

Who Will Defend the Defenders? Criminalization of Human Rights Defenders and Chronic Impunity in Guatemala

To Omar Bertoní Girón, the death threat against his wife was clear: “The first parcel with her parts will be arriving; we hope you’ve said good-bye... Die revolutionaries.”⁽¹⁾ As the Laboratory Director of an organization dedicated to exhuming the bodies of victims of Guatemala’s 36-year war, Omar has many enemies. He and his colleagues have uncovered scientific evidence against military officers and civil patrollers responsible for acts of genocide committed against Guatemala’s indigenous majority.

Sadly, Omar’s experience is far from unusual in Guatemala today. Violence and intimidation against human rights activists are commonplace.

- On January 15, 2007, Pedro Zamora Álvarez, a trade union leader from the Port Quetzal Workers’ Union, was killed in front of his two small children. He had received numerous death threats related to his union work.
- On December 8, 2007, community leader Felipe Alvarez, who had been working to improve public security in his community, was murdered -- shot once in the head and three times in the back.
- On February 2, 2008, Sandra Isabel Ramirez, the daughter of the



Nine participants in GHRC's 2008 Fact-finding Delegation to Guatemala

secretary general of the banana workers' union, was gang-raped by four men who interrogated her about her father's union activities. Her father had organized the union on a plantation owned by one of Guatemala's most powerful families.

- On May 10, 2008, Jorge de Jesus Merida Perez, a prominent journalist in Coatepeque, was murdered. He was investigating and reporting on a corruption scandal involving the Mayor of Coatepeque and the Mayor's ties with organized crime.
- On September 4, 2008, Yuri Melini, an environmental activist and lawyer, was shot and severely wounded by masked gunmen outside his home in Guatemala City. Yuri has challenged the legality of a law that permits open pit mining, and is campaigning against the pollution of water sources and the appropriation of natural reserves.

These and many other human rights defenders in Guatemala who are challenging the status quo have suffered severe reprisals for their

efforts. Since 2002, more than 50 such activists have been killed. Threats and attacks against them increased 370% from 2000 to 2006.⁽²⁾ From January through November 2008, 186 attacks were reported.⁽³⁾ Beyond death threats, harassment, intimidation, and surveillance, defenders face physical assault, office raids, criminalization, and murder.

Generally, those who deliver the threats and attacks have been able to act with impunity. The Guatemalan government lacks the political will and resources necessary to stop the assaults. Authorities do not investigate many of the violations and thus cannot prosecute the perpetrators; fewer than 2% of the cases resulted in sentences.

In June 2008, the Guatemala Human Rights Commission/USA (GHRC) led a fact-finding delegation to Guatemala. It was inspired by concern for the safety of our partners and the lack of response by the Guatemalan government. GHRC's group of nine women and men from across the U.S. met with dozens of human rights defenders, government officials, public prosecutors, and international representatives. Our goal was to investigate the causes of attacks against defenders, identify challenges to prosecuting and sentencing the perpetrators, and address areas where the Guatemalan government can improve its response to assaults against human rights defenders. This report reveals our findings.

• Guatemala's Challenges •

Poverty and inequality are pervasive in this country of 13.1 million people. More than half of Guatemala's citizens live in poverty (less than \$1.37 US/day), while 2% of the people own 71% of the land. Organized crime, narco-

★The Guatemala Human Rights Commission/USA (GHRC) is a nonprofit, nonpartisan, humanitarian organization that monitors, documents, and reports on the human rights situation in Guatemala. For the last twenty-six years, GHRC has advocated for and supported survivors of abuses, and worked toward positive, systemic change.

traffickers, and gangs control the country in regions where the state has no presence. Guatemala's homicide rate is seven times the global average, with nearly 6,000 people murdered each year, the second highest in Latin America. Corruption among national police officers, elected officials, and the Guatemalan military contributes to a culture of fear where citizens cannot trust the state to provide security or investigations.

Those in power are ruthless in their efforts to hold onto that power. Today, they often use the same tactics to extinguish opposition and suppress those who work to defend human rights that were common during Guatemala's war from 1960 to 1996. Then, the Guatemalan military and paramilitary's counterinsurgency strategy employed kidnapping, torture, disappearances and executions to extinguish opposition. Victims included thousands of academics, union organizers, church leaders, indigenous activists, journalists, and other defenders.

"As army officers retired and returned to civilian life, they continued to head criminal operations," said Claudia Samayoa, who works to protect human rights defenders. She says they maintained ties within the military and developed an amorphous web of often secret relationships with other powerful individuals within Guatemalan society. Those included large landowners, business people, and public officials. They used clandestine groups of former and active-duty soldiers and paramilitary patrollers to do the dirty work.

Many justice officials were paid to keep silent while others were murdered. In 1981, with the intent to foster fear and erode the criminal justice system, clandestine groups

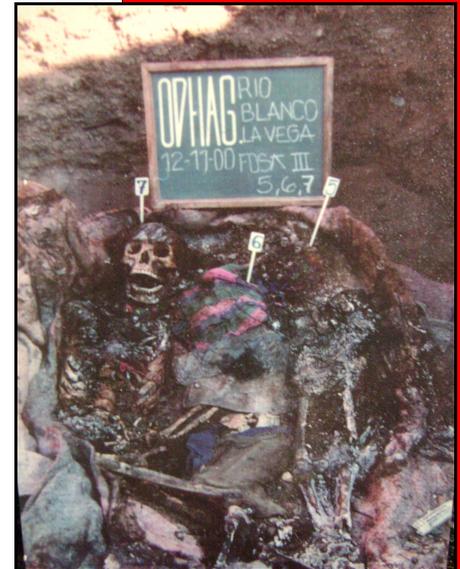
kidnapped or killed an average of one lawyer or judge per day. The remaining justice officials were either corrupt or terrified.

The official end of the internal armed conflict came with the signing of the 1996 Peace Accords. The tide of violence ebbed, the process of democratization was set in motion, and the rule of law appeared to emerge.

By 1998, there was a major push in the human rights community to hold former and current military officers and public officials accountable for crimes against humanity. Bishop Juan Gerardi and dozens of human rights defenders spent two years cataloguing the atrocities perpetrated by the Guatemalan military and compiling victims' testimonies. In April 1998, Bishop Gerardi released a report detailing the abuses and attributing blame to the army for more than 90% of the human rights violations committed during the war. Two days later, members of the Guatemalan military bludgeoned Gerardi to death in his garage.

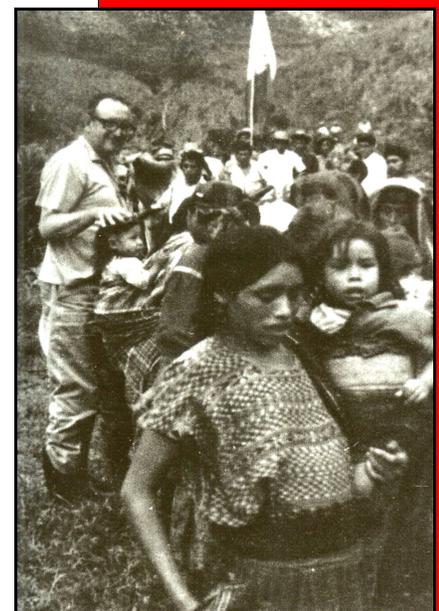
• Situation Today •

Since then, Guatemala has slid backward. Today, violence and intimidation are more dangerous than during the war. In the 1980s, the military and paramilitary were the main victimizers. Today, activists and citizens are attacked from multiple sectors: clandestine groups, businesses, private security guards, organized crime rings, gangs, drug cartels, plantation owners, and police officers.

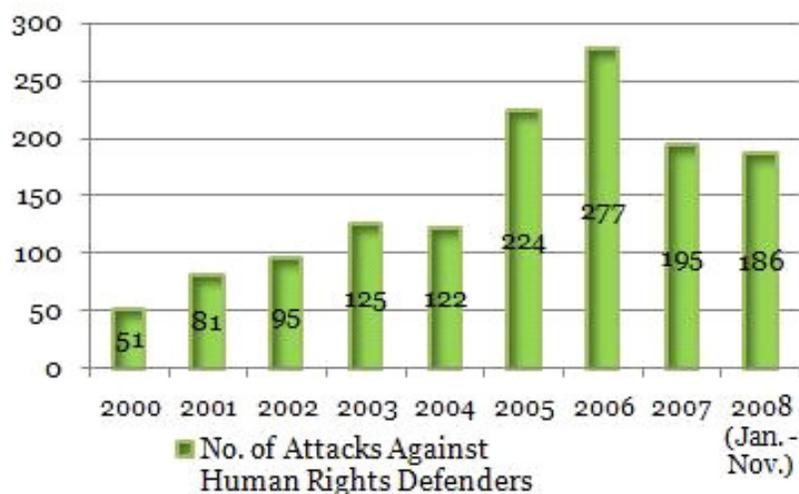


Remains of innocent victims of the internal armed conflict, murdered by the Guatemalan military

Bishop Juan Gerardi accompanying victims of the internal armed conflict



No. of Attacks Against Human Rights Defenders



Threats and attacks against human rights defenders have become increasingly common since 2000. Claudia Samayoa and her team have recorded more than 1,300 acts of aggression against defenders and activists since then. In early 2007, an attack against a human rights defender occurred every day. They have been kidnapped, tortured, shot at, and killed.

Trade unionists suffered the most attacks in the first half of 2008, with nearly 40% of all assaults on human rights defenders directed at labor organizers. Plantation owners have fired and persecuted workers attempting to organize. Mining companies have targeted indigenous leaders for mobilizing communities to protest mineral exploitation. Loggers and cattle ranchers have attacked environmentalists for opposing illegal land appropriation and deforestation in protected reserves. Mayors have turned their backs on community activists for organizing citizens in opposition. Police officers have threatened women's rights groups for bringing rape charges against their colleagues.

As a result, those working to defend human rights in Guatemala live in an environment of fear, anxiety, and exhaustion. They alter their daily routines to avoid planned attacks and make decisions based on the security of their families. Many are forced to move residences or even flee the country. Omar Bertoni Girón told us that he and his family have changed homes four times.

Due to the efforts of those in power, the Guatemalan public's perception of human rights defenders is often negative. They are seen falsely as protecting criminals and impeding economic growth, thus costing jobs. The press, often the defender of the oppressed in many countries, is of little help in Guatemala. Mining companies pay journalists to write disparaging articles about indigenous activists who organize their communities in defense of their lands. Human rights defenders have little access to media outlets. In the last few years, the number of op-ed pieces authored by human rights defenders on a weekly basis has fallen from eighteen to three.

Public officials have also played a role in defaming human rights defenders. In 2000, the Minister of Interior accused human rights defenders of being "terrorists" and "communist delinquents." Guatemala's former President Berger labeled organizers of opposition to the negative effects of a massive hydroelectric dam as "terrorist groups supported by obscure terrorist interests."⁽⁴⁾

The government sees and treats human rights defenders as enemies instead of allies in the advancement of human rights. In some cases, the Guatemalan government has prosecuted defenders instead of the perpetrators of violations. The Public

To read more about threats and attacks against human rights defenders in Guatemala, check out www.ghrc-usa.org

► To take action on behalf of human rights defenders and activists facing violence, sign up to GHRC's Free Listserve by visiting www.ghrc-usa.org and click on the Sign Up button. GHRC will alert you when you can take a simple action to help stem threats and attacks against defenders in Guatemala.

Prosecutor's Office erroneously charged seven *campesino* leaders for allegedly causing injury to two security agents from the Montana Mining Company during a road blockade. The *campesinos* had blocked the road in a non-violent protest of the environmental and health damages caused by the mine.

● **The State Must Take Action** ●

The Guatemalan government is usually not directly responsible for violations against activists. Nonetheless, it too often fails to prevent, investigate, punish, and rectify the harm caused by government and private agents. It has consistently failed to ensure that defenders are able to carry out their work free from attacks, fear, and intimidation.

Hina Jilani, the Special Representative of the UN Secretary General, said, "Two state institutions that should be in the frontline in providing protection and redress against these attacks are part of the problem. These are the police and the Attorney General's Office."⁽⁵⁾

Protection of human rights defenders is often inefficient or inadequate. Police and prosecutors lack appropriate training and equipment. There is lack of coordination between prosecutors, police officers, and forensic doctors. What results is an omission or duplication of investigative efforts. Sometimes, police officers are in the pay of criminals.

There are many individuals in Guatemala committed to preventing attacks, investigating crimes, and punishing the assailants. But they are often impeded by inadequate funding, staff, training, and coordination. And

some have to work with corrupt colleagues, or under the fear of reprisal. In the first four months of 2008, the Public Prosecutor's Unit for Crimes Against Justice Officials recorded 30 attacks against prosecutors, judges, and magistrates, including five murders. As a result, many officials are fearful to move cases too far forward.

● **Turning the Corner?** ●

In 2008, there were positive signs for change. In June, the Public Prosecutor's Office announced that it had arrested two individuals allegedly responsible for the triple homicide of the former director of Guatemala's Indigenous and Campesinos' Development Association Los Achiotés, and his two sons. Furthermore, for the first time in Guatemalan history, a military officer, Felipe Cusanero Coj, was indicted for orchestrating the forced disappearance of six Guatemalan citizens during the armed conflict. Justice was served in April when a police officer was sentenced to 20 years in prison for his part in the gang rape of a female inmate. This was the first conviction of its kind in Guatemala, where 75% of female inmates are assaulted by male guards or inmates.

In addition, several important political and institutional changes in the last year may improve the environment for human rights defenders. In 2007, the Minister of the Interior (and also a human rights defender), Adela Camacho de Torrebiarte, created and trained a special police

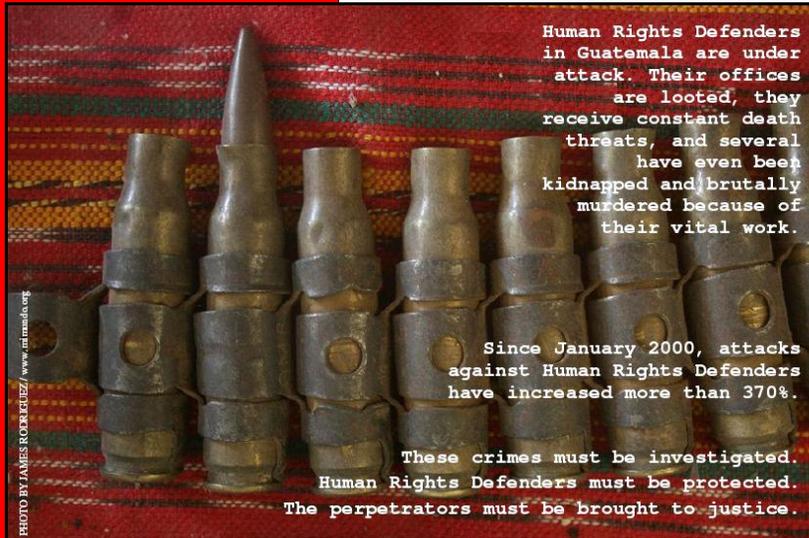


Guatemalan National Civil Police (PNC)

Guatemalan Public Prosecutor's Office (MP)



● Guatemala Human Rights Commission/USA, December 2008 ●



 You too can stand by human rights defenders in Guatemala by participating in our postcard campaign! Simply contact our office at ghrc-usa@ghrc-usa.org or 202-529-6599 with your name, address, and the amount of postcards (above) you can get signed and we will send them along. GHRC's goal is to deliver 5,000 postcards to Guatemalan President Colom urging him and the government to do more to address attacks against human rights defenders.

unit within the Criminal Investigation Division to respond to acts of aggression against human rights defenders.

Guatemala also got a new president in 2008, Álvaro Colom, who is more sympathetic to the human rights community than his predecessor. Colom has appointed several human rights defenders to high posts, including the head of the Secretariat for Peace and the head of the Presidential Commission on Human Rights. Guatemala also has a new Attorney General, to replace Juan Luis Florido, who had instructed prosecutors to archive certain cases in order to avoid investigations. National and international human rights organizations had lobbied the Guatemalan government for many months to depose Florido. It is still too early to tell how effective the new Attorney General, Jose Amilcar Velazquez, will be in addressing attacks against defenders.

The most positive sign that Guatemala may be improving is the establishment of the International Commission Against Impunity in Guatemala (CICIG). Under pressure from national and international human rights organizations, the Guatemalan government finally recognized the

existence of clandestine groups that often attack human rights defenders. In December 2006, Guatemala and the United Nations negotiated the framework for the CICIG. The Guatemalan Congress ratified it in August 2007. The CICIG's mission is to investigate, dismantle, and prosecute illegal armed groups and corrupt officials that are involved in illicit activities and commit egregious human rights violations.

• Return Delegate Actions •

The long-term improvement in human rights must come primarily from Guatemalan society. Nevertheless, it has been shown that concerned citizens from other countries, including the U.S., can have a positive impact on the situation. As Omar Bertoni Girón told our delegation, "International support is vital; international citizens are the only ones taking these threats seriously." Many defenders highlighted the importance of continuing to send letters and postcards pressuring the Guatemalan government to investigate the attacks and prosecute those responsible. Sometimes, there is a need for citizens of other countries to physically accompany at-risk human rights defenders in Guatemala.⁽⁶⁾ With a foreigner at their side, human rights defenders face far fewer threats and attacks. Claudia Samayoa asked us to "get the U.S. government more involved on the issue, to encourage the U.S. State Department to do more than just dialog with targeted human rights defenders and trade unionists."

• Recommendations •

The following are recommendations for how the Guatemalan government can improve its response to assaults against human rights defenders:

- ◆ Recognize that all human rights defenders, including those working on civil, political, social, economic, and cultural rights, have the right to carry out their activities without any restrictions or fear of reprisals.
- ◆ Make clear public statements that support the efforts of human rights defenders and express that any comment or action made by State-actors that disparage or undermine their work will not be tolerated.
- ◆ Launch a national advertisement campaign in conjunction with the human rights community that informs citizens of the important contribution defenders make to strengthening Guatemala's democracy and rule of law.
- ◆ Ensure that threats and attacks against human rights defenders are investigated in a thorough, timely, and impartial manner; that those responsible are identified, prosecuted, and brought to justice; and that the victims and their relatives are provided appropriate reparation.
- ◆ Ensure that the National Civil Police (PNC), the Public Prosecutor's Office (MP), and other institutions responsible for maintaining the rule of law are allocated adequate human and financial resources to fulfill their mandates.
- ◆ Provide protective measures in a timely manner for at-risk defenders tailored to their security needs and in compliance with their wishes.
- ◆ Ensure that the criminal justice system is not used against human

rights activists as a tool to harass them or hamper their work.

- ◆ Ensure that all State institutions, especially the Public Prosecutor's Office (MP) and the National Civil Police (PNC), fully cooperate with the International Commission Against Impunity in Guatemala (CICIG) in investigating and prosecuting illegal armed groups and other powerful illicit interests.
- ◆ Emulate the best practices learned from successful units within the government, like the special police unit within the Criminal Investigation Division (DINC), throughout other institutions in order to better address violations against human rights defenders
- ◆ Ensure that policies and legislation that will help to end the cycle of impunity in Guatemala, like the reform *amparo* law, are approved by the Guatemalan Congress and implemented as soon as possible.

The struggle continues. And in it, the Guatemala Human Rights Commission/USA remains committed to fighting for human rights and justice in Guatemala.✈

• **Endnotes** •

1 Guatemala Human Rights Commission/ USA (GHRC). *Guatemala Human Rights UPDATE*,



GHRC's Fact-finding delegation meets with personnel from the International Commission Against Impunity in Guatemala (CICIG)

Claudia Samayoa (center), Director of the Human Rights Defenders Protection Unit (UDEFEUGA), with GHRC's Fact-finding delegation



► You too can participate in GHRC's future fact-finding delegations to Guatemala. Simply send us an email at ghrc-usa@ghrc-usa.org or call our office at 202-529-6599.

📧 Help stem threats and attacks against human rights defenders by contributing to GHRC. Simply visit our webpage at www.ghrc-usa.org and click on the Donate button.

Vol.20 No.10. 16 – 31 May 2008. (Hereinafter, “GHRC UPDATE, Vol. 20 No.10.”) The entirety of the threat reads: “Greetings you bastards, how good Bianca looks in pink driving a Jeep along the Avenida Petapa, the first parcel with her parts will be arriving, we hope you’ve said good-bye, your security isn’t worth shit. We haven’t seen your family recently, the next one is Yani. We scared you, you bastards, this time you’ll respect us. Die revolutionaries, take back the charges. FAFG IN MOURNING until we finish with you all.” Omar is married to Bianca Peccerelli, the sister of Fredy Peccerelli, FAFG’s Executive Director.

2 National Human Rights Movement. “*Impunidad: ¿Quiénes Son Los Responsables?, Informe sobre Situación de Defensoras y Defensores de Derechos Humanos.*” Guatemala City, Guatemala. January–December 2006. Pg. 5

3 Interview with Claudia Samayoa, director of the Human Rights Defenders Protection Unit (UDEFEQUA), via email. 26 November 2008.

4 Interview with Claudia Samayoa, director of the Human Rights Defenders Protection Unit (UDEFEQUA), quoting former President Berger. Guatemala City, Guatemala. 22 June 2008.

5 United Nations. “The Special Representative of the UN Secretary General on the situation of human rights defenders concludes her mission to Guatemala.” Guatemala City, Guatemala. 20 February 2008. Pg. 2. See: <http://www.unhcr.ch/hurricane/hurricane.nsf/view01/0565A0CF433ADC0DC12573F500629AD5?opendocument>.

6 GHRC’s Delegation met with Peace Brigades International (PBI — www.pbiousa.org) and the Network in Solidarity with the People of Guatemala (NISGUA — www.nisgua.org), both of which are international human rights organizations that have established accompaniment programs. If you are interested in volunteering to physically accompany human rights defenders in Guatemala for a few months, please contact those organizations directly.

★GHRC offers a special thanks to the institutions and individuals who met with our delegation. We would also like to recognize the Osprey Foundation, the Sisters of Charity of Nazareth Ministry Fund, the Racine Dominican Mission Fund, and members. Without your generous support, our efforts to protect human rights defenders in Guatemala would not be possible.



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