local army garrison and asked to speak with the base commander, Col. Julio Roberto Alpírez, but was turned away at the gate. The following morning, DeVine's body turned up on a roadside near the ranch, with his hands tied and his head almost severed from his body. Shortly thereafter, Poptún residents told both Mrs. DeVine and U.S. Embassy officials that they had earlier run into a white pickup truck filled with armed men on a road beside the DeVine ranch, and that the men had inquired about Mr. DeVine's whereabouts. Other villagers saw the truck enter and exit from Col. Alpírez' base in the days preceding the murder. From the license plate, a private investigator traced the truck to a military base in Flores, the provincial capital. At the very least, Col. Alpírez had hosted an army squad sent to murder a U.S. citizen. He also covered up

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[188]U.S. Department of State. "Guatemala," *Country Reports on Human Rights Practices for 1996* (Washington, D.C.: U.S. Government Printing Office) - as reported on the Internet, February 1996), p. 419.

[189]Washington Office on Latin America. "Military Intelligence and Human Rights in Guatemala: The Archivo and the Case for Intelligence Reform," *WOLA Policy Brief* (Washington, D.C.: 30 March 1995), p. 9.

the army's involvement, declining to provide U.S. Embassy officials with records of vehicles that had entered or left his base in the days prior to the murder.[190]

In response, the Bush administration suspended overt military assistance to Guatemala in December 1990. But it secretly allowed the CIA to more than compensate for the overt cutoff. While the Bush and Clinton administrations withheld a little over $3 million in military aid, the CIA funneled close to $10 million to its partners in the Guatemalan intelligence establishment. To avoid having to notify Congressional oversight committees, as now required for formal covert actions, the CIA disbursed the funds under its ultra-covert "liaison programs," which require neither presidential authorization nor notification of the House and Senate intelligence committees.[191]

Col. Alpírez, whose association with the U.S. Armed Forces stretches back twenty years, was among those retained on the CIA payroll. Alpírez first trained at the U.S. Army's School of the Americas in 1970, then returned to the School as a CIA "asset" in 1989 for a year-long Command and General Staff course. It was right after his return to Guatemala that he sanctioned the cover-up of Michael DeVine's murder. Though aware of allegations of the colonel's involvement in the slaying, the CIA nonetheless paid him another $44,000 following the termination of overt military aid.[192]

Significantly, Col. Alpírez worked for *Archivos* ("The Files"), the Guatemalan intelligence agency that kept files on thousands of civilians, tapping telephones, intercepting mail, conducting interrogations under torture, and supplying lists of victims for the army's G-2 death squads. Though *Archivos* was formally abolished by President de León Carpio in 1993, former Guatemalan Defense Minister Gen. Héctor Gramajo alleged that the nominally civilian intelligence agency that replaced it remained under *de facto* military control.[193]

The revelations of direct links between the CIA and Guatemala's murderous military intelligence establishment surfaced as the outcome of another U.S. citizen's determination to uncover the fate of her husband, guerrilla commander Efraín Bámaca (Comandante Everardo), a

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[190]"On Her Guatemalan Ranch, American Retraces Slaying," *New York Times* (New York: 28 March 1995), p. A1, A5. According to an internal CIA report, another person reported that the colonel had interrogated Michael DeVine shortly before the murder. "C.I.A. Says Agents Deceived Superiors on Guatemala Role," *New York Times* (New York: 26 July 1995), p. A1.

[191]"C.I.A. Cloak: It's 'Liaison': Even Highest Officials Are Left in the Dark," *New York Times* (New York: 5 April 1995), p. A8; "Tale of Evasion of Ban on Aid for Guatemala," *New York Times* (New York: 30 March 1995), p. A1; "More Is Told about C.I.A. in Guatemala," *New York Times* (New York: 25 April 1995), p. A6.

[192]"C.I.A. Says Agents Deceived Superiors on Guatemala Role," *New York Times* (New York: 26 July 1995), p. A1; "Long Road to Truth on Guatemala Killings," *New York Times* (New York: 24 March 1995), p. A3.

[193]"Secret Guatemalan Military Unit, Linked to C.I.A., Dies and Is Born Again," *New York Times* (New York: 10 April 1995), p. A6.

member of the Mam ethnic group. After more than two years of futile inquiries, Jennifer Harbury, a graduate of Harvard Law School, went on a hunger strike in October 1994 to demand an answer. That led the Clinton administration to begin investigating, and ultimately prompted Rep. Robert Torricelli (D-NJ) to disclose the CIA's connection to Col. Alpírez, who had ordered the torture and possibly the execution of Efraín Bámaca after the latter's capture on March 12, 1992.[194]

Following that disclosure, President Clinton ordered a full review of CIA operations in Guatemala. The eventual outcome was dismissal of Frederick Brugger, station chief in Guatemala from 1991 to 1993, and Terry Ward, chief of covert operations in Latin America from 1990 to 1993. Brugger's successor as station chief, Dan Donahue, was demoted for failing to warn U.S. Ambassador Marilyn McAfee that the Guatemalan military had bugged her home and was spreading nasty rumors about her personal life.[195]

The fact that a CIA station chief would show greater loyalty to Guatemalan military intelligence than to the U.S. Ambassador is highly suggestive of the mindset that characterized U.S. intelligence operations in Guatemala. According to Allan Nairn:

> North American C.I.A. operatives work inside a Guatemalan Army unit that maintains a network of torture centers and has killed thousands of Guatemalan civilians. The G-2, headquartered on the fourth floor of the Guatemalan National Palace, has, since at least the 1960s, been advised, trained, armed and equipped by U.S. undercover agents. Working out of the U.S. Embassy and living in safehouses and hotels, these agents work through an elite group of Guatemalan officers who are secretly paid by the C.I.A. and who have been implicated personally in numerous political crimes and assassinations. This secret G-2/C.I.A. collaboration has been described by Guatemalan and U.S. operatives and confirmed, in various aspects, by three former Guatemalan heads of state.[196]

In an interview, Col. Julio Alpírez told Nairn that the CIA advises and helps run the G-2. He said agency operatives visit Guatemala on temporary assignments to train G-2 personnel and provide "advice and technical assistance."[197] Dianna Ortiz, an American Catholic nun kidnapped, raped, and tortured by security forces who followed the *modus operandi* of the G-2,[198]

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[194]"Long Road to Truth on Guatemala Killings," *New York Times* (New York: 24 March 1995), p. A3; Human Rights Watch/Americas. *Disappeared in Guatemala: The Case of Efraín Bámaca Velásquez* (New York: March 1995), p. 3.

[195]"Breaking with Past, C.I.A. Plans to Discipline Officers Who Lied," *New York Times* (New York: 28 September 1995), p. A1; "CIA Director Says Agency Violated Law: Officers Misled Congress on Guatemala," *Dallas Morning News* (Dallas: 30 September 1995), p. 17A.

[196]Nairn, Allan. "C.I.A. Death Squad," *The Nation* (New York: 17 April 1995), p. 511.

[197]Nairn, Allan. "C.I.A. Death Squad," *The Nation* (New York: 17 April 1995), p. 512.

[198]See Section XI-C: Groups at Risk: Religious Workers.

described being freed by a man she believes was one of those advisers (see Section XI-C, Groups at Risk: Religious Workers). That man, whom her torturers called Alejandro and treated as a superior, and who spoke poor Spanish and cursed in English, offered to release her to the U.S. Embassy. When Ortiz told her story to the press, Bush administration officials suggested it was a fabrication, despite the physical evidence – still present seven years later – of the circular scars from 111 cigarette burns. An investigation of Ortiz's case is presently underway.[199]

The U.S. military likewise played an integral role in the development of the state terror apparatus in Guatemala. According to *Time* magazine, Col. John Webber, a former chief of the military mission in Guatemala, helped promote the creation of state-supported terrorist groups.

> It was his idea and at his instigation that the technique of counter-terror had been implemented by the Guatemalan Army…There were those who doubted the wisdom of encouraging such measures in violence-prone Guatemala, but Webber was not among them. "That's the way the country is," he said. "The Communists are using everything they have, including terror. And it must be met."[200]

U.S. Army Special Forces (Green Berets) also openly trained the Guatemalan Army's elite *Kaibil* battalions, responsible for some of the worst massacres in rural areas.[201]

C. Military Commissioners and Civil "Self-Defense" Patrols

The position of military commissioner (*comisionado militar*) was created by the dictatorships that preceded the Revolution of 1944, as part of their drive to ensure effective control of rural regions whose inhabitants resented the Liberal's policies that gave preferential treatment to coffee and banana planters. The army placed commissioners in every municipality and on every plantation or large farm with substantial numbers of hired workers. Most commissioners were former soldiers. As members of the reserves, they answered to the chief of reserves, located in the departmental seat, who was in turn under the command of the chief of the military zone (coterminous with the departmental boundaries). Their principal tasks were to round up conscripts, and report anything unusual to superiors.[202]

Following the emergence of the guerrilla insurgency in the early 1960s, the role of the commissioners changed from a primarily reactive to a primarily proactive approach to maintaining order. Thrust into the front lines of a counter-insurgency campaign, the

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[199]Smyth, Frank. "The Nun Who Knew Too Much," *Washington Post* (Washington, D.C.: 12 May 1996), p. C1.

[200]Delli Sante, Angela. *Nightmare or Reality: Guatemala in the 1980s* (Amsterdam: Thela, 1996), p. 76-77.

[201]Nairn, Allan. "Murder As Policy," *The Nation* (New York: 24 April 1995), p. 548.

[202]Adams, Richard Newbold. "Development of the Military," *Crucifixion by Power: Essays on Guatemalan National Social Structure* (Austin: University of Texas Press, 1970), p. 271.

commissioners became spies, seeking to determine the political leanings of their neighbors, and reporting back to military intelligence. It would become commonplace for that information – much of it notoriously inaccurate – to be used as a blueprint for political murders and "disappearances." Not surprisingly, the new role earned the commissioners the distrust of most villagers, who began referring to them disparagingly as *orejas* (i.e. the "ears" of the military).[203]

As part of the counter-insurgency effort, military commissioners were also incorporated into the newly-launched civic action program:

> The other major step taken by the army, the civic action program, was designed to gather intelligence about provincial areas where there was little current control and, simultaneously, to provide a better image for the military in the eyes of the civilian population. The civic action programs and counter-insurgency were closely coupled activities, the former being one rather specialized phase of the latter. While military civic action was used much earlier in the Philippines to control the Huks, Guatemala was the first country in Latin America to actively undertake such a program.[204]

On September 15, 1995, near the end of his term, President Ramiro de León Carpio announced his intention to dismiss the country's 33,000 military commissioners. On November 22, Congress formally disbanded the commissioners.[205] According to MINUGUA, however:

> The demobilization of military commissioners was hindered, especially in remote areas of the country, by the Government's failure to publicize the measure and by the former commissioners' determination to retain their authority. The Mission verified some cases where commissioners have kept their credentials and their weapons, and others where military authorities have stalled the process of collecting weapons by arguing that the former commissioners' credentials were valid.[206]

If, as one scholar has suggested, Guatemala's military commissioners have played a role roughly comparable to that of Haitian section chiefs, the Civil Self-Defense Patrols (*Patrullas de Autodefensa Civil*, PACs) have been the functional equivalents of the Haitian *attachés*. Both

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[203]Adams, Richard Newbold. "Development of the Military," *Crucifixion by Power: Essays on Guatemalan National Social Structure* (Austin: University of Texas Press, 1970), p. 272.

[204]Adams, Richard Newbold. "Development of the Military," *Crucifixion by Power: Essays on Guatemalan National Social Structure* (Austin: University of Texas Press, 1970), p. 272-273.

[205]UN General Assembly. *Fourth Report of the Director of the United Nations Mission for the Verification of Human Rights and of Compliance with the Commitments of the Comprehensive Agreement on Human Rights in Guatemala* (Geneva: A/50/878, 24 February 1996), p. 4.

[206]UN General Assembly. *Fourth Report of the Director of the United Nations Mission for the Verification of Human Rights and of Compliance with the Commitments of the Comprehensive Agreement on Human Rights in Guatemala* (Geneva: A/50/878, 24 February 1996), p. 16.

have consisted of armed irregulars acting to enforce army control in their communities. Though in each case the groups' leaders would report to local army officers, in neither did the army take responsibility for their behavior. Absent any sanctions for abuses, both became notorious for lawless behavior, including the murder of unarmed civilians. The civil patrols, however, were different from the *attachés* in one very significant aspect: participation was made mandatory for all rural males between the ages of 17 and 60.[207] That, according to U.N. Independent Expert Mónica Pinto, is a violation of Article 34 of the Guatemalan Constitution:

> Strictly speaking, the existence of the PACs, confirmed unreservedly by the authorities, and their methods of recruitment and operation constitute per se a violation of the right to freedom of expression.[208]

The civil patrols were created under the regime of Gen. Efraín Ríos Montt. According to the Inter-American Commission on Human Rights:

> They were part of his plan to exterminate the guerrilla movement by relocating the indigenous population and wiping out any community or killing any person that his Government was suspicious of, using methods that violated human rights.[209]

The first patrols were formed in the war-torn department of Quiché in 1981. By 1982, the army had organized patrols throughout the highland departments of Huehuetenango, Sololá, Totonicapán, Chimaltenango, Alta Verapaz, San Marcos, Suchitepéquez, and Petén. At their peak in the mid-1980s, the civil patrols consisted of more than 800,000 Guatemalans, almost all of indigenous extraction. Since the country's population was just over 8 million, almost a million of whom lived in Guatemala City, that meant that more than one of every ten individuals in rural Guatemala was an adjunct member of the security forces. [210]

In an effort to try to improve the image of the civil patrols, they were later renamed Voluntary Civilian Defense Committees (*Comités Voluntarios de Defensa Civil*, CVDC). But

[207]Costello, Patrick. *Guatemala: Displacement, Return and the Peace Process* (London: Writenet, April 1995), p. 5; Forman, Johanna Mendelson. "Guatemala Trip Report," *The Guatemalan Peace Process* (Washington, D.C.: U.S. Department of State Bureau of Intelligence and Research, 14 July 1995), p. 73.

[208]UN Commission on Human Rights. *Report by the Independent Expert, Mrs. Mónica Pinto, on the Situation of Human Rights in Guatemala, Submitted in Accordance with Commission Resolution 1995/51* (Geneva, E/CN.4/1996/15, 5 December 1995), p. 17.

[209]Inter-American Commission on Human Rights. *Fourth Report on the Situation of Human Rights in Guatemala* (Washington, D.C.: 1993), p. 53.

[210]Inter-American Commission on Human Rights. *Fourth Report on the Situation of Human Rights in Guatemala* (Washington, D.C.: 1993), p. 53.

forced recruitment persisted, and the CVDCs continued to be popularly known as PACs, or, more simply, civil patrols.[211]

The patrols have functioned "as the eyes and ears of the military":

> In conflictive areas the civil patrols have served as combat auxiliaries, often accompanying the army in military sweeps and capturing displaced families eluding military control. The patrols also fulfill a propaganda function by spreading an antileftist [*sic*] message among their communities and accusing those who resist joining the patrols of being proguerrilla [*sic*]. Not uncommonly, civil patrol members also perform unpaid construction and maintenance work for the local army commander.[212]

The advent of the civilian presidency of Vinicio Cerezo in 1986 had little effect on the civil patrols. Once in office, Cerezo abandoned his pledge to disband the patrols. Responding to the breach of trust, community activists in Quiché formed the Runujel Junam Council of Ethnic Communities (CERJ), derived from the phrase "all are equal" in the Quiché language. Denouncing the patrols as a form of military conscription, CERJ called on rural males to assert their constitutional right not to participate. As elaborated in Section XI, Groups at Risk, CERJ activists have been some of the primary victims of repression. [213]

According to the U.S. Department of State:

> PAC members and military commissioners, who often represent the only day-to-day central government authority in outlying areas, are feared in many rural communities. They usually enjoy army backing and de facto immunity from prosecution. ODHAG [Human Rights Office of the Archdiocese of Guatemala] and CERJ, an indigenous human rights organization, reported that the executive branch failed to carry out arrest warrants against at least 30 military commissioners and PAC members for their involvement in human rights crimes. PAC members and military commissioners are rarely convicted for their crimes. No military commissioner or PAC member accused of committing a human rights related offense has been sentenced, although at least 14 (3 commissioners and 11 PAC members) were detained and under judicial proceedings at year's end.[214]

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[211]Amnesty International. *Guatemala: Appeals Against Impunity* (London: AMR 34/03/97, 22 April 1997), p. 1. Robert F. Kennedy Memorial Center for Human Rights. *Civil Patrols and their Legacy* (Washington, DC: June 1996), p. 7-8. Inter-American Commission on Human Rights. *Fourth Report on the Situation of Human Rights in Guatemala* (Washington, D.C.: 1993), p. 52, 55.

[212]Barry, Tom. *Inside Guatemala* (Albuquerque: Resource Center, 1992), p. 53.

[213]Barry, Tom. *Inside Guatemala* (Albuquerque: Resource Center, 1992), p. 53.

[214]U.S. Department of State. "Guatemala," *Country Reports on Human Rights Practices for 1995* (Washington, D.C.: U.S. Government Printing Office, February 1996), p. 420.

Perhaps the most eloquent testimony to the effects of the militarization of civil society on political stability, crime, and respect for human rights comes from the picture-postcard town of Santiago Atitlán, on the shores of Lake Atitlán. Between 1975 and 1990, while an army garrison maintained "order," there were some 800 violent deaths or disappearances. Finally, after the army massacred 13 residents on December 2, 1990, townspeople lost their fear and forced the removal of the garrison. The town, which inaugurated its own system of citizen policing, became tranquil overnight. According to one inhabitant, "Hooded men no longer come in the night, and the kidnappings and killings have stopped."[215]

IX. Guerrilla Insurgency

Guatemala's guerrilla insurgency originated with an attempt to overthrow the regime of Gen. Miguel Ydígoras Fuentes. Army officers who favored restoration of the nationalist and populist policies of President Arbenz moved against Ydígoras, who had participated in the 1954 CIA coup. On November 13, 1960, more than a third of the army rose in revolt. Though overwhelmed by loyal forces within days, two rebel officers – Luis Turcios Lima and Marco Antonio Yon Sosa – took refuge among the *ladino* peasants of the Izabal and Zacapa departments of eastern Guatemala. Finding a base of support in a region that had benefited heavily from President Arbenz's land reform, then been hit hard by Col. Castillo Armas's reversal of the reform, they formed the November 13 Revolutionary Movement (*Movimiento Revolucionario 13 de Noviembre*, MR-13) in 1962. Later that year, the outlawed Communist Party (*Partido Guatemalteco de los Trabajadores*, PGT) formed its own guerrilla group. In December 1962 the two merged into the Rebel Armed Forces (*Fuerzas Armadas Rebeldes*, FAR).[216]

The FAR's growth in the mid-1960s caused concern in the United States, where it raised the specter of another Cuba, this time on the mainland. The U.S. responded with counter-insurgency assistance to the Guatemalan Army. Though initially held back by the right-wing but nationalist military Government of Gen. Peralta Azurdia, the counter-insurgency effort was allowed free reign under President Méndez Montenegro, who assumed office in July 1966 after making a secret pact with the army. In what would become a model for subsequent counter-insurgency operations, Col. Carlos Arana Osorio deliberately targeted the FAR's civilian base of

[215]Inter-American Commission on Human Rights. *Fourth Report on the Situation of Human Rights in Guatemala* (Washington, D.C.: 1993), p. 60-61; Perera, Victor. *Unfinished Conquest: The Guatemalan Tragedy* (Berkeley: University of California Press, 1993), p. 211-214.

[216]Jonas, Susanne. *The Battle for Guatemala: Rebels, Death Squads, and U.S. Power* (Boulder: Westview, 1991), p. 66-67.

support ("draining the sea" to kill "the fish"), killing as many as 8,000 peasants. The strategy proved effective, temporarily crippling the insurgency. By 1970, both of its founders were dead.[217]

Guatemalan revolutionaries drew two lessons from the debacle of the 1960s. One was the inappropriateness of *foquismo*, a strategy modeled on Fidel Castro's rise to power in Cuba from a small focal group (*foco*) in the Sierra Maestra. With strong urban-rural divisions, and no charismatic figure commanding the attention of the nation, that strategy made little sense in Guatemala. The other lesson was that no revolution could succeed without support from the nation's indigenous majority. Thus, when insurgents began re-entering Guatemala in the early 1970s, they focused their efforts on the Mayan highlands, and adopted a Vietnam-inspired strategy of prolonged popular war.[218]

The Guerrilla Army of the Poor (*Ejército Guerrillero de los Pobres*, EGP) began organizing in 1972 in the Ixcán area of Quiché, spreading out to Huehuetenango and Chimaltenango. Its commander was Rolando Morán. The Organization of the People in Arms (*Organización del Pueblo en Armas*, ORPA), also formed in 1972, established itself in the area around Lake Atitlán, in the departments of Sololá, San Marcos, and Quetzaltenango, west of Guatemala City. ORPA was led by Rodrigo Asturias (alias Gaspar Ilom), son of poet and Nobel laureate Miguel Angel Asturias. The reconstituted FAR, led by Pablo Monsanto, set up operations in the Petén and Alta Verapaz.[219]

By the early 1980s, these groups had collectively built a broad base of support among Mayan peasants and villagers. In January 1982, near the peak of their power, the EGP, ORPA, and FAR joined with the PGT to form the Guatemalan National Revolutionary Unity (*Unidad Revolucionaria Nacional Guatemalteca*, URNG). These developments again caused alarm in Guatemala City and in Washington, where the Reagan administration was already concerned about the 1979 Sandinista takeover in Nicaragua.[220]

If there was a lesson the revolutionaries seemingly had not learned from the Izabal debacle of the 1960s – and that the Guatemalan Army did learn – it concerned the effectiveness of targeting the rural population for mass slaughter as a means of counter-insurgency. In a

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[217]Jonas, Susanne. *The Battle for Guatemala: Rebels, Death Squads, and U.S. Power* (Boulder: Westview, 1991), p. 68-70.

[218]Jonas, Susanne. *The Battle for Guatemala: Rebels, Death Squads, and U.S. Power* (Boulder: Westview, 1991), p. 137.

[219]Barry, Tom. *Inside Guatemala* (Albuquerque: Resource Center, 1992), p. 67.

[220]American University. *Guatemala: A Country Study*, Area Handbook Series (Washington, D.C.: U.S. Government Printing Office, May 1983), p. 216.

country marked by deep racial and socio-economic divisions that in many ways correspond with the division between rural and urban populations, it had been possible to treat rural populations as practically foreign, making warfare against a large segment of the country's civilian population politically viable. Faced with the possibility of a guerrilla triumph in the early 1980s, military Governments under Gens. Romeo Lucas García and Efraín Ríos Montt killed somewhere around 100,000 civilians, destroyed some 440 villages and hamlets, and subordinated all Mayan men between ages 17 and 70 to the military chain of command through Civilian Self-Defense Patrols (*Patrullas de Autodefensa Civil*, PACs).[221]

With most of its sympathizers either dead, demoralized, or forced to flee the country, the insurgency once again lost strength. Though by no means wiped out, the URNG had to abandon any hope of a revolutionary takeover, seeking instead to maintain pressure on the post-1986 civilian Governments in Guatemala City to negotiate a series of reforms, in an effort to emulate the successful negotiations between the Government and the guerrilla FMLN (*Frente Farabundo Martí para la Liberación Nacional*) in neighboring El Salvador.

X. Peace Talks, Agreements, and Agencies

In early 1986, Vinicio Cerezo took office as the first civilian, democratically-elected President since Julio César Méndez Montenegro left office twenty-six years earlier. Recognizing that his ability to govern the country was sharply circumscribed by the army, he concentrated on regional foreign policy, with the objective of achieving a negotiated peace to conflicts in neighboring El Salvador and nearby Nicaragua. Resolution of those conflicts could help set the stage for peace in Guatemala, by uncoupling the domestic insurgency from the fear of international subversion.

Because of Cerezo's initiative in getting the talks underway, they were held in the Guatemalan village of Esquipulas. The resulting peace accords, known as *Esquipulas II*, mandated negotiations between the Governments of the region and opposition forces, including guerrilla insurgents, who were to be granted amnesty. Yet in Guatemala, where the army had just scored major gains against the URNG, the amnesty primarily benefited officers who had taken part in an attempted coup against the civilian Government, rather than insurgents. The URNG and Guatemalan exiles were likewise excluded from the National Dialogue sponsored by the National Reconciliation Commission (*Comisión Nacional de Reconciliación*, CNR). Further limiting the dialogue, which encompassed major political parties, churches, and citizen organizations, was the refusal of the army and a major part of the business community to take

[221]Jonas, Susanne. *The Battle for Guatemala: Rebels, Death Squads, and U.S. Power* (Boulder: Westview, 1991), p. 149; Delli Sante, Angela. *Nightmare or Reality: Guatemala in the 1980s* (Amsterdam: Thela, 1996), p. 7.

part. Though the Government held a perfunctory meeting with the URNG in Spain in October 1987, to satisfy the technical requirements of *Esquipulas II*, it was not until three years later that any progress would be made. [222]

In March 1990, the CNR met with the URNG in Oslo, Norway, where the two parties agreed to have the CNR sponsor a series of meetings between the URNG and the country's most important economic, social, and political organizations. A year later, newly-inaugurated President Jorge Serrano agreed to direct talks with the URNG, abandoning the requirement that the insurgents disarm beforehand. In October 1992, negotiators signed an agreement providing for the repatriation of 45,000 refugees living in Mexican camps. [223]

Yet in the wake of President Serrano's failed "self-coup" in May 1993, and his replacement by President de León Carpio, the negotiations again stalled. When President de León tried to exclude the URNG from part of the negotiations, the Catholic Church withdrew from its mediating role. Not until March 1994, with the United Nations replacing the Church as a facilitator, did the talks resume. On March 29, negotiators signed a human rights accord in Mexico City. The accord committed the Government to classify the crimes of disappearance and extrajudicial execution as "grave offenses" in the penal code, disband illegal security agencies and clandestine organizations such as death squads, and purge and professionalize the armed forces and the police. The agreement also provided for international verification by the United Nations. [224]

On November 21, 1994, the United Nations Mission in Guatemala (MINUGUA) began its work of verification. At first, the security forces, accustomed to getting away with anything, showed no sign of heeding the human rights accord. In its first three-month report, MINUGUA was categorical about the problem of impunity:

> Verification has shown the extent of the problem of impunity. Most of the violations discussed in this report have received no response from the State in terms of identifying and duly punishing the perpetrators. The Mission believes that the existence of such widespread impunity, about which concern has also been expressed in other reports on human rights in Guatemala, is the greatest obstacle to the effective exercise of human rights.[225]

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[222]Barry, Tom. *Inside Guatemala* (Albuquerque: Resource Center, 1992), p. 73.

[223]Barry, Tom. *Inside Guatemala* (Albuquerque: Resource Center, 1992), p. 74.

[224]Van Cott, Donna Lee. "Selected Chronology," *The Guatemalan Peace Process* (Washington, D.C.: U.S. Department of State Bureau of Intelligence and Research, 14 July 1995), p. 4.

[225]UN General Assembly. *Report of the Director of the United Nations Mission for the Verification of Human Rights and of Compliance with the Commitments of the Comprehensive Agreement on Human Rights in Guatemala* (Geneva: A/49/856, 1 March 1995), p. 24.

Yet the very presence of the United Nations began making a difference, emboldening citizens to complain about rights violations and demand redress. As a U.S. scholar noted after a July 1995 visit to Guatemala:

> It is also telling that MINUGUA is being called by Guatemalans who believe they are at risk, being threatened or victimized. At least the records being kept by MINUGUA seem to confirm a growing acceptance and use of MINUGUA by ordinary citizens. Finally, the high visibility of MINUGUA – its white cars and vans all over the countryside, its omnipresent field staff, its resources in comparison to other Guatemalan Governmental offices charged with protecting human rights – make it comparable only to the military as an organization capable of asserting its influence in Guatemala.[226]

Or, in the words of Rodrigo Asturias, commander of ORPA, one of the guerrilla constituents of the URNG:

> Three years ago, human rights was a subversive topic – you could be killed for mentioning it. The United Nations turned it into a priority topic on the national agenda.[227]

Yet in March 1996, former MINUGUA director Leonardo Franco cautioned that "impunity is the swamp that swallows everything in this country."[228] Months later, under new director David Stephen, MINUGUA continued to emphasize the distinction between intention and results:

> The new Government has shown its political will to tackle impunity and has adopted significant measures to that end. However, the Mission has not yet observed any integrated policy leading to decisive action against impunity.[229]

Yet progress was made toward reaching a peace settlement. On March 31, 1995, negotiators signed an *Accord on the Identity and Rights of Indigenous Peoples*.[230] In February

[226]Forman, Johanna Mendelson. "Guatemala Trip Report," *The Guatemalan Peace Process* (Washington, D.C.: U.S. Department of State Bureau of Intelligence and Research, 14 July 1995), p. 72.

[227]"In a U.N. Success Story, Guatemalan Abuses Fall," *New York Times* (New York: 27 March 1996), p. A5.

[228]"In a U.N. Success Story, Guatemalan Abuses Fall," *New York Times* (New York: 27 March 1996), p. A5.

[229]UN General Assembly. *Fifth Report of the Director of the United Nations Mission for the Verification of Human Rights and of Compliance with the Commitments of the Comprehensive Agreement on Human Rights in Guatemala* (Geneva: A/50/1006, 19 July 1996), p. 12.

[230]Discussed in Section VI: Cultural Factors – Ethnicity.

1996, Alvaro Arzú became the first President to meet with rebel leaders. On May 6, 1996, the Government and the URNG signed a second accord, on social, economic, and agrarian issues.[231]

On September 19, 1996, the Government and the URNG signed the *Agreement on the Strengthening of Civil Society and on the Role of the Armed Forces in a Democratic Society*. That critical agreement, which prepared the way for a definitive peace settlement, limits the army to defending the country from foreign attack. A constitutional amendment will strip the military of its present role in maintaining internal order. In keeping with its new, more limited assignment, the army will be reduced from 46,000 to 30,000 troops in 1997, and its budget will be cut by a third by 1999. Another constitutional amendment will allow the President to appoint a civilian defense minister. Members of the armed forces who violate human rights will no longer be exempt from responsibility to civil society. Already, in July 1996, President Alvaro Arzú promulgated legislation transferring authority over military personnel charged with common crimes from military to civilian courts. On November 29, the Guatemalan Congress unanimously repealed the law authorizing the civil patrols. At that point, the army claimed to have demobilized and disarmed 99 percent of the civil patrols, and pledged to disarm the remainder by the first week of December.[232]

The accord also calls for creation of an entirely new national civilian police force that will be completely independent of the military. Run by a restructured Ministry of the Interior, it will distribute 20,000 police throughout the country by 1999. Three militarized agencies notorious for violations of human rights – the Mobile Military Police, the Treasury Police, and the Presidential General Staff (*Estado Mayor Presidencial*, EMP) – will be dissolved. The Ministry of the Interior will take over domestic intelligence functions from the military, through a Department of Civil Intelligence and Information Analysis, assigned to gather information to fight crime while strictly respecting human rights. The Interior Ministry will also be authorized to exercise strict control over the registration of firearms by civilians.[233]

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[231]"Guatemala and Rebels Reach Peace Accord," *New York Times* (New York: 7 May 1996), p. A3; Van Cott, Donna Lee. "Selected Chronology," *The Guatemalan Peace Process* (Washington, D.C.: U.S. Department of State Bureau of Intelligence and Research, 14 July 1995), p. 7.

[232]Guatemala Human Rights Commission/USA, *Guatemala Human Rights Update* (Washington, D.C.: #23 & 24/96, 6 December 1996), p. 5; "Guatemala and Guerrillas Sign Accord to End 35-Year-Old War," *New York Times* (New York: 20 September 1996), p. A1; Guatemala Human Rights Commission/USA. *Guatemala Human Rights Update* (Washington, D.C.: #19/96, 27 September 1996), p. 5; "Guatemala's Uneasy Time: No War but No Peace Pact," *New York Times* (New York: 18 August 1996), p. A20.

[233] "Guatemala and Guerrillas Sign Accord to End 35-Year-Old War," *New York Times* (New York: 20 September 1996), p. A1; Guatemala Human Rights Commission/USA. *Guatemala Human Rights Update* (Washington, D.C.: #19/96, 27 September 1996), p. 4-5.

On December 29, 1996, Government and URNG negotiators signed a final peace agreement in front of the National Palace in Guatemala City, the *Agreement on the Implementation, Compliance and Verification Timetable for the Peace Agreements*. In exchange for laying down their arms, the former guerrillas will be permitted to form a political party. Government security forces will be protected from prosecution for common crimes committed in the course of the civil war, as will the former rebels for political crimes. Yet under the terms of the law, the amnesty will not apply to genocide, torture, forced disappearance, and other violations of international human rights conventions. In the context of a weak judicial system and a continuing pattern of impunity for powerful members of the security forces, such ambiguity raises doubts about the extent to which justice and reconciliation will prevail. A three-member truth commission will investigate human rights violations during the civil war, but will be unable to prosecute or even identify individuals who either ordered or took part in such violations.[234]

President Alvaro Arzú cautioned that, "Manna is not going to fall from heaven the day after the peace accord…I know that the brimming enthusiasm of the Guatemalan people for this event can send the imagination soaring and lead to the belief that with the signing of a peace accord, all will be resolved...but this is not the case." In another interview two days before the signing of the accord, Arzú emphasized: "We're done with the first stage, and now comes the hard part...It's going to be a real challenge."[235] A public opinion poll published in one of Guatemala's major daily newspapers underscored that concern. While 78 percent of respondents approved of the accords, only 38 percent believed they "would be respected."[236]

According to the Washington Office on Latin America:

> Ending the war, however, is not synonymous with ending violence. There is still an unacceptably high level of political violence and intimidation in Guatemala. And there is ample space for social conflict as new demands are put forward by historically disenfranchised groups with the potential of violent response from the traditionally powerful sectors. There has already been a significant surge too in common crime, as was the case in neighboring El Salvador following that country's peace accords. The challenge for Guatemala will be to mediate and channel social, economic, and political differences through legal and democratic

[234]"Pact Signing Ends War in Guatemala: Lengthy Civil Conflict Gives Way to Hopes for Economic Revival," *Washington Post* (Washington, D.C.: 30 December 1996), p. A1; Byrne, Hugh. "The Guatemalan Peace Accords: Assessment and Implications for the Future," *WOLA Policy Brief* (Washington, D.C.: December 1996), p. 5-6.

[235]"Peace Leaves Guatemala with Formidable Problems," *New York Times* (New York: 29 December 1996), p. A8; Guatemala Human Rights Commission/USA. *Guatemala Human Rights Update* (Washington, D.C.: #23 & 24/96, 6 December 1996), p. 4-5.

[236]"Guatemalans Formally End 36-Year Civil War," *New York Times* (New York: 30 December 1996), p. A8.

> mechanisms and institutions. The peace accords represent the promise of such change but not yet the reality.[237]

XI. Groups at Risk

In a society as highly stratified by wealth and race as Guatemala's, the very concept of human rights – that every human being has equal claims to life, to liberty, and to equal treatment under law – is profoundly subversive. It is a constant reminder to the majority of the population that it is being mistreated by a small minority. Not surprisingly, much of the country's elite has responded by equating the concept of human rights with "communism," in part because of the perceived leveling effect, but also to justify racism and dehumanization of adversaries.

In the Manichaean ("good" vs. "evil") context of the Cold War, "communists" were widely seen as having forfeited their humanity and their rights. That was true not only in Guatemala, but in the U.S. as well. If an individual or group could be labeled "communist," regardless of the accuracy of the label, it helped make political murder and torture not only tolerable, but, at least in some circles, virtuous. Such attitudes contributed to the formation of death squads across most of Latin America during the 1970s and 1980s, and to covert support for such practices by the CIA. Nowhere did the level of dehumanization and brutality exceed that of the Guatemalan security forces and their civilian allies. Even now, following the end of the Cold War and reform of the CIA and U.S. foreign policy, some of the same attitudes persist in Guatemala, fueled by racism and fear of reform. With support from the international community, President Alvaro Arzú has begun to challenge these attitudes. For the time being, however, citizens who try to assert their rights in Guatemala do so at considerable risk to their lives.

A. Human Rights Activists

Just as the concept of human rights is perceived as subversive by powerful segments of the country's security forces and their political allies, human rights activists are seen as the ultimate subversives: as "communists," and/or as guerrilla allies. When army officers use that language to describe human rights organizations and investigators, it not only places the latter at risk with the formal security forces, but with their wider network of associates among nominally demobilized military commissioners and civil patrollers.

In its annual summary, published in February 1996, Amnesty International warned that:

> Of particular concern is the alarming level of threats and attacks that have been reported against human rights defenders during the year. Some have been the

[237]Byrne, Hugh. "The Guatemalan Peace Accords: Assessment and Implications for the Future," *WOLA Policy Brief* (Washington, D.C.: December 1996), p. 2.

> subject of verbal or written death threats as a result of their work. Others have been attacked and killed. The perpetrators of these human rights violations are mainly the police and military and army-created civil patrols…Both these and other new vigilante-style groups, also apparently working with official complicity, have allegedly engaged in "social cleansing," killing members of youth gangs and others involved in petty crime. These new "death squads" have also been implicated in human rights violations against those perceived as being opponents of the government, reportedly disguising the attacks as common crimes to escape official responsibility.[238]

- On April 30, 1993, civil patrollers ambushed and killed Tomás Lares Cipriano, a member of the Runujel Junam Council of Ethnic Communities (CERJ – derived from the phrase "all are equal" in the Quiché language), a Quiché human rights group dedicated to ending forced recruitment in civil patrols. Lares had resigned from a civil patrol in February. Carrying a copy of the Constitution at all times (Art. 34 prohibits forced patrols), Lares had since organized demonstrations in which hundreds of patrollers tendered their resignations. He then began receiving death threats, prompting the Human Rights Ombudsman's representative to order police protection, which was denied. He was the twentieth member of CERJ to be murdered by security forces or civil patrollers since the organization was formed in 1988.[239]

- On May 8, 1993, soldiers in Chiul, Quiché, detained three CERJ members. They were questioned about contacts with other human rights groups, including the country's Human Rights Ombudsman – whom the local captain described as being linked to the guerrillas – while being burned with flaming torches. Though the army captain in command was convicted of battery by a military court, his sentence was suspended.[240]

- On November 28, 1994, unidentified persons murdered CERJ members Manuel Nix Morales and Gaspar Chumil Chumil in Chiché, Quiché. A month and a half later, on January 13, 1995, unknown attackers murdered CERJ member Tomás Huachán Osorio.[241]

- On April 9, 1995, a PAC member struck CONAVIGUA member María de León Santiago on the head with a stone, then beat her as she lay bleeding. CONAVIGUA is the National Coordinating Committee of Guatemalan Widows (*Coordinadora Nacional de Viudas Guatemaltecas*). The PAC member had previously accused the victim of being a guerrilla.

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[238]Amnesty International. *Guatemala: Summary of Amnesty International's Concerns (January 1995-January 1996)* (London: AMR 34/03/96, February 1996), p. 1.

[239]Human Rights Watch/Americas. *Human Rights in Guatemala during President De León Carpio's First Year* (New York: June 1994), p. 21-23.

[240]Human Rights Watch/Americas. *Human Rights in Guatemala during President De León Carpio's First Year* (New York: June 1994), p. 44-45.

[241]UN General Assembly. *Report of the Director of the United Nations Mission for the Verification of Human Rights and of Compliance with the Commitments of the Comprehensive Agreement on Human Rights in Guatemala* (Geneva: A/49/856, 1 March 1995), p. 10.

- On May 15, 1995, National Police halted vans carrying members of CONAVIGUA as they were returning from a demonstration in San Cristóbal, Totonicapán. The police forced the occupants out at gunpoint, then accused them of being allied with the guerrillas. They demanded a bribe to avoid arrest and confiscation of the vans.[242]

- In November 1995, civil patrollers forced César Ovidio Sánchez Aguilar, a member of the Myrna Mack Foundation (*Fundación Myrna Mack*), to go into hiding. Sánchez had been disseminating information about the *Accord on the Identity and Rights of Indigenous Peoples* to local indigenous communities. Municipal officials and civil patrollers accused him of working with the guerrillas. Civil patrollers then assaulted him and threatened to kill him. They later insulted MINUGUA staffers who tried to intercede on his behalf.[243]

- On November 11, 1995, unknown assailants machine-gunned MINUGUA's regional office in Guatemala City.[244]

- In 1995, the Human Rights Ombudsman denounced the military surveillance of Gustavo Albizures Pedroza, a researcher for the Association of Families of the Detained-Disappeared of Guatemala (*Asociación de Familiares de los Detenidos Desaparecidos de Guatemala,* FAMDEGUA). With photographs, Albizures was able to show that soldiers were keeping an eye on him as he looked up names of disappeared persons in old newspapers in the National Periodical Archive.[245]

- On January 4, 1996, unknown assailants murdered CERJ member Miguel Us Mejía, and CONAVIGUA member Lucía Tiu Tum, in Santa Lucía Reforma, Totonicapán.[246]

- On May 19, 1996, an assailant beat and sexually assaulted María Tuyuc Velásquez, sister of Congresswoman Rosalina Tuyuc, outside the offices of the National Coordinating Committee of Guatemalan Widows (*Coordinadora Nacional de Viudas Guatemaltecas*, CONAVIGUA), of which María is a member and Rosalina, the former president. A few days beforehand, two unidentified men driving a car with tinted windows tried to kidnap Josefa Ventura and Sebastiana Hernández, also members of CONAVIGUA.[247]

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[242]UN General Assembly. *Third Report of the Director of the United Nations Mission for the Verification of Human Rights and of Compliance with the Commitments of the Comprehensive Agreement on Human Rights in Guatemala* (Geneva: A/50/482, 12 October 1995), p. 10.

[243]Amnesty International. *Guatemala: Summary of Amnesty International's Concerns (January 1995-January 1996)* (London: AMR 34/03/96, February 1996), p. 7.

[244]UN General Assembly. *Fourth Report of the Director of the United Nations Mission for the Verification of Human Rights and of Compliance with the Commitments of the Comprehensive Agreement on Human Rights in Guatemala* (Geneva: A/50/878, 24 February 1996), p. 4.

[245]U.S. Department of State. "Guatemala," *Country Reports on Human Rights Practices for 1995* (Washington, D.C.: U.S. Government Printing Office, February 1996), p. 426.

[246]UN General Assembly. *Fifth Report of the Director of the United Nations Mission for the Verification of Human Rights and of Compliance with the Commitments of the Comprehensive Agreement on Human Rights in Guatemala* (Geneva: A/50/1006, 19 July 1996), p. 18.

[247]Amnesty International. *Guatemala: Appeals Against Impunity* (London: AMR 34/03/97, 22 April 1997), p. 27.

According to Freedom House, "Guatemala remains one of the most dangerous places in Latin America for human rights activists."[248]

B. Indigenous Groups

Underscoring the racism and socio-economic polarization that characterize Guatemala, indigenous groups have been subject to mind-numbing levels of repression. Massacres of indigenous villagers during the early 1980s were miniature holocausts, arguably taking on the dimensions of crimes against humanity. Between army massacres and the grisly toll of paramilitary death squads, well over 100,000 unarmed Guatemalan civilians are believed to have perished during the 1970s and 1980s.

- On January 31, 1980, thirty-one Quiché peasants, accompanied by university students, peacefully entered the Spanish Embassy in Guatemala City to present a list of grievances at a press conference. They had been invited by Spanish Ambassador Máximo Cajal, who had previously visited Quiché following the death-squad murders of several Spanish priests. Defying diplomatic immunity and the protests of the Ambassador, Guatemalan security forces stormed the Embassy, setting it ablaze. Thirty-nine occupants burned to death, including former Guatemalan Vice President Eduardo Cáceres Lehnhoff. The only survivors were the Ambassador and Quiché peasant Gregorio Yujá Xona, who was evacuated to a hospital for treatment of burns. That night he was abducted from his hospital bed. The following morning, his savagely tortured body was discovered on the grounds of the University of San Carlos. Spain responded by severing diplomatic relations with Guatemala.[249]

- On the night of December 5, 1982, Guatemalan troops disguised as guerrillas entered the village of Las Dos Erres in the northern department of Petén. They rounded up about 350 villagers, placing the men in the schoolhouse and the women in the church. All but those who managed to escape were beaten, then shot to death. Young girls were first raped, then killed. When a mother who lost two daughters in the massacre approached a lieutenant in Las Cruces to inquire into what had happened, the lieutenant told her, "What is happening there is a purge; now, as the Bible says, those who turn out to be dirty will die…" In 1994 and 1995, an Argentinean team of forensic anthropologists dug up a dry well, one of seven sites where the army was known to have dumped the bodies. The team unearthed the bones of at least 162 victims. Sixty-seven of the victims were children under the age of twelve. The bullet holes and other ballistics evidence pointed to the use of Galil rifles, commonly used by the Guatemalan Army. Persons involved in the exhumations were subjected to death threats, and equipment belonging to the forensic team was stolen.[250]

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[248]Freedom House, "Guatemala," *Freedom in the World—1995-1996* (New York: 1996), p. 248.

[249]Simon, Jean-Marie. *Guatemala: Eternal Spring, Eternal Tyranny* (New York: Norton, 1987), p. 102.

[250]Amnesty International. *Guatemala: Victims of 1982 Army Massacre at Las Dos Erres Exhumed* (London: AMR 34/24/95, October 1995), p. 1, 5-9.

Though death tolls are now substantially lower than in the 1980s, a climate of fear persists, sustained both by the memories of past atrocities and by a constant succession of murders, kidnappings, and death threats that serve as daily reminders of the continuing power and impunity of the elites and the armed forces.

- On April 25, 1995, in Santa Rosa, National Police officers arrested Lucas Luch Pulul, a Quiché minor, without informing him of the reason for his arrest. As of July 6, he had neither been provided with an interpreter nor a defense attorney. His charges of having been beaten in prison were ignored. As of October 12, 1995, he remained illegally detained, and his legal file had vanished.[251]

- In July 1995, Juan Mendoza of the Kawabil Peasant Council was jailed for 15 days in Huehuetenango. He had been accused by the chief of the Chejoj CVDCs (PACs) of seizing land that did not belong to him and of "using insulting language." He was unable to answer the charges because he speaks only Mam and was not provided with an interpreter.[252]

- On April 1, 1996, Julio Ixmatá Tziquin, a Quiché leader of *Defensoría Maya* (Mayan Defense – a native human rights group), went to city hall to be sworn in as municipal police chief of the village of Guineales, Santa Catarina Ixtahuacán, Sololá. He was prevented from taking office by a mob consisting of civil patrollers, former military commissioners, and their allies, who beat him seriously enough to require hospitalization, and threatened to kill him were he to persist. Ixmatá had earlier become the first villager ever elected to the post by the townspeople themselves. Were he to take office, it would set a major precedent throughout rural Guatemala, where the army has long exercised exclusive police powers. Ixmatá, moreover, had campaigned against forced recruitment in the civil patrols, identifying him as an adversary of the military. To date, he has been unable to assume the office to which he was elected.[253]

Indigenous people also suffered discrimination because of their religious beliefs.

- On November 14, 1996, a group of inhabitants of El Zapotal, a municipality of El Estor, Izabal, violently detained Matilde Choc, an indigenous woman who does not speak Spanish. The group, which included the auxilliary mayor of El Estor, accused her of witchcraft for engaging in traditional rituals intended to improve the productivity of the soil. They tied her up and -- 39 hours after detaining her -- brought her before the justice of the peace in El Estor. The justice of the peace not only overlooked the illegal detention and mistreatment of the woman, but sentenced her to 15 days in jail or 400 quetzales for an unsubstantiated

[251]UN General Assembly. *Third Report of the Director of the United Nations Mission for the Verification of Human Rights and of Compliance with the Commitments of the Comprehensive Agreement on Human Rights in Guatemala* (Geneva: A/50/482, 12 October 1995), p. 13.

[252]UN General Assembly. *Third Report of the Director of the United Nations Mission for the Verification of Human Rights and of Compliance with the Commitments of the Comprehensive Agreement on Human Rights in Guatemala* (Geneva: A/50/482, 12 October 1995), p. 13.

[253]Amnesty International. *Guatemala: Human Rights and Indigenous Activist Attacked* (London: AMR 34/13/96 May 1996), p. 1-3; Human Rights Watch. "Guatemala," *Human Rights Watch Annual Report 1997* (New York: December 1996), p. 100.

"offense against persons." Unable to pay the fine, Choc was imprisoned in the El Estor substation of the National Police, where she says she was raped by a policeman on November 16. Thanks to the intervention of a representative of the Interior Ministry (*Gobernacion*), she was released on November 20. According to the mayor of El Estor, the auxilliary mayor was subsequently dismissed.[254]

C. Religious Workers

Guatemala is one of the most dangerous countries in the world for members of the clergy, particularly those who try to address problems of poverty, human rights violations, or discrimination against native peoples. It is unusual in a Catholic country run by self-professed Catholic elites for bishops, priests, and nuns to be targeted for repression. As in neighboring El Salvador, however, that is exactly what began happening in Guatemala in the 1970s.

In the context of counter-insurgency, both the Salvadoran and Guatemalan security forces began identifying large segments of the clergy with the enemy. Alarmed by the spread of liberation theology in the Catholic Church, and by the participation of priests in the Sandinista Government in Nicaragua, they began perceiving liberal clergy as closet communists and guerrilla sympathizers. Death squads published lists of names of clergy, and frequently acted on the threats. In El Salvador, assassins murdered Archbishop Oscar Romero of San Salvador, American nuns, Jesuit university professors, and numerous parish priests during the 1970s and 1980s. A similar pattern prevailed in Guatemala. Since the mid-1970s, security forces and associated death squads have murdered more than a dozen priests and hundreds of catechists and other lay workers. In July 1980, the Bishop of Quiché, Juan Gerardi Conedera, was forced to go into hiding and close down the diocese. Despite the subsequent restoration of civilian rule, members of the clergy – Protestant as well as Catholic – continue to be at risk.

- On November 2, 1989, armed men kidnapped Dianna Ortiz, an American Catholic nun, from a religious retreat center in the colonial city of Antigua. She had been teaching Mayan children to read and write, and was apparently mistaken for a similarly-named Guatemalan national. The men placed her in a police car, then drove her to a clandestine prison. Ortiz says she was raped repeatedly, then "lowered into an open pit packed with human bodies – bodies of children, women and men, some decapitated, some lying face up and caked with blood, some dead, some alive – and all swarming with rats." At one point, she says, her captors placed a sharp-edged weapon in her hand, then, by pressing on her hand, drove the weapon into another captive. She believes she owes her life to the intervention of a man named Alejandro, who spoke good English but broken Spanish, and who offered to drive her

[254]UN. *Suplemento al sexto informe del Director de la Misión de las Naciones Unidas de Verificación de Derechos Humanos y del Cumplimento de los Compromisos del Acuerdo Global sobre Derechos Humanos en Guatemala [MINUGUA]* (Guatemala City: February 1997), p. 8-9, para. 110 - 111.

to the U.S. Embassy. While his vehicle was stuck in stalled traffic, Ortiz escaped and sought refuge at the residence of the Papal Nuncio.[255]

- On December 19, 1994, Alfons Stessel, a Belgian Catholic priest, was shot to death while returning to the parish house in Colonia Tierra Nueva, Chinautla, in the department of Guatemala. Stessel, who was a member of the Guatemalan Confederation of Priests (*Confederación de Religiosos de Guatemala*), had been under surveillance prior to the murder. MINUGUA officials who investigated the case found themselves likewise under surveillance. When the Public Prosecutor's Office identified three suspects, the three escaped – presumably after being tipped off by police – before warrants could be served.[256]

- On June 23, 1995, assailants tortured and murdered Pastor Manuel Saquic Vásquez, human rights coordinator of the Kakchiquel Presbytery in Chimaltenango, and member of *Defensoría Maya*, an indigenous human rights group. The pastor had previously witnessed the abduction of another member, Bartolo Solís, who was interrogated, beaten, and released. Still earlier, in August 1994, Pascual Serech, a third member of the Presbytery, was murdered. After blaming military commissioner Víctor Román Cutzal for the kidnappings and murders, members of the Conference of Evangelical Churches of Guatemala (*Conferencia de Iglesias Evangélicas de Guatemala*, CIEDEG) received death threats. The first judge assigned to the Serech case was murdered; the second sided with Román. A third judge issued a warrant for the arrest of Román in August 1994, but he remained free at the end of 1995.[257]

- In February 1996, the Roman Catholic Bishop of San Marcos, Monsignor Ramazzini, and attorneys from the diocesan human rights office received death threats.[258]

- On February 26, 1996, Lucio Martínez, another pastor with the Kakchiquel Presbytery, found a note containing a death threat in his car. Signed by the *Jaguar Justiciero* ("Avenging Jaguar") death squad, the note read "You didn't obey the order to get out of the country. Now you have to face the consequences because we aren't playing. We warned you that with or without protection, you would fall into our hands."[259]

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[255]Smyth, Frank. "The Nun Who Knew Too Much," *Washington Post* (Washington, D.C.: 12 May 1996), p. C1.

[256]UN General Assembly. *Report of the Director of the United Nations Mission for the Verification of Human Rights and of Compliance with the Commitments of the Comprehensive Agreement on Human Rights in Guatemala* (Geneva: A/49/856, 1 March 1995), p. 10.

[257]U.S. Department of State. "Guatemala," *Country Reports on Human Rights Practices for 1995* (Washington, D.C.: U.S. Government Printing Office, February 1996), p. 420-421.

[258]UN General Assembly. *Fifth Report of the Director of the United Nations Mission for the Verification of Human Rights and of Compliance with the Commitments of the Comprehensive Agreement on Human Rights in Guatemala* (Geneva: A/50/1006, 19 July 1996), p. 18.

[259]Amnesty International/USA. *Guatemala: Fear for Safety* (Nederland, CO: UA 61/96, 1 March 1996), p. 1; Jeffrey, Paul. "Church Workers Threatened by Death Squads," *ENI Bulletin* (Geneva: Ecumenical News International, No. 5, 12 March 1996), p. 26-27.

D. Political Parties and Individuals who Confront the Military

Political parties that aim to limit the power of the military suffer persecution. Their leaders run a very strong risk of assassination, or of harm being done to members of their families. An earlier section of this report (Section III) describes the 1979 murders of Alberto Fuentes Mohr, founder and leader of the Social Democratic Party (*Partido Social Demócrata*, PSD), and Manuel Colom Argueta, head of the United Front of the Revolution (*Frente Unido Revolucionario*, FUR). Both had just registered their respective parties, and were planning on running as a team in the 1982 presidential election. The 1993 assassination of Jorge Carpio Nicolle followed the same pattern.

- On the night of July 3, 1993, more than twenty masked gunmen stopped a van carrying Union of the National Center (UCN) leader Jorge Carpio Nicolle, while he was on his way to a political meeting in Chichicastenango. According to his wife, one of the assailants opened the van door, and said "you're Jorge Carpio, and we're going to kill you." Carpio, a two-time presidential candidate and publisher of the newspaper *El Gráfico*, died of multiple gunshot wounds. Just prior to the assassination, he had clashed with the military, by having his party block a bill in Congress that would have provided amnesty for military officers involved in the failed May 1993 coup. The Government first tried to blame the guerrillas for the murder, then common criminals. Though the slain politician was a first cousin of then-President Ramiro de León Carpio, officials tried to hide critical evidence. A bullet and footprint the family recovered from the van and turned over to the police vanished, as did reports and photographs from the autopsy. Then the courthouse where records of the case were stored was firebombed. Karen Fischer, Carpio's private secretary and daughter-in-law who has tirelessly pursued the case, herself became the apparent target of an assassination attempt. A pickup truck pursued her car, then rammed it at a traffic signal. Armed men rushed the car, but desisted when they found no one but the driver. On another occasion, Fischer says she was advised by Col. Mario Mérida, head of military intelligence, to "make no more declarations in public or in court…He called me an enemy of the state and a spokeswoman for the guerrillas." Col. Mérida was later appointed Deputy Minister of the Interior.[260]

Since the election of six center-left members of Congress representing the New Guatemala Democratic Front (*Frente Democrático Nueva Guatemala*, FDNG), FDNG leaders and activists have been singled out for repression. Because the FDNG argues that the army should be prohibited from having any domestic police role, members of the security forces tend to associate it with the rebel URNG.

- In January 1996, several assailants murdered FDNG members Lucía Tiu Tum and Miguel Us Mejía in Totonicapán province. Tiu Tum was also active in CONAVIGUA, and Us Mejía in CERJ. Both had worked to end forced conscription and abolish civil patrols. Human rights

[260]"Elusive Justice in Guatemala: Even the Elite Are Not Safe," *New York Times* (New York: 23 August 1995), p. A1; Amnesty International. *Guatemala: Extrajudicial Executions Persist under Government of Former Human Rights Prosecutor* (London: AMR 34/31/94, 1994).

groups believe they were murdered by local civil patrol members. According to the U.S. Department of State, "the violence of the attack and the absence of robbery, suggest political motives."[261]

- On April 11, 1996, four heavily armed, masked men burst into the Guatemala City home of Amílcar Méndez, an FDNG member of Congress (and former president of the indigenous human rights group CERJ). With Méndez away at the time, the intruders drugged and blindfolded his 16-year-old daughter. She was later found unconscious and undressed. Money that had been left on a table was not taken, giving the impression that this was not a case of burglary. The day before, Méndez had received a threatening letter from the *Jaguar Justiciero* (Avenging Jaguar) death squad.[262]

- Three other FDNG members of Congress – Rosalina Tuyuc, Nineth Montenegro, and Manuela Alvarado – received similar death threats. In response, the Inter-American Commission on Human Rights of the OAS, asked President Alvaro Arzú to take measures to protect the lives of the recently elected legislators and to identify and bring to justice those responsible for the threats.[263]

The risk is not just to members of political parties, but also to individuals who oppose, or who are perceived to oppose, the will of the military or members of the military and associated groups.

- On August 7, 1996, civil patrol members of Membrillal II hamlet in Chichicastenango beat and threatened to kill Tomás Raymundo Panjop and Manuel Alva Senté. Several days later, Manuel Alva Senté disappeared and is presumed to have been killed. Tomás Raymundo Panjop who incurred the wrath of the local civil patrol by advocating demobilization of the patrols in his hamlet since 1988, now fears he may be their next victim.[264]

E. Editors and Journalists

According to the U.S. Department of State:

> Continuing acts of political violence directed against journalists give credence to their complaints of pressure and coercion at the working level. ODHAG [the

[261]Immigration and Refugee Board, Documentation, Information and Research Branch. *Guatemala: Human Rights Update* (Ottawa: September 1996), p. 15; U.S. Department of State. "Guatemala," *Country Reports on Human Rights Practices for 1996* (Washington, DC: U.S. Government Printing Office, February 1997), p. 456.

[262]Amnesty International/USA. *Guatemala: Further Information on UA 30/95 Issued 10 February 1995 and Re-Issued 31 October 1995: Fear for Safety* (Nederland, CO: 12 April 1996), p. 1.

[263]Guatemala Human Rights Commission/USA. *Guatemala Human Rights Update* (Washington, D.C.: #11/96, 17 May 1996), p. 4; "Guatemala: Left Blames Army for Crime Wave," *InterPress Service* (New York: 16 April 1996) - as reported on NEXIS.

[264]UN. *Suplemento al sexto informe del Director de la Misión de las Naciones Unidas de Verificación de Derechos Humanos y del Cumplimento de los Compromisos del Acuerdo Global sobre Derechos Humanos en Guatemala [MINUGUA]* (Guatemala City: February 1997), p. 8-9, para. 32-34.

> Archdiocesan Human Rights Office] reported 12 separate political acts against the media: one extrajudicial killing, one attempted killing, nine acts of intimidation, and one case of torture.[265]

So sensitive are the security forces to critical reporting that they have not spared U.S. citizens:

- In early 1985, civil patrollers seized U.S. citizens Nick Blake, a freelance journalist, and Griffin Davis, a photographer, in the highland village of El Llano. The two had come to town to try to interview guerrillas. The patrollers marched them out of town, then shot them dead with high-powered rifles. Between 1985 and 1992, Guatemalan leaders blamed the guerrillas for the murders. In June 1992, Blake's brothers located their sibling's remains. That December, in the presence of U.S. Ambassador Marilyn McAfee, President Ramiro de León Carpio told one of Blake's brothers that security forces had killed the two men. In a 1995 *New York Times* op-ed, Samuel Blake reported that U.S. Government officials had "parroted the nonsense" that guerrillas had killed his brother. "As we pressed our own investigation, it became clear that elements of our Government, mainly CIA and State Department officials, were running interference for their friends in the Guatemalan Army."[266]

- On July 4, 1995, soldiers swung a rifle butt into the knee of U.S. citizen Daniel Robert "Sky" Callahan as he was filming a demonstration by peasants in Guatemala City's central plaza. Three days later, unknown assailants kidnapped him, beat him in the genitals, abdomen, lumbar, and neck, and warned him to leave the country. He fled, and had to be operated on for his wounds.[267]

For Guatemalan journalists who incur the wrath of powerful officials, often by merely trying to report objectively, the consequences are often fatal.

- On December 23, 1993, armed men shot Víctor Manuel Cruz, a reporter for Radio Sonora and journalist with *Tinamit* magazine, a publication critical of the government. He died two days later. A month later, on January 26, 1994, the bodies of the wife and 14-year-old daughter of *Tinamit* journalist Marc Vinicio Mejía were found alongside the Guatemala - Puerto Quetzal highway. They had been beaten and strangled after disappearing from the market town of Escuintla two days earlier. The assailants took no money or documentation.[268]

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[265]U.S. Department of State. "Guatemala," *Country Reports on Human Rights Practices for 1995* (Washington, D.C.: U.S. Government Printing Office, February 1996), p. 428.

[266]"What Else Did The C.I.A. Know? A Decade Ago, Two Murders in Guatemala," *New York Times* (New York: 30 March 1995), p. A23.

[267]UN General Assembly. *Third Report of the Director of the United Nations Mission for the Verification of Human Rights and of Compliance with the Commitments of the Comprehensive Agreement on Human Rights in Guatemala* (Geneva: A/50/482, 12 October 1995), p. 9; U.S. Department of State. "Guatemala," *Country Reports on Human Rights Practices for 1995* (Washington, D.C.: U.S. Government Printing Office, February 1996), p. 429-430.

[268]Amnesty International. *Guatemala: Extrajudicial Executions Persist under Government of Former Human Rights Prosecutor* (London: AMR 34/31/94, 1994).

- On January 29, 1995, five armed men murdered *El Gráfico* journalist Alberto Antoniotti Monge in front of his home in Guatemala City. On February 7, the National Police arrested two men, charging them with the murder. The two eighteen-year-olds protested their innocence, saying they had been abducted and tortured.[269]

- On March 28, 1995, a well-dressed man in dark glasses got out of a parked car in downtown Guatemala City and seized Gerson López, a reporter for *La República* who had recently been assigned to cover the judiciary. López's abductors forced him in the car, placed a hood on his head, and drove him to a compound several minutes away, where they handcuffed him to a chair. They then beat him and burned him, while questioning him about the cases he was covering, including a murder inquiry involving a relative of Gen. Francisco Ortega Menaldo, one of the country's most powerful army officers. Referring to his wife and two-month-old son, his captors warned him to leave Guatemala within 72 hours. The following day, after his father filed a complaint with MINUGUA, he was released.[270]

  According to *Miami Herald* correspondent Tim Johnson, who broke the story in the U.S.:

  > What happened to López is so common that it will barely be a footnote in the list of attacks against Guatemalan journalists. I called the Miami office of the Inter-American Press Association [IAPA]…[They] sent me a chronology of threats to Guatemalan journalists over the past six months. It fills nearly two pages. Three Guatemalan journalists have been murdered already this year.[271]

- On February 28, 1996, four men abducted and drugged Estuardo Vinicio Pacheco Méndez, a journalist for *Radio Sonora*. During the next four hours, the assailants beat him, burned his chest with cigarettes, and cut the soles of his feet with a blade. The abductors then told him he was being released to serve as a warning to other journalists, otherwise they would have killed him. Pacheco Méndez had earlier been reporting on the involvement of state security agents in kidnapping, drug trafficking, and automobile theft.[272]

  According to the U.S. Department of State:

  > Journalists admit…that in some particularly sensitive cases pressure and fears of reprisal result in self-censorship and limits on investigative reporting. For example, they rarely criticize the military or military officers, or discuss topics which could be perceived to affect the interests of powerful economic groups and individuals.[273]

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[269]UN Commission on Human Rights. *Report by the Independent Expert, Mrs. Mónica Pinto, on the Situation of Human Rights in Guatemala, Submitted in Accordance with Commission Resolution 1995/51* (Geneva: E/CN.4/1996/15, 5 December 1995), p. 6.

[270]"Brutalized Reporter has Tough Choice," *Miami Herald* (Miami: 3 April 1995), p. 8A.

[271]"Brutalized Reporter has Tough Choice," *Miami Herald* (Miami: 3 April 1995), p. 8A.

[272]Amnesty International. *Guatemala: Appeals Against Impunity* (London: AMR 34/03/97, 22 April 1997), p. 21.

[273]U.S. Department of State. "Guatemala," *Country Reports on Human Rights Practices for 1995* (Washington, D.C.: U.S. Government Printing Office, February 1996), p. 427.

F. Union Members and Leaders and Land Reform Activitists

According to Freedom House, "Guatemala is among the most dangerous countries in the world for trade unionists."[274]

The Coca-Cola bottling plant (*Embotelladora Central Sociedad Anónima*, EMCESA) conflict of the late 1970s and early 1980s exposed illicit and ultimately murderous associations between the government and security forces on the one hand, and powerful business interests on the other.

> In 1975 the fledgling STEGAC [Coca-Cola Bottling Company Workers' Union] union became embroiled in a series of clashes with local company president, Houston lawyer John Clinton Trotter. Trotter, close personal friend of security chiefs in the Lucas García government (1978-82), kept a permanent presence of *Kaibil* soldiers, attack dogs, and Mobile Military Police (PMA) at the Coca-Cola plant. Following the publication of three death-squad lists in 1978-79, eight Coca-Cola union leaders were killed or "disappeared": Pedro Quevedo y Quevedo, shot in the face; Manuel López Balam, throat slit, Marlon Mendizábal, machine-gunned, Edgar Aldana, shot "by mistake" on the plant grounds when he was mistaken for a fellow Unionist, himself a government target, after borrowing the man's jacket and cap. On June 21, 1980, 27 unionists meeting at the National Confederation of Workers (*Confederación Nacional de Trabajadores*, CNT) headquarters were abducted in broad daylight, including Coca-Cola unionists Ismael Vásquez and Florentino Gómez. By this time, union membership had dropped from 500 to 63.
>
> On February 17, 1984 Coca-Cola's new owners, Anthony Zash and Roberto Méndez y Méndez said that they were going to close the Coke plant on grounds of imminent bankruptcy, offering four union leaders sixty thousand dollars to quietly acquiesce. The new leadership, which had steadily rebuilt union strength since 1983, refused the offer and decided to occupy the plant instead. By 4 a.m. the following morning, some fifty workers were "taking care of the plant"; within days, a round-the-clock vigil had been organized which, at its peak, included some 600 workers. "How can Coca-Cola possibly go broke in a place like Guatemala?" one unionist laughed. Babies are weaned on bottles of Coke since it is cheaper than milk…The unionists discovered that owners Zash and Méndez had kept two sets of books, the original and another presented to the Ministry of Labor. Instead of going broke, they were clearing over one million dollars in profits per year. While Coke unionists never anticipated that their lightning takeover of the plant would last more than a few weeks, they refused to give in and accept severance pay. The occupation lasted one year…On March 1, 1985, the plant reopened under new management…[275]

[274]Freedom House, "Guatemala," *Freedom in the World—1995-1996* (New York: 1996), p. 248.

[275]Simon, Jean-Marie. *Guatemala: Eternal Spring, Eternal Tyranny* (New York: Norton, 1987), p. 202-203.

Although the numbers of abductions and slayings of trade unionists have declined since the early 1980s, they remain disturbingly high. Continuing impunity for the perpetrators preserves a pattern of repression that is intended to dissuade workers from exercising their constitutional right to organize.

- On August 24, 1994, some 500 anti-riot police stormed the San Juan del Horizonte cattle ranch in Coatepeque, Quetzaltenango, to evict 60 peasants who were peacefully occupying the ranch to demand payment of the minimum wage and recognition of their union. Police shot to death Efraín Recinos Gómez and Basilio Guzmán Juárez, and wounded eight more. The body of another peasant, Diego Orozco García, was found the next day, 60 km. away. A witness said he was thrown from a police helicopter. On September 14, still another of the occupiers, Juan José García González, was murdered. President de León blamed the peasants for violating the La Exacta Company's property rights. Backed by the Catholic Church, Human Rights Ombudsman Jorge Mario García Laguardia disagreed vigorously, blaming the Quetzaltenango police chief (who was dismissed), the chief of the National Police (who was not), and the President for the use of deadly force.[276]

- In October 1994, the El Arco farm in Suchitepéquez fired three union leaders after they formed a committee to improve working conditions. The labor judge took two months to order their reinstatement, and another four months to notify their employer. A year later, they had still not been reinstated, even though Guatemalan law requires reinstatement within 24 hours of a judicial order. Both the Mazatenango police and the Public Prosecutor's Office refused to respond to a complaint from one of the workers that he had been violently removed from the premises and subjected to threats.[277]

- On October 24, 1994, four assailants murdered Manuel de Jesús Alonso, general secretary of the Puerto Barrios municipal employees' union. The victim had been receiving death threats from the Avenging Jaguar (*Jaguar Justiciero*) death squad ever since he accused the mayor of Puerto Barrios of corruption. The Public Prosecutor's Office identified the assailants, and charged a city employee and bodyguard with the murder. That person was arrested on March 26, 1995, for illegal possession of firearms, but no ballistics tests were performed. More than seven months after the murder, the accused were still at large.[278]

- On September 7, 1996, two unidentified men on motorcycles shot at Víctor Hugo Durán, Secretary General of the "22 February" Union of the Guatemalan Telephone Company (GUATEL), as he returned to his home in the Villa Nueva section of Guatemala City. Durán had received several written and telephoned death threats since August. Later in September,

[276]Inter-Church Committee on Human Rights in Latin America. *Crisis of State—State of Crisis: Human Rights in Guatemala* (Toronto: June 1995), p. 15, 24.

[277]UN General Assembly. *Third Report of the Director of the United Nations Mission for the Verification of Human Rights and of Compliance with the Commitments of the Comprehensive Agreement on Human Rights in Guatemala* (Geneva: A/50/482, 12 October 1995), p. 17.

[278]UN General Assembly. *Second Report of the Director of the United Nations Mission for the Verification of Human Rights and of Compliance with the Commitments of the Comprehensive Agreement on Human Rights in Guatemala* (Geneva: A/49/929, 29 June 1995), p. 16.

other GUATEL leaders were also threatened. Félix Hernández, labor advisor for the union, and José María Ortega were threatened with physical violence. Jaime Manfredo Díaz Celada received two threatening telephone calls.[279]

Maquiladoras – plants that assemble finished products for export from prefabricated components that are imported duty-free – are a fast-growing part of the Guatemalan economy. Between 1986 and 1993, the number of maquiladora plants grew from 20 to 500, making that sector the fourth-largest earner of foreign exchange.[280]

- On March 13, 1995, unknown assailants abducted Alexander Geovany Gómez Virula in Guatemala City. His body was found days later, with signs that he had been beaten to death. Gómez was treasurer of the officially recognized union at *RCA Industrias*, a Korean-owned maquiladora (assembly plant) that manufactured for Liz Claiborne, among other U.S. retailers. In July 1994, the union had won a pay increase and improved working conditions. The following month, the owners closed the plant and dismissed the workers. But seventy workers, Gómez among them, petitioned the Labor Ministry to declare the closure illegal. Since that time, he and other petitioners had been repeatedly threatened by armed men.[281]

- On March 29, 1995, two men and a woman assaulted Adela Agustín as she returned home from work. They sprayed a liquid in her face to temporarily blind her, then beat her, leaving her cut and bruised. Agustín is secretary general of the union at *Corporación Textil Internacional* (Cortex), a Korean-owned maquiladora that supplies U.S. retailers Eddie Bauer, Wear-Guard, and Merry-Go-Round, among others. She had previously overheard the plant manager and personnel director talking about how uncooperative she was, and on the need to kill her.[282]

- On March 13, 1997, four heavily armed men in plain clothes abducted three workers from the MI Kwang maquiladora plant in Cantón Najarito, Villa Nueva, department of Guatemala. The abductors drove the workers in a red van to the Villa Nueva police station. In the course of a one and a half hour interrogation, they beat one detainee with the butt of a gun, and kicked the other two in the stomach. They also placed a plastic bag over the head of one of the victims. They then released the captives, with a warning not to speak to anyone about what had happened. Because the workers did subsequently report the incident to the authorities, they now fear retaliation.[283]

Individuals and organizations involved in land disputes are similarly at risk, particularly when they confront powerful landowners (*latifundistas*) who are prepared to back their often

[279]Amnesty International/USA. *Guatemala: Fear for Safety* (Nederland, CO: UA 223/96, 24 September 1996), p. 1.

[280]Inter-Church Committee on Human Rights in Latin America. *Crisis of State—State of Crisis: Human Rights in Guatemala* (Toronto: June 1995), p. 16.

[281]"Más violaciones a los derechos humanos: A golpes asesinan a sindicalista," *Noticias de Guatemala* (Ciudad de Guatemala: No. 22, March 1995), p. 4; U.S./Guatemala Labor Education Project, *Recent Violence against Guatemalan Maquila Labor Leaders* (Chicago: 12 April 1995).

[282]U.S./Guatemala Labor Education Project, *Recent Violence against Guatemalan Maquila Labor Leaders* (Chicago: 12 April 1995).

[283] Amnesty International.

dubious land titles. During Guatemala's half-century guerrilla war, landowners were frequently able to get the military to intercede on their behalf with the argument the peasant activists were "communists" and guerrilla sympathizers. As the war has wound down, they have begun relying more heavily on the police, and on often brutal private security forces, many of whose members are former, or off-duty, soldiers or police.

- On March 23, 1995, heavily armed men in a red car abducted Arnoldo Xi, an indigenous peasant and member of the National Indigenous and Peasant Coordinating Committee (*Coordinadora Nacional Indígena y Campesina*, CONIC), as he was walking near Matacuy, Purula, in the department of Baja Verapaz. Xi, who remains "disappeared," was a member of the Tixila community that was contesting a large landowner's title to property the community had been farming for years. It is believed Xi was murdered by security guards hired by the landowner. [284]

- On September 24, 1996, police forcibly evicted peasants who were occupying land on the La Blanca Estate in San Marcos province. One peasant – Mauricio Godoy García – was killed. Another 23 were imprisoned, ironically charged with the homicide of their dead companion, as well as with "aggravated usurpation" of land (see discussion in Section VII).[285]

- In October 1996, the Committee for Peasant Unity (*Comité de Unidad Campesina*, CUC) reported that authorities evicted five hundred families from the Barrios *finca* in Izabal. The police, who moved in without a warrant, beat members of the community and destroyed and burned their belongings.[286]

- At 5:00 AM on January 24, 1997, about 100 heavily armed men, including private security guards, led by a local landowner, entered the community of El Sauce in El Estor, department of Izabal. According to eyewitnesses, the landowner shot and killed Rosa Pec Chub. When her son -- Juan Rax Chub -- protested, the landowner reportedly shot him in the right side of his waist. The intruders then destroyed homes, crops, and the community chapel. Amnesty International believes the landowner was acting in complicity with local authorities, who made no effort to prevent the incident.[287]

G. Judges, Lawyers, Detectives, Prosecutors

No participant in the Guatemalan judicial system – not even the Chief Justice of the nation's highest court – is beyond the deadly reach of the security forces. That subverts the

[284]Amnesty International. *Guatemala: Summary of Amnesty International's Concerns (January 1995-January 1996)* (London: AMR 34/03/96, February 1996), p. 5.

[285]"Actions against Land Occupiers Continue," *InterPress Service*, 31 October 1996 – as reported in Human Rights Documentation Exchange. *Central America Newspak* (Austin: Vol. 11, No. 10, 28 October-10 November 1996), p. 5-6.

[286]Guatemala Human Rights Commission/USA. *Guatemala Human Rights Update* (Washington, D.C.: #22/96, 8 November 1996), p. 2.

[287]Amnesty International. *Guatemala: Peasant Farmers from the El Sauce Community* (Nederland, CO: UA 32/97, 30 January 1997), 2 p.

whole system of justice, confronting any judge, lawyer, or detective who wishes to pursue powerful lawbreakers with an agonizing choice between conscience and safety.

- On April 1, 1994, while en route from Antigua to Guatemala City, Constitutional Court President, Epaminondas González Dubón, was assassinated by assailants who had been tailing his car. He had frustrated President Jorge Serrano and the army in their joint attempt to assume dictatorial powers in May 1993 – first by declaring the suspension of Congress and the Supreme Court unconstitutional, then by barring a protégé of then-Defense Minister José Domingo García Samoyoa from replacing Serrano. He had also ordered the extradition of an army colonel indicted on cocaine-smuggling charges in Florida, and was about to issue a ruling on whether higher-ranking military officers could be prosecuted for the murder of anthropologist Myrna Mack. He had received death threats during the preceding weeks.[288]

- On October 12, 1994, four men shot to death Police Commissioner César Augusto Medina Mateo in Guatemala City. Medina was in charge of the investigation into the murder of political leader and newspaper editor Jorge Carpio Nicolle, and had recently detained four suspects in the case. He was stopped by a man he appeared to know, then shot from a car that pulled alongside. Five days later, his deputy, commissioner Benjamín Franco Pineda, was himself attacked and wounded.[289]

- In the fall of 1996, Abraham Méndez, the prosecutor in the murder case of minority leader and publisher Jorge Carpio Nicolle, went into exile with his family after being subjected to numerous death threats and other forms of intimidation.[290]

Even American lawyers, operating in the United States, may be targeted when their clients are prominent adversaries of the Guatemalan Armed Forces.

- At 4:45 AM on January 5, 1996, an incendiary bomb reduced the car of José Pertierra, Jennifer Harbury's U.S. attorney, to a charred hulk. The car was parked in the attorney's driveway in Washington, DC.[291]

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[288]UN General Assembly. *Second Report of the Director of the United Nations Mission for the Verification of Human Rights and of Compliance with the Commitments of the Comprehensive Agreement on Human Rights in Guatemala* (Geneva: A/49/929, 29 June 1995), p. 16; Human Rights Watch/Americas. *Human Rights in Guatemala during President De León Carpio's First Year* (New York: June 1994), p. 37; "Secret Guatemalan Military Unit, Linked to C.I.A., Dies and Is Born Again," *New York Times* (New York: 10 April 1995), p. A6.

[289]Amnesty International. *Guatemala: Denial of Justice* (London: AMR 34/47/94, 1994).

[290]"CIA Involvement Shadows Guatemala's Bloody Past…," *Associated Press* (New York: 8 April 1995) - as reported on NEXIS; Guatemala Human Rights Commission/USA. *Guatemala Human Rights Update* (Washington, D.C.: #22/96, 8 November 1996), p. 1.

[291]Constable, Pamela. "Fiery Attack on Lawyer's Car Unsolved," *Washington Post* (Washington, DC: 3 June 1996), p. D5 - as reported on NEXIS. Guatemala Human Rights Commission/USA. *Guatemala Human Rights Update* (Washington, D.C.: #1/96, 12 January 1996), p. 2.

H. Academics, Teachers, and Students

The Guatemalan Army has a history of conflict with students and professors of the University of San Carlos (USAC) that long antedates the emergence of death squads. According to Richard Newbold Adams:

> [The relationship] between the military and the university students has been consistently antagonistic. Students have a long tradition of categorical opposition to the military. They fought the army in 1870 and did so against Ponce in 1944 [launching the Revolution of 1944-1954]. The Military has always been a principal target in the annual *Huelga de Dolores*, the burlesque spoof that the students (when permitted) stage annually to criticize current events…The reason today for this antagonism is, if anything, greater than in the past. The interest of the military in government now makes them a greater threat than ever before to the civilian students.[292]

Conversely, the military has long felt threatened by anyone who asks too many questions about its role in governance and in human rights violations. Such questions arise routinely among students, teachers, and intellectuals, making them prime targets of death squads.

- On September 11, 1990, Myrna Mack, an anthropologist and founder of the Association for the Advancement of the Social Sciences in Guatemala (AVANCSO), was stabbed to death as she left her office in Guatemala City. She had been investigating the situation of Guatemalans displaced by the counter-insurgency campaigns of the late 1970s and early 1980s. That work had brought her into conflict with the army, as she documented military controls over the displaced populations, and proposed that the highlands be returned to civilian control. She had been under constant surveillance in the weeks preceding the assassination. As frequently happens in politically sensitive cases, the police lost or destroyed virtually all of the key evidence in the case. The police detective in charge of the investigation was murdered within days of producing a report that linked the murder to army Sergeant Major Specialist Noel de Jesús Beteta. Beteta worked for *Archivos*, the nerve center of the death squads, which operated out of the Presidential General Staff at the National Palace. The report was kept secret until June 28, 1991, when an Appeals Court judge ordered the arrest of Beteta. He was subsequently sentenced to 25 years imprisonment on February 12, 1993, but all efforts to indict his superiors have gone nowhere.[293]

[292]Adams, Richard Newbold. "Development of the Military," *Crucifixion by Power: Essays on Guatemalan National Social Structure* (Austin: University of Texas Press, 1970), p. 262.

[293]Inter-American Commission on Human Rights. *Fourth Report on the Situation of Human Rights in Guatemala* (Washington, D.C.: 1993), p. 22-26; Americas Watch & Physicians for Human Rights. *Guatemala: Getting Away with Murder* (New York: August 1991), p. 41.

- On February 10, 1992, gunmen in civilian clothes shot to death USAC professor Manuel Estuardo Peña. Peña was known for his leftist views and had received telephoned death threats prior to his death. Three other USAC professors were murdered the same year.[294]

- On September 24, 1994, three armed and hooded men broke into the home of Benigno Santos López Reyna in Tecún Umán, San Marcos, and murdered him in the presence of his family. López was a schoolteacher and leader of the Guatemalan Workers' Union (*Sindicato de Trabajadores de Guatemala*). The intruders harmed none of the man's relatives, and did not remove anything of value.[295]

- In November 1994, police attacked a demonstration held by students of the University of San Carlos (USAC), firing at them and beating them. One student, Mario López Sánchez, later died from the injuries he sustained. A videotape of the event showed the police brutally beating him after he had already been injured and incapacitated. When the victim's family sued for damages, a court held that the State could not be liable for injuries that occur in civil disturbances. On November 9, 1995, the Public Prosecutor's Office finally filed charges against seven of the ten suspects in the case. The university's lawyer has since received threats, as have student witnesses.[296]

- On January 27, 1995, USAC professor Apolo Carranza Vallar disappeared after leaving his office at the Pan-American Health Organization(PAHO). Four months later, a military informant disclosed the location of Carranza's body, and identified the Escuintla military zone commander, Colonel Mario López Serrano, as the mastermind of the murder. Yet the police chief of Santa Lucía Cotzumalguapa was arrested instead, presumably as a scapegoat. In October 1996, tape recordings of conversations between the kidnappers and the family of the victim, that were to have been used in the trial of the colonel, vanished.[297]

- In early January 1995, attackers operating from a car with darkened windows murdered USAC engineering professor Esau Avendaño, machine-gunning him as he and his wife walked out of a pharmacy. He had previously reported death threats to the office of the university president.[298]

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[294]Human Rights Watch. "Guatemala," *Human Rights Watch World Report 1993* (New York: December 1992), p. 114.

[295]UN General Assembly. *Report of the Director of the United Nations Mission for the Verification of Human Rights and of Compliance with the Commitments of the Comprehensive Agreement on Human Rights in Guatemala* (Geneva: A/49/856, 1 March 1995), p. 11.

[296]U.S. Department of State. "Guatemala," *Country Reports on Human Rights Practices for 1995* (Washington, D.C.: U.S. Government Printing Office, February 1996), p. 421-422; UN General Assembly. *Fourth Report of the Director of the United Nations Mission for the Verification of Human Rights and of Compliance with the Commitments of the Comprehensive Agreement on Human Rights in Guatemala* (Geneva: A/50/878, 24 February 1996), p. 11.

[297]U.S. Department of State. "Guatemala," *Country Reports on Human Rights Practices for 1995* (Washington, D.C.: U.S. Government Printing Office, February 1996), p. 420; Guatemala Human Rights Commission/USA. *Guatemala Human Rights Update* (Washington, D.C.: #21/96, 31 October 1996), p. 2.

[298]UN Commission on Human Rights. *Report by the Independent Expert, Mrs. Mónica Pinto, on the Situation of Human in Guatemala, Submitted in Accordance with Commission Resolution 1995/51* (Geneva, E/CN.4/1996/15, 5 December 1995), p. 5; UN General Assembly. *Report of the Director of the United Nations Mission for the Verification of Human Rights and of Compliance with the Commitments of the Comprehensive Agreement on Human Rights in Guatemala* (Geneva: A/49/856, 1 March 1995), p. 11.

- On March 5, 1995, unknown assailants shot to death Marco Antonio Quezada Díaz, a physician who was head of medical affairs of the USAC medical faculty.[299]

I. Environmentalists

Though environmentalists are not usually perceived as being as much of a threat to vested political interests as the preceding categories of groups at risk, they nonetheless run risks whenever they observe or – worse yet – expose illegal activities by members of the armed forces.

- On December 16, 1981, six months after becoming Rector of the University of San Carlos, Mario Dary Rivera was shot to death as he left his office. A professor of chemical engineering, Dary had made his mark as a conservationist who managed a university-run preserve (*Biotopo del Quetzal*, in Baja Verapaz) for the endangered quetzal, the country's national symbol. Two months before his murder, he had delivered a lecture harshly criticizing the government's policies towards conservation. He said the military government had abandoned the national parks to poachers, squatters, temple robbers, and cattle and timber barons, and that the officials who were supposed to protect the parks were plundering them.[300]

- On December 2, 1992, two national park (CONAP) officials, three plainclothed Treasury Police, a journalist, and an archaeologist discovered an illegal logging camp run by the army in northwest Petén, from which lumber was being smuggled into Mexico. The seven were detained by the army and its local collaborators (possibly PACs), tied up, beaten, and taken to a military camp, where they were denied first aid and compelled to spend the night outdoors in a thunderstorm. They were released the next day, with the local military commander asserting that they were mistaken for guerrillas.[301]

- On May 31, 1995, agents of the General Department of Forestry set up a roadblock to stop illegal trafficking in tropical hardwoods. A Treasury Guard officer who was driving a truckload of wood drew his gun on the agents to prevent an inspection. When the forestry officials complained to the Inspector of the Treasury Guard, he threatened them with arrest if they pursued their efforts to curb trafficking.[302]

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[299]UN Commission on Human Rights. *Report by the Independent Expert, Mrs. Mónica Pinto, on the Situation of Human Rights in Guatemala, Submitted in Accordance with Commission Resolution 1995/51* (Geneva, E/CN.4/1996/15, 5 December 1995), p. 5.

[300]Maslow, Jonathan Evan. *Bird of Life, Bird of Death* (New York: Laurel, 1986), p. 204-205.

[301]Perera, Victor. *Unfinished Conquest: The Guatemalan Tragedy* (Berkeley: U. of California Press, 1993), p. 266-267.

[302]UN General Assembly. *Third Report of the Director of the United Nations Mission for the Verification of Human Rights and of Compliance with the Commitments of the Comprehensive Agreement on Human Rights in Guatemala* (Geneva: A/50/482, 12 October 1995), p. 10.

J. Children

Large numbers of children and adolescents live abandoned on the streets of Guatemala City. They commonly resort to theft to survive. To reduce the pain of hunger and chilly nights, many of the youngsters sniff glue, which impairs brain function. In a country already accustomed to the dehumanization – and murder – of political adversaries, it is but a small step to dehumanize unwanted children, and treat them as public nuisances. The National Police, whose urban assignments result in routine exposure to street children, has been the primary source of violations of the rights of minors.

Among the children's few defenders has been *Casa Alianza*, a branch of the New York-based Covenant House. After National Police beat to death 13-year-old Salvadoran immigrant Nahamán Carmona López in March 1990, Casa Alianza sued the police. A court sentenced four policemen to terms of ten to fifteen years' imprisonment without possibility of parole. In other cases, however, such as the June 1990 abduction, torture, and murder of four children, those responsible have not been called to account, and even where arrest warrants have been issued, they have not been carried out.[303]

- On August 8, 1993, three uniformed members of the National Police came upon street children Juan Carlos Calderón, Henry Molián, and Francisco Tziac as they were sleeping across the street from Casa Alianza in Guatemala City. Searching the children, they found glass bottles containing shoe glue and some cash. Casa Alianza counselor Byron Muñoz saw the police pour the glue on the children's' faces, and asked them to stop. When the police threatened Muñoz, he called his supervisor, and the police left. On February 22, 1994, then-National Police chief Mario René Cifuentes cleared the officers of any suspicion of wrongdoing, based on their own denials.[304]

- On September 24, 1994, three street boys were trying to sleep on the sidewalk while a woman with mental problems screamed nearby. Two private policemen – licensed by the National Police – appeared on the scene and shot the boys with a 45-gauge pistol and 12-gauge shotgun. Daniel Rosales died on the spot, and Rubén García González died on arrival at the hospital. Víctor Manuel García was seriously wounded.[305]

- On June 23, 1995, 17-year-old Américo Orantes and three other street children held up a pedestrian in Zone 1 of Guatemala City, stealing his wallet. At that point, a man in plain clothes approached, and, without saying a word, fired his gun. As the youths scattered, the assailant fired indiscriminately, hitting one boy in the right knee and killing Orantes. As the

[303]Human Rights Watch/Americas. *Human Rights in Guatemala during President De León Carpio's First Year* (New York: June 1994), p. 53.

[304]Human Rights Watch/Americas. *Human Rights in Guatemala during President De León Carpio's First Year* (New York: June 1994), p. 54.

[305]UN Committee against Torture. November 1995. *Report to the U.N. Committee Against Torture on the Torture of Guatemalan Street Children.* [Internet] <URL: http://www.magi.com/crica/torture.html>.

man then fled, he was pursued by a street girl who witnessed the killing. After asking why she was following him, the man identified himself as being with the Criminal Investigation Department (CID) of the National Police, and pulled his gun on her to compel her to turn back.[306]

- "In April 1996, two police officers raped sixteen-year-old Sandra Esmeralda Gómez Guevara while a third kept watch. Despite detailed testimony from the victim and an eyewitness, including physical descriptions and the names of two of the attackers, the police internal affairs unit did nothing to investigate the crime."[307]

- On September 20, 1996, a uniformed member of the Treasury Police shot to death Ronald Ramos (16) in Tecún Umán, San Marcos. The accused killer, Armando Ezequiel Ramírez y Ramírez, fled after turning over his guns to two colleagues. *Casa Alianza* has filed a criminal suit against Ramírez y Ramírez.[308]

XII. Repatriation and Internal Relocation

After a brief increase in the number of refugees who returned to Guatemala in 1995 (9,524), the number fell to less than half that amount in 1996 (just over 4,000).[309] Late in 1995, the repatriation process was placed in jeopardy when an army unit massacred returned refugees. Swift action by President Ramiro de León Carpio, followed by a partial purge of the army and the police by incoming President Alvaro Arzú Irigoyen, headed off a complete collapse in repatriation efforts, yet could not prevent a significant decline in repatriation in 1996. The incident underscored the fact that until the army is brought under effective civilian control, no returning refugee will be truly safe.

On October 5, 1995, a 25-man military patrol entered the *Aurora 8 de octubre* returnee settlement in Xamán, Alta Verapaz. The inhabitants, seeing the intrusion as a breach of the government's agreement to respect the civilian nature of such communities, surrounded the soldiers, asking them to put down their weapons and await the arrival of MINUGUA and UNHCR verification teams. Instead, the soldiers forced their way through the crowd, pushing

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[306]UN Committee against Torture. November 1995. *Report to the U.N. Committee Against Torture on the Torture of Guatemalan Street Children.* [Internet] <URL: http://www.magi.com/crica/torture.html>.

[307]Human Rights Watch. "Guatemala," *Human Rights Watch World Report 1997* (New York: December 1996), p. 99.

[308]Guatemala Human Rights Commission/USA. *Guatemala Human Rights Update* (Washington, D.C.: #20/96, 16 October 1996), p. 3; Human Rights Watch. "Guatemala," *Human Rights Watch World Report 1997* (New York: December 1996), p. 99.

[309]UN General Assembly. *Fourth Report of the Director of the United Nations Mission for the Verification of Human Rights and of Compliance with the Commitments of the Comprehensive Agreement on Human Rights in Guatemala* (Geneva: A/50/878, 24 February 1996), p. 3, para. 110. UN General Assembly. *Sixth Report of the Director of the United Nations Mission for the Verification of Human Rights and of Compliance with the Commitments of the Comprehensive Agreement on Human Rights in Guatemala* (Geneva: A/51/790, 31 January 1997), p. 12, para. 49.

civilians aside with their rifles. When a villager took hold of a sergeant's rifle, the latter ordered his subordinates to open fire. The soldiers fired indiscriminately, killing ten villagers, and wounding more than a dozen. As the patrol left the settlement, a soldier shot to death an eight-year-old boy – Santiago Pop Tut – who was running home.

Four days later, President de León Carpio removed Defense Minister Mario René Enríquez Morales, who had tried to justify the shootings as self-defense. On January 22, 1996, in a significant break with precedent, the Jalapa Court of Appeal transferred the case from military to civilian jurisdiction. Yet on May 30 and 31, 1996, Judge Víctor Hugo Jiménez released eight of the soldiers, including the commander, on bail. The army had previously posted troops near the Cobán courthouse, and was engaging in surveillance of the prosecutor and members of MINUGUA. The judge's ruling prompted vigorous protests from the Association of Families of the Detained-Disappeared of Guatemala (FAMDEGUA), from the URNG, and from Human Rights Ombudsman Jorge Mario García Laguardia. The Supreme Court responded by suspending the judge and appointing a substitute. In October 1996, the Twelfth Chamber of the Court of Appeals ordered the reincarceration of the eight soldiers.[310]

The Xamán massacre highlights the deadly implications of the army's tendency to associate refugees with guerrillas. Those who fled the country during the 1980s are widely presumed to have done so to avoid being killed because of their sympathy for the guerrillas. That attitude imputes a political opinion to returning refugees, often causing officers and soldiers alike to perceive them as potential military adversaries.

The situation is doubly acute when refugees return to a locale in which either their relatives have been murdered, or their lands taken, by neighbors or neighboring villages associated with the civil patrols, who are armed and granted virtual impunity for their actions by the army.

- The neighboring villages of Xococ and Río Negro in Baja Verapaz have long quarreled over adjacent lands. In the context of the counter-insurgency campaign of the early 1980s, that conflict turned into a local holocaust. Pointing to widespread support among Río Negro's Achi inhabitants for the left-leaning CUC, military commissioners and civil patrollers from

[310]Guatemala Human Rights Commission/USA. *Guatemala Human Rights Update* (Washington, D.C.: #21/96, 30 October 1996), p. 1; UN General Assembly. *Fourth Report of the Director of the United Nations Mission for the Verification of Human Rights and of Compliance with the Commitments of the Comprehensive Agreement on Human Rights in Guatemala* (Geneva: A/50/878, 24 February 1996), p. 4-5, 26-27; Human Rights Watch/Americas. *Return to Violence: Refugees, Civil Patrollers, and Impunity* (New York: January 1996), p. 8-10; UN General Assembly. *Fourth Report of the Director of the United Nations Mission for the Verification of Human Rights and of Compliance with the Commitments of the Comprehensive Agreement on Human Rights in Guatemala* (Geneva: A/50/878, 24 February 1996), p. 4-5; "Guatemala Army Accused of Meddling in Murder Trial," *Reuters* (London: 3 June 1996) - as reported on NEXIS; *Guatemala Human Rights Update* (Washington, D.C.: Guatemala Human Rights Commission, #11, 31 May 1996, and #12, 14 June 1996), p. 1, 2.

Xococ accused the residents of that village of being guerrillas. With support from the army, they repeatedly massacred residents of Río Negro in early 1982. A court-ordered exhumation of a mass grave in 1993 uncovered the remains of 144 women and children. The women and girls were raped before being slaughtered: the remains of females were found unclothed below the waist. Those who escaped the massacres fled into the hills. The Xococ civil patrollers then pillaged and burned the village. As the mass slaughter in the countryside eased in the mid-1980s, the government resettled survivors in Pacux, where they were relatively safe but unable to earn an acceptable living from the poor soil. Availing themselves of the resettlement opportunities created by the peace process in the 1990s, refugees have been returning to Río Negro. But tensions persist. In 1994, when villagers erected simple crosses in memory of 177 slain women and children, civil patrollers from Xococ destroyed them in a nighttime raid. In 1995, villagers erected a monument to the dead. A week before the unveiling, however, intruders broke into a Guatemala City workshop and shattered the monument's plaque.[311]

- On June 28, 1995, a group of refugees who had been waiting for two months for the government to take steps to ensure their safe return to San Antonio Tzejá, Ixcán, Quiché, decided to press on to their destination under the watchful eye of police and international observers. They were blocked from entering the town by a large, well-armed group of military commissioners and CVDC (PAC) members led by Raúl Martínez, head of the Regional Association of Landholders of the Ixcán (ARAP-KSI), an organization of peasants who confiscated lands abandoned by refugees. When five foreign observers – two from MINUGUA, one from UNHCR, one from the World Council of Churches, and one from Doctors of the World – tried to mediate, they were taken hostage. An army lieutenant colonel made no attempt to intervene. The hostages were freed the following morning when 70 policemen arrived on the scene. Yet the police failed to enforce a warrant for the arrest of Raúl Martínez. Rather than enforce the law, the government backed down. Later that summer, it persuaded the refugees to resettle in another location. There have been no reports of further threats to the refugees in the new location.[312]

Yet, according to anthropologists familiar with Guatemala, the country's social structure poses serious obstacles to internal relocation. James Loucky, of Western Washington University, emphasizes that rural villages are closely knit, and cautious toward outsiders. They are segregated by language, by ethnicity, and rigid customs that all are expected to follow. Anyone who tries to relocate into an unfamiliar village is unlikely to be immediately accepted. Should that person be returning from years spent abroad, he or she may also be suspected of being a subversive by members of the local civil patrols. That suspicion is compounded when the person

[311]"Where Neighbors are Killers; Lack of Justice Greatest Impediment to Peace in Guatemala," *Ottawa Citizen* (Ottawa: 26 November 1995), p. A1; Human Rights Watch/Americas. *Human Rights in Guatemala during President De León Carpio's First Year* (New York: June 1994), p. 97-102.

[312]Human Rights Watch/Americas. *Return to Violence: Refugees, Civil Patrollers, and Impunity* (New York: January 1996), p. 13-28; UN General Assembly. *Third Report of the Director of the United Nations Mission for the Verification of Human Rights and of Compliance with the Commitments of the Comprehensive Agreement on Human Rights in Guatemala* (Geneva: A/50/482, 12 October 1995), p. 30.

in question is known to fear returning to his or her home village. Villagers are also likely to suspect that anyone who has lived abroad will return with new ideas, including familiarity with new freedoms, which may be disconcerting to traditional village leaders as well as to the army and rural landholders.[313]

Departmental capitals are too small, and too close to the village of origin, to offer any refuge. More distant departmental capitals tend to be dominated by different ethnicities. The capitals, moreover, are where army headquarters are located. That leaves only Guatemala City as a potential refuge. Yet experts agree that Guatemala City is more like a small town than its population of 3 million would suggest. Like the rest of Guatemala, it is full of *orejas* ("ears," i.e., army informants) who watch the central market, the bus stations, and monitor the talk of the neighborhoods. That puts anyone who has crossed paths with the army – no matter how trivial the purported offense – in jeopardy, since they can be located fairly easily.[314]

- In early 1989, Dianna Ortiz, an American Catholic nun, received a series of anonymous notes advising her to leave the country. She had been assigned to San Miguel Acatán, Huehuetenango, where she was teaching Mayan children to read and write. In July, Ortiz moved to Guatemala City. That same month, a stranger accosted her, told her "they" knew who she was, that she had been in Huehuetenango, and again counseled her to leave the country. Shaken by the encounter, she left Guatemala for two months. A month after her return to Guatemala in September 1989, she received two more letters, warning that the army knew of her presence. On October 21, she went to the Belén Retreat Center, a convent in Antigua, a colonial city much frequented by foreigners, in the expectation of being relatively safe. Yet on November 2, two armed men kidnapped her from the convent garden, delivering her to a waiting police car. Her abductors took her to a clandestine prison, where they raped her, and inflicted 111 cigarette burns in the course of an interrogation. She was released only after a supervisor recognized her as a U.S. citizen. As she was being driven to the U.S. Embassy, she jumped out of the vehicle while it was stuck in a traffic jam, and sought refuge at the residence of the Papal Nuncio.[315]

- In 1992, Felipe León Nas and Josefa Macaria Calel headed a group of young catechists in Catholic Action in the town of Chiché, Quiché. Though Macaria withdrew after the couple received death threats, León organized a village improvement committee and became a volunteer in the National Literacy Campaign. On December 27, 1993, five armed men killed León in front of the town hall. Fearing reprisals, none of the witnesses would testify. When an unknown man came to look for Macaria at her home, she fled to Guatemala City. But

[313]Loucky, Professor James. Director of International Studies and Programs, Western Washington University. Telephone Interview, 11 July 1996.

[314]Loucky, Professor James. Director of International Studies and Programs, Western Washington University. Telephone Interview, 11 July 1996.; Manz, Professor Beatrice. Director, Center for Latin American Studies, University of California at Berkeley. Telephone Interview, 12 July 1996.

[315]America's Watch. *Messengers of Death: Human Rights in Guatemala, November 1988 - February 1990* (New York: August 1991), p. 47-52.

strangers pursued her. On January 20, 1994, two men approached her, calling out her name, and warning that her life was in jeopardy. She then fled the country.[316]

Rural Guatemalans face enormous economic obstacles to relocation, obstacles that in turn make them easier to find by military intelligence. For the most part, their skills are agricultural in nature (for men) or related to crafts and maintaining the household economy (for women). To relocate to another rural area, men must obtain a plot of land. In most cases, the only conceivable ways this can happen is either through squatting (which is very dangerous), or by the government's providing land in compensation for the land they lost. To relocate to Guatemala City, on the other hand, they must have kin or friends, such as fellow villagers, who have already established themselves there. Otherwise, illiterate and lacking perhaps even a working familiarity with Spanish, they have serious difficulties securing employment. Women may sometimes obtain work as servants, typically under menial – and often racist and abusive – conditions.

Unlike the inhabitants of advanced industrial nations, most Guatemalans – particularly rural Guatemalans – do not have an institutional safety net of health and unemployment insurance and social security benefits. They therefore have to rely on a relationship-centered social safety net, built around a core consisting of an extended network of relatives, supplemented by *compadrazgos* ("godparents," etc.). The *compadres* extend familial ties and obligations beyond blood-relatives. This is what makes Guatemalan rural villages so close-knit, and so impenetrable to outsiders. These are likewise the ties rural Guatemalans must rely on if they are to move to Guatemala City. That in turn makes them relatively easy to locate.[317]

A. The UNHCR's Position on Repatriation and Internal Relocation

As of January 31, 1997, a little over 34,000 refugees had voluntarily returned to Guatemala. About 32,500 remain in Mexico, 10,000 in other Central American countries, and still more in the United States.[318] Mexico has announced a new policy of allowing remaining

[316]Human Rights Watch/Americas. *Human Rights in Guatemala during President De León Carpio's First Year* (New York: June 1994), p. 38.

[317]Loucky, Professor James. Director of International Studies and Programs, Western Washington University. Telephone Interview, 11 July 1996.; Manz, Professor Beatrice. Director, Center for Latin American Studies, University of California at Berkeley. Telephone Interview, 12 July 1996.

[318] UN General Assembly. *Sixth Report of the Director of the United Nations Mission for the Verification of Human Rights and of Compliance with the Commitments of the Comprehensive Agreement on Human Rights in Guatemala* (Geneva: A/51/790, 31 January 1997), p. 12, para. 49.

Guatemalan refugees to apply for residency – and the opportunity to hold salaried jobs – in the border states of Chiapas, Campeche, and Quintana Roo.[319]

Though the United Nations High Commissioner for Refugees (UNHCR) has assisted repatriation efforts, it cautions that this in no way indicates an endorsement of repatriation under existing conditions. In a letter to the INS dated 1 July 1996, the UNHCR summarized its position:

> While UNHCR has helped facilitate the return of Guatemalans who have voluntarily asserted a wish to return, this does not mean that UNHCR promotes or encourages the repatriation of Guatemalan refugees. The element of choice is particularly important in Guatemalan repatriation because of the difficulties in concluding a peace accord between the Government and the guerrillas, and because of the on-going security problems in the country, including those experienced by returnees. An additional important factor is the scarcity of available land for returnees, which is relevant to the success and sustainability of their return, as well as to the political and social tensions which it can invoke.[320]

On the question of internal relocation, UNHCR is guided by the following general principles:

> For recognition of refugee status, the fear of persecution need not extend to the *whole* territory of the refugee's country of origin…The underlying assumption justifying the application of "internal flight alternative" is that the State authorities are willing to protect the rights of the individual concerned but are being prevented from or otherwise are unable to assure such protection in certain areas of the country. Therefore the notion should not, in principle, be applied in situations where the person is fleeing persecution from State authorities, even if the same authorities may refrain from persecution in other parts of the country…The possibility to find safety in other parts of the country must have existed at the time of flight and continue to be available when the eligibility decision is taken and the return to the country of origin is implemented.[321]

Applying these principles to Guatemala, UNHCR emphasizes:

> It is irrelevant whether the State persecutes in the whole country or only in parts of it, as the State is normally in control of the whole territory. This obviously

[319]"Mexico to Offer Guatemalans Residency," *United Press International* (New York: 17 August 1996) - as reported on NEXIS; Guatemala Human Rights Commission/USA. *Guatemala Human Rights Update* (Washington, D.C.: #17/96, 31 August 1996), p. 5.

[320]Bijleveld, Anne Willem, UNHCR Representative, UNHCR Branch Office for the United States of America. Letter to John Evans, Director, INS Resource Information Center (Washington, D.C.: 1 July 1996), p. 4.

[321]Office of the United Nations High Commissioner for Refugees (UNHCR). *An Overview of Protection Issues in Western Europe: Legislative Trends and Positions Taken by UNHCR* (Geneva: 21 August 1995), p. 24.

> extends to the armed forces, which normally hold strong power in situations of persecution…
>
> With specific reference to Guatemala, there are two groups of refugees affected by the conflict. The first group is characterized by persons who were identified by the State, individually or collectively, as supporting or sympathizing with the guerrillas or engaging in other activities considered to be subversive. The second group consists of persons who faced localized violence or human rights violations committed by the guerrillas or other non-governmental persecutors.
>
> In accordance with the criteria mentioned above, the concept of an internal flight alternative cannot be applied to the first group, *i.e.*, individuals who crossed an international border due to persecution by the Government or military because they were suspected of supporting the guerrillas or other subversive activities which the military or Government considered to be a threat to its authority.
>
> Regarding the second group, the situation in the country at the time of flight was such that the protection they needed could not have been guaranteed within their own country. In fact, those who fled within Guatemala and became internally displaced found themselves in a very vulnerable situation. According to official figures, the number of persons in this category is one million. Even today, as the search for peace goes on and the Government is committed to rebuilding its institutions, internally displaced persons still face a difficult situation, lacking personal documentation, and access to assistance and to land.[322]

In July 1996, MINUGUA reported that refugees were returning to Guatemala "at a markedly slower pace" – about half the rate of the previous year.[323] It cautioned that "the resettlement process continues to encounter problems arising from the landholding system, the influence of the ideological discourse maintained by members of the army and by persons under its influence which identifies returnees with URNG," and "tensions between returnees and non-returnees."[324]

[322]Bijleveld, Anne-Willem, UNHCR Representative, UNHCR Branch Office for the United States of America. Letter to John Evans, Director, INS Resource Information Center (Washington, D.C.: 1 July 1996), p. 5.

[323]UN General Assembly. *Fifth Report of the Director of the United Nations Mission for the Verification of Human Rights and of Compliance with the Commitments of the Comprehensive Agreement on Human Rights in Guatemala* (Geneva: A/50/1006, 19 July 1996), p. 20.

[324]UN General Assembly. *Fifth Report of the Director of the United Nations Mission for the Verification of Human Rights and of Compliance with the Commitments of the Comprehensive Agreement on Human Rights in Guatemala* (Geneva: A/50/1006, 19 July 1996), p. 20.

B. A Paradox: Many Asylum Applicants Fear the Army, but Dare Not Blame It

Human rights reports – whether from Guatemalan, American, or international organizations, or the United Nations – indicate a clear and pervasive pattern of abductions, torture, and extrajudicial killings of civilians by government security forces that is in no way matched by guerrilla forces. Though the guerrillas initially kidnapped and executed military commissioners and plantation owners, they have not – with one prominent exception – done so in recent years.[325] Recent human rights reports have faulted guerrillas primarily for economic sabotage, and for extorting "war taxes" from the owners of large estates, practices they have since discontinued. On March 20, 1996, the URNG suspended offensive military operations altogether, to promote a more favorable climate for peace talks. Objectively, the guerrillas pose little danger to most Guatemalans. [326]

Yet it is commonplace for asylum applicants to say they fear being harmed by the guerrillas if they return to Guatemala. One possible reason for this paradox is the fact that the army sometimes disguised its soldiers as guerrillas prior to carrying out massacres of civilians, as in the Las Dos Erres massacre.[327] More recently, there have been allegations that corrupt army officers have disguised their men as guerrillas in order to extort "war taxes" from estate owners.[328] According to the January 1997 MINUGUA report, estate owners have also recently complained of alleged kidnappings by guerrillas. "Upon verification, the Mission found that the kidnappers were ordinary criminals who had used fake URNG seals and letterheads to commit their crimes."[329]

Another possible reason for the paradox, according to some anthropologists with an intimate knowledge of the country and prevailing conditions, is an all-pervasive fear of military forces. Guatemalans know first-hand how powerful the army is, whether from the disappearance of loved ones or acquaintances, the destruction of a village, or the constant presence of

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[325]The exception was the kidnapping for ransom of the 84-year-old matriarch of a prominent landholding family by the deputy commander of the ORPA guerrilla group in late 1996. Olga Alvarado de Novella was released unharmed after two months in captivity, and her captor expelled from the URNG. "Kidnapping Is Snagging Guatemalan Peace Talks," *New York Times* (New York: 7 November 1996), p. A11.

[326]Guatemala Human Rights Commission/USA. *Guatemala Human Rights Update* (Washington, D.C.: #6/96, 22 March 1996), p. 4; "Cease-Fire Generates Widespread Optimism that End to War Is Near," *NotiSur* (Albuquerque: 12 April 1996) - as reported on NEXIS.

[327]Described in Section XI-B.

[328]"Torture Survivor Tells of Army Involvement in Organized Crime," *Central America Report* (Ciudad de Guatemala: 2 June 1995), p. 2.

[329] UN General Assembly. *Sixth Report of the Director of the United Nations Mission for the Verification of Human Rights and of Compliance with the Commitments of the Comprehensive Agreement on Human Rights in Guatemala* (Geneva: A/51/790, 31 January 1997), p. 12, para. 64. Also see para. 88.

informants and soldiers carrying high-powered rifles and sub-machine guns. They also have little concept of an independent judicial process, since judges and other law enforcement officials in Guatemala are subject to intimidation and corruption.[330] If applicants tell a U.S. asylum officer the truth, they may fear that their criticism of the army will become known to Guatemalan army intelligence if their application is denied and they are returned to Guatemala.

It makes little difference that this fear is ungrounded in terms of INS practices. From a Guatemalan perspective, it is only logical to suspect the loyalties of *any* agency of the U.S. Government. What Guatemalans know is that the U.S. Government supported the Guatemalan Government and army in their counter-insurgency efforts, and opposed the guerrillas. If they are to ask the U.S. Government for protection, it is inconceivable to them that they can get away with contradicting the U.S. Government's own position that the Guatemalan Government and army were on the right side of the conflict, and that the guerrillas were on the wrong side. To a Mayan villager, that would be like seeking protection from an influential village authority, while telling him his friend and business associate is a bad person.

On paper, Guatemalans may have equal rights. In practice, they still do not. It is very difficult to persuade Mayan villagers that the disjunction between law and reality they have always faced in their homeland no longer governs once they apply for asylum in the United States. Asylum officers, experts emphasize, need to be sensitive to that reality.[331]

[330] U.S. Department of State. "Guatemala," *Country Reports on Human Rights Practices for 1996* (Washington, D.C.: U.S. Government Printing Office, February 1997), p. 460.

[331]This section is paraphrased from Loucky, Professor James. Director of International Studies and Programs, Western Washington University. Telephone Interview, 11 July 1996.; Manz, Professor Beatrice. Director, Center for Latin American Studies, University of California at Berkeley. Telephone Interview, 12 July 1996.

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