

decade of electroshock torture in a psychiatric hospital near Havana. Less than a month later, Mederos died of cancer, and his conviction was vacated because he had not had a chance to appeal it.

## GUATEMALA

**I**ncidents of political violence rose in 2002 as Guatemala struggled to deal with the legacy of massive human rights violations committed during the country's civil war, which ended in 1996. Although political violence was, for the most part, no longer carried out as a matter of state policy, impunity for acts of violence remained a chronic problem. Efforts to investigate and punish past abuses made little progress, and the human rights defenders promoting them faced violence and intimidation.

### HUMAN RIGHTS DEVELOPMENTS

Guatemala made little progress in investigating and prosecuting past abuses. Three years after a U.N.-sponsored Historical Clarification Commission reported that over two hundred thousand people were killed and tens of thousands of human rights violations (including "acts of genocide") occurred during the country's armed conflict, only a small number of these cases had been addressed by the criminal justice system.

Guatemalans seeking accountability for past abuses continued to face daunting obstacles. The work of the attorney general's office was severely handicapped by the meager budget allotted to the office by the Guatemalan Congress, which resulted in prosecutors carrying excessive caseloads with inadequate resources. The courts (including the Supreme and Constitutional Courts) routinely failed to resolve judicial appeals and motions in an expeditious manner and thus allowed defense attorneys to engage in dilatory legal maneuvering. The army and other state institutions failed to cooperate fully with investigations into abuses committed by current or former members. Perhaps the most serious obstacle to progress on human rights cases was the intimidation of witnesses and justice officials. (See below.) The police failed to provide adequate protective measures to persons involved in sensitive cases.

An important exception was the trial of three senior officers charged with planning the murder of anthropologist Myrna Mack. In October, a three-judge tribunal convicted Col. Juan Valencia Osorio for his role in the 1990 killing. Valencia, who was sentenced to thirty years, was the first senior military officer to be jailed for planning human rights violations committed during Guatemala's civil war. His co-defendants, Gen. Augusto Godoy Gaitán and Col. Juan Guillermo Oliva Carrera, were acquitted by the same tribunal.

Unfortunately, the Mack case appeared to be the exception that proved the rule of impunity in cases involving abuses carried out by current or former members of the Guatemalan military. The conviction was obtained only after a costly twelve-year campaign by Helen Mack, the victim's sister. The case was plagued throughout by the use of threats and violence to intimidate justice officials, witnesses, and lawyers. In July, Helen Mack was forced to leave the country after being tipped off about a plot to assassinate her. In August, Roberto Romero, a lawyer acting for the Myrna Mack Foundation, reported that he had received death threats and that his Guatemala City home had been shot at. The prosecution's case was hampered by the military's refusal to supply justice officials with requested documentation and its obstruction of the investigation by submitting false information and doctored documents. It was also hampered by the defense's use of dilatory legal maneuvers and the failure of judicial magistrates to resolve these in a timely fashion.

Another case in which limited progress was made involved charges pressed by twenty-one indigenous communities affiliated with the Association for Justice and Reconciliation (AJR), legally represented by the Center for Human Rights Legal Action (CALDH), against former presidents Romeo Lucas García and Efraín Ríos Montt, as well as top military officers in their respective governments. Both cases alleged war crimes and crimes against humanity, including genocide, committed in the early 1980s. A special prosecutor within the attorney general's office, who opened formal investigations into the two cases in 2000 and 2001, respectively, continued taking testimony from hundreds of eyewitnesses to the massacres.

Meanwhile, other important cases languished. For example, in a case involving a 1982 massacre of over 160 people in the village of Las Dos Erres, Petén, defense attorneys continued to prevent a trial from taking place by filing dozens of dilatory motions. Nearly all of these motions were rejected by the court as being "notoriously unfounded."

Lawyers from the Rigoberta Menchú Foundation complained of judicial irregularities in a civil suit brought by relatives of eleven people killed in a 1995 massacre in the community of Xaman, in the department of Alta Verapaz. One problem was the judge's decision to disallow fifty-four of the sixty questions the foundation's lawyers had prepared for the oral examination of the soldiers who allegedly participated in the massacre. Another was the judge's decision to summon forty witnesses from Xaman to present their testimony before the court at the same hour of the same day. The forty witnesses, mostly women, traveled to Guatemala City from their remote village, many with children in tow. When their lawyers realized that these women would be forced to spend hours and possibly days waiting in a cramped courthouse room to have their turn giving testimony, they sought and obtained a suspension of the proceeding.

One of the few successful prosecutions of military officers for political violence—the 2001 conviction of three officers and a civilian for the 1998 killing of Bishop Juan Gerardi Conedera—was reversed by an appeals court in October. The appeals court accepted the defense team's claim that a lower court had failed to conduct a proper review of evidence presented at the trial. Lawyers from the Archbishop's Human Rights Office (ODHA), which was civil party to the prosecution in the case, had previously raised serious questions about the impartiality of one of

the appeals court judges reviewing the case—including the fact that this judge had allegedly referred to the ODHA lawyers as personal "enemies." Both the ODHA and the public prosecutor petitioned the Supreme Court to overturn the appeals court ruling on the ground that it overstepped the proper scope of judicial review. The Supreme Court granted an injunction temporarily suspending the appeals court ruling while it evaluated the merits of these petitions. At this writing, a final ruling by the Supreme Court was still pending.

Charges of government corruption produced violent reprisals in several instances. Prosecutor Miguel Angel Bermejo, who was investigating charges of corruption within the Interior Ministry, reported receiving death threats and being tipped off that several people were planning to kill him if he continued with the investigation. In February, a witness in one high-profile corruption case, César Augusto Rodas Furlán, was shot dead in Guatemala City.

Members of the national police continued to employ excessive force against civilians. Most of these cases involved abuse of authority by poorly trained and disciplined police officers. However, there were also cases of apparently deliberate use of excessive force in police operations. In January, for example, officers from the Department of Antinarcotics Operations (DOAN) raided the village of Chocón, opening fire on residents and killing two civilians. At this writing, several officers were under investigation.

Women and girls working in Guatemala's two female-dominated industries—the export-processing (*maquiladora*) and the live-in domestic worker sectors—faced widespread sex discrimination at the hands of private employers and the government. Domestic workers continued to be denied key labor rights protections, such as the rights to the minimum wage and an eight-hour workday, and had only limited rights to paid national holidays. Younger women and girls, in particular, sometimes faced sexual harassment and violence in the homes where they worked. The Congress failed to act on proposals to reform the labor code to provide domestic workers equal protection.

Women and girls working in the maquiladora sector, though formally protected under the law, encountered persistent sex discrimination in employment based on their reproductive status, with little hope for government remedy. Guatemalan maquiladoras, many of which were suppliers for well-known South Korean and U.S.-based corporations, discriminated against women workers in a number of ways—including requiring women to undergo pregnancy tests as a condition of employment; denying, limiting, or conditioning maternity benefits to pregnant women; denying reproductive health care to pregnant workers; and, to a lesser extent, firing pregnant women. At the time of this writing, the Guatemalan government had still not adopted policies or practices to investigate and remedy in a systematic way these gender-specific labor rights violations.

The Congress failed to pass legislation to abolish the death penalty. In July, however, President Portillo announced a moratorium on the application of the death penalty during his presidency.

In July, President Portillo announced his support for a program of monetary compensation for former members of the Civil Self-Defense Patrols (*Patrullas de Autodefensa Civil*, PAC), which were an integral part of a counterinsurgency strat-

egy that entailed widespread and egregious human rights violations during the country's civil war. The proposal did not include any screening process to exclude the worst offenders from receiving compensation. The president's announcement fueled efforts already underway to renew PAC affiliations and allegiances. Given the PAC's historic role in human rights abuses, these efforts threatened to undermine the progress that had been made toward re-establishing the rule of law in Guatemala.

## DEFENDING HUMAN RIGHTS

Guatemalan human rights defenders were subject to numerous acts of intimidation. The Inter-American Commission on Human Rights stated that it had received reports of "more than 100 attacks and acts of intimidation against legal defenders" (including justice officials, civil society leaders, and civilian witnesses) in 2002. These attacks included "illicit searches of the offices of human rights organizations, the theft of equipment and information, death threats made by telephone and in writing, physical assault, the surveillance of individuals, kidnappings, and in some cases murder."

While some of these incidents might have been attributable to common crime, many others were clearly committed with the aim of intimidating members of the human rights community. For example, death threats were sent to various non-governmental organizations (NGOs), including the Archbishop's Human Rights Office, making reference to their work on human rights cases. The offices of some NGOs were vandalized—and the members of others have been assaulted—by men who showed no interest in stealing valuable items that common criminals would be expected to take.

Most seriously, on April 29, a member of the Rigoberta Menchú Foundation, Guillermo Ovalle de León, was shot to death in a restaurant next to the foundation's Guatemala City office. As foundation members pointed out to Human Rights Watch, given the small size of the restaurant, it seemed an unlikely place to stage an armed robbery. In July, two men assaulted one of the foundation's lawyers in front of the same office. The lawyer told Human Rights Watch that the assailants had held her in a stranglehold and insulted her, but did not take the laptop computer that she was carrying at the time.

According to both Guatemalan government and U.N. officials, these acts of intimidation were most likely being carried out by clandestine groups with possible links to both public security forces and organized crime. This conclusion is supported by the fact that the perpetrators revealed themselves, in their threats and in their actions, to be in possession of the sort of detailed information regarding the identities and routines of their victims that had traditionally been the domain of military intelligence. A written threat directed at a team of forensic anthropologists included the names of people who had not participated in exhumations since the mid-1990s, suggesting that the perpetrators had either been collecting information for several years—or at least had access to an institution that had collected it in the past.

Many observers believed that the attacks were aimed at undermining efforts to investigate and prosecute past human rights abuses. Whatever the actual motive, they clearly had this impact, forcing members of the targeted organizations to take protective measures—including leaving the country—that undermined their work on human rights cases.

In response to the crisis, the Portillo administration arranged a series of meetings between a special "Security Cabinet" (consisting of the government's top ministers and led by the vice president) and representatives of the NGOs that had been targets of harassment. These talks did not produce concrete results, however, and several NGO representatives broke them off, arguing that the government was not taking serious steps to investigate and take action against the clandestine groups.

The attorney general named a special prosecutor to handle these cases. This prosecutor, Tatiana Morales, enjoyed the respect and confidence of the human rights community. However, the resources at her disposal were minimal. Without more money and more investigators, it appeared unlikely that she would make substantial progress on the large number of cases assigned to her.

The government ratified several treaties relating to human rights, including the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts, and the Optional Protocol to the Convention on the Elimination of Discrimination Against Women.

## THE ROLE OF THE INTERNATIONAL COMMUNITY

### United Nations

The United Nations Verification Mission in Guatemala (MINUGUA) continued to play a central role in monitoring compliance with the 1996 peace accords. MINUGUA's reports contained detailed human rights analyses and indicated that significant aspects of the accords were still not implemented.

Guatemala maintained a standing invitation to the United Nations Commission on Human Rights to send special thematic rapporteurs to investigate human rights conditions in the country. In June, after a six-day official fact-finding mission, Hina Jilani, special representative of the secretary-general on human rights defenders, expressed concern regarding the climate of terror and insecurity in which the human rights community conducted its work. She noted the lack of commitment by the Guatemalan government to ensuring their protection and the general worsening of the human rights situation. Jilani, together with the U.N. special rapporteur on extrajudicial, summary, or arbitrary executions, issued an urgent appeal to the Guatemalan government to investigate death threats and guarantee human rights workers the right to life and physical integrity.

In August, the Committee on the Elimination of All Forms of Discrimination against Women offered a critical assessment of the institutions set up by the Guatemalan government to promote gender equality.

### Organization of American States

In July, the Inter-American Commission on Human Rights (IACHR) sent a delegation to Guatemala to assess the situation of human rights defenders. The delegation met with President Alfonso Portillo and cabinet officials, as well as representatives of human rights, indigenous rights, and labor organizations. The delegation issued a statement at the close of its visit outlining its findings, including that “the Commission has found that no significant progress has been made in the investigation and punishment of those responsible for human rights violations.” It added that this failure was “one of the most important reasons for the persistence of impunity in Guatemalan society.” It urged the government to allocate greater resources to the attorney general’s office and other institutions charged with protecting human rights. The commission also described a “pattern of intimidation against human rights defenders.” Finally, it expressed “deep concern” over the reorganization of groups of former members of the PAC.

### European Union

Political and economic relations between the European Union and Guatemala were strengthened in June with the adoption of a five-year cooperation agreement. The primary objective of the cooperation agreement was to improve conditions for the implementation of the 1996 peace accords by strengthening civil society and promoting respect for human rights.

### United States

The U.S. government provided assistance—through the United States Agency for International Development (USAID)—to local efforts to investigate and prosecute past abuses, supporting the work of forensic teams exhuming clandestine cemeteries and of NGOs involved in human rights prosecutions. During her recently-ended term in Guatemala, Ambassador Prudence Bushnell intervened with the government on several occasions to press for increased protection for human rights defenders.

Since 1990, the U.S. Congress had maintained a ban on International Military Education and Training (IMET) and Foreign Military Financing (FMF) to Guatemala. The ban was modified after the peace accords were signed to permit training in expanded-IMET courses in the specific areas of civilian control over the military, military justice reform, and respect for human rights. According to embassy sources, in 2002, non-lethal training was provided to counter-narcotics units within the national police force, U.S. and Guatemalan military doctors set up medical clinics on military bases, and U.S. military lawyers participated in a military justice project aimed at reforming Guatemala’s military code.

The U.S. State Department revoked the visas of former top-ranking military officers, including former general Francisco Ortega Menaldo, who led the military intelligence unit, known as the “D-2” (formerly known as the “G-2”), that was implicated in numerous human rights violations. These visas were revoked under

a section of the law that authorized action against people known to have allowed or conspired in the trafficking of illegal narcotics.

## HAITI

**H**aitians saw worsening political instability, economic stagnation, and popular discontent in 2002, as well as repeated eruptions of violence. After more than two years of political impasse, anti-government protests gained strength, with many thousands of Haitians taking to the streets in mid-November.

Human rights conditions remained poor, characterized by frequent allegations of police violence, arbitrary arrest, and wrongful detention, among other problems. Journalists came under serious threat, facing harassment, physical violence, kidnapping, and, in a December 2001 case, murder. With the moribund economy showing no signs of recovery, Haitians became increasingly impatient with the government’s apparent unwillingness or inability to address the country’s many chronic ills.

### HUMAN RIGHTS DEVELOPMENTS

Little real headway was made toward ending the political stalemate dating from the local and legislative elections of 2000, which were marred by widespread fraud. As of mid-November 2002, Fanmi Lavalas, the party of Haitian President Jean-Bertrand Aristide, and the Democratic Convergence, the main opposition coalition, remained far apart in their positions, despite the negotiation efforts of the Organization of American States (OAS). Commenting on the deadlock, OAS Assistant Secretary General Luigi Einaudi complained that political leaders were unwilling to rise above their “entrenched personal positions,” in order to put an end to the “fragmentation and paralysis that [was] leading the country as a whole toward disaster.”

Only two months earlier, on September 4, the Permanent Council of OAS, warning of the “potential for humanitarian disaster” in Haiti, had passed a resolution supporting the unblocking of international financial assistance. By most estimates, several hundred million dollars in aid was involved, much of it having been suspended for years, although some humanitarian aid was being channeled through nongovernmental organizations.

A sixteen-point set of stipulations, OAS Resolution 822 outlined steps for strengthening democracy and re-establishing political stability in Haiti. It noted, in particular, the Haitian government’s promise to hold “free, fair and technically feasible legislative and local elections” in the first half of 2003. As a necessary first step toward those elections, it called upon the authorities to establish an independent, neutral, and credible electoral body (called the Provisional Electoral Council, CEP)