

Guatemala Human Rights Review

GUATEMALA HUMAN RIGHTS COMMISSION/USA

Human Rights Review 2005

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VIOLENT EVICTIONS

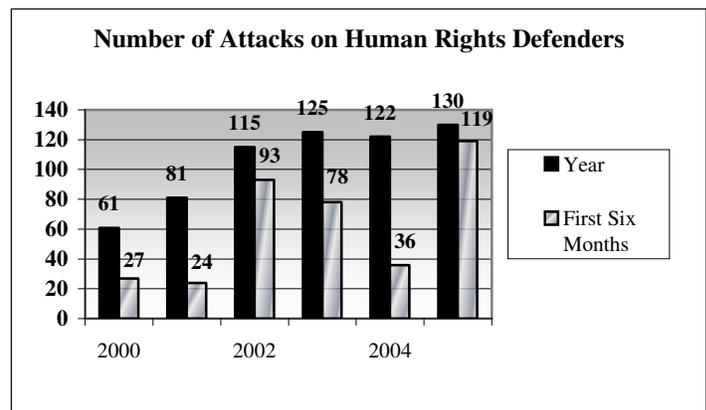
Violent evictions of campesinos, or rural workers, from land is a stark expression of the changed climate under the administration of President Oscar Berger. Violent evictions have tripled under Berger's government. In August, after a fact-finding mission to Guatemala, Amnesty International urged the Guatemalan government to suspend evictions, arguing that the suspension of evictions and genuine agrarian policies were the keys to solving land conflicts. Amnesty International referred to "the almost systematic destruction of belongings and domestic goods and the burning of homes during evictions." Amnesty also noted "the inadequate response of the Public Prosecutor's Office, which often brings charges of 'usurpation' and aggravated 'usurpation' in a mechanical, rapid and systematic way, resulting in warrants for the arrest and eviction of hundreds of families from lands they have often occupied for generations."

The violent evictions continued through the fall, one ending in death. On November 10, some 500 National Civil Police officers, supported by 50 army soldiers, evicted 3,000 campesinos from the Santa Gertrudis *finca* (large farm), in Jalapa. The campesinos held an official title to the land, dating from the nineteenth century, but the *finca* owner held more recent titles. During the eviction, the campesinos' huts and belongings were burned, and one campesino, Tomás López Jiménez, was shot to death, while another was disappeared. No one has been charged for López's death or for the disappearance. Four police officers were injured during the eviction, and fifty-five campesinos accordingly were arrested and sentenced to prison for attempted murder, aggression, injury, and aggravated usurpation.

ATTACKS ON HUMAN RIGHTS DEFENDERS

Attacks on human rights defenders have increased dramatically this year. Between January 1 and October 21, there were 214 attacks on human rights defenders, according to the Unity for Protection of Human Rights Defenders (UPD) in Gua-

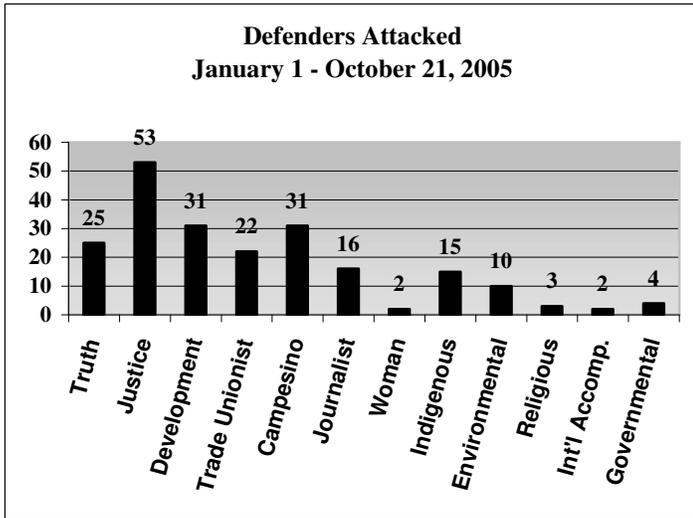
temala. By contrast, in 2003, the most violent year of President Alfonso Portillo's administration, 125 attacks on human rights defenders were reported. By July 2005, the number of attacks on human rights defenders had surpassed the annual totals of each of the past five years. (See graph 1.)



Human rights defenders pressing for the prosecution of crimes, especially atrocities committed by the army or civil defense patrols during the internal armed conflict, have faced sustained intimidation. Members of the Forensic Anthropology Foundation of Guatemala, the National Coordinating Committee of Guatemalan Widows, and the Mutual Support Group were threatened for their work exhuming victims of massacres buried in clandestine graves throughout the country. Witnesses and plaintiffs in legal cases have been threatened. Lawyers and judges working on cases of state-sponsored violence and corruption received threats as well, and at times the threats were realized. By August 5, eight judiciary workers had been murdered, and the Court of Crimes Against Justice Operators had received seventy-five reports of attacks on justice operators. According to the UPD, attacks on defenders of the right to the truth and justice accounted for thirty-seven percent of the total number of attacks.

As in past years, journalists were targeted. According to Journalists Watch, of the news agency CERIGUA, thirty-one journalists were attacked in the first nine months of the year. In a May 27 statement, the Association of Guatemalan Journalists

noted that in many cases, public officials who did not agree with the content of the journalist's reporting were behind the attacks. Police officers at times were directly involved. In one such case, Selvin Espinoza, the correspondent for *Prensa Libre* in Totonicapán, was detained on June 3 by two National Civil Police officers, who handcuffed him, beat him, and threatened to kill him. The categories that suffered the most dramatic increase in attacks were campesinos, unionists, and members of development and environmental organizations. Forty-three percent of the attacks in the first ten months of this year were directed at these categories. (See graph 2.)



The attacks in many cases follow a pattern: the government or other powerful sectors support a particular policy or project; people voice opposition; and those opponents are threatened, physically assaulted, prosecuted on false charges, or shot to death.

“This situation is nothing new; it’s just getting worse,” the Myrna Mack Foundation asserts. “The state apparatus has historically been selective about whom it serves and protects, and the demands of people who participate in social movements continue to be ignored. The only new aspect is that these people are also suffering criminal persecution, police abuse, and jail for even expressing their claims.”²

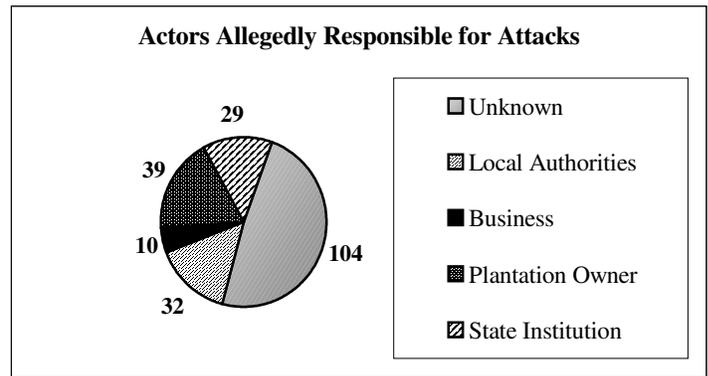
IMPUNITY

Analysts in Guatemala at organizations such as the UPD and the Center for Human Rights Legal Action believe the attacks on human rights activists can be divided into two categories: those that are related to local issues (for example, mining, land struggles, labor conflicts, and the tracking of local government corruption); and those that are related to broader, national issues, such as CAFTA and the struggle against impunity. When attacks are linked to local issues, paid hit men and even police officers and public prosecutors tend to be the ones who carry out the attacks. When human rights violations are related to issues of national importance, they tend to be carried out by clandestine security forces with broad intelligence capacities.

In a large number of cases, perhaps the majority, the

instigators of the attacks are either known, suspected, or could be easily investigated. The UPD investigated 214 attacks on human rights defenders and found that the defenders were unaware of the origin of the attack in only forty-nine percent of the cases. In the other fifty-one percent, the victims could easily surmise who the instigators were.

In fifteen percent of the attacks, a local authority or a clearly recognized local power was presumed to be responsible. In fourteen percent of the cases a state institution was responsible, primarily when the attack on a defender took the form of a frivolous law suit filed to stifle dissent. In eighteen percent of the cases a *finca* (plantation) owner or administrator is believed to be responsible for the attack. Human rights organizations in Guatemala have criticized the Public Prosecutor's Office for failing to investigate even these cases, which involve relatively clear suspects and motives.



On October 5, the Presidential Human Rights Commission (COPREDEH) issued a report on the situation of human rights defenders, asserting that the majority of the attacks are carried out by clandestine security forces and illegal parallel groups. Some human rights groups found the assertion to be facile but welcomed the recognition that human rights defenders were suffering attacks and clandestine groups were indeed operating and needed to be combated. Too often the government has dismissed attacks on human rights defenders as common crime.

“It is an error to assert that the attacks are all coming from the clandestine structures that cannot be identified,” the UPD said in an October 21 human rights report. “At the same time, one cannot assert, simply, that the attacks are the product of common crime. The verification processes that the UPD uses are aimed at discarding the cases of common crime, and in unclear cases, we only list a case if there were prior warnings or threats or if the issue the defender was dealing with was highly sensitive and the attack matched a more general pattern.”

COPREDEH reportedly has offered to create a new version of the Commission to Investigate Illegal Bodies and Clandestine Security Apparatuses (CICIACS), but the announcement has sparked little hope among human rights defenders; similar promises have been made before. COPREDEH also has written a few documents detailing plans to protect human rights defenders, but many of the concrete measures seem to be geared toward protecting judges and involve the issuing of bullet-proof vests

and land and air vehicles. “We believe it is urgent and necessary to develop a clear, simple, and realistic policy of protection,” the UPD said. “The broader policies of strengthening the state should be developed, not just to protect human rights defenders, but also to address the grave situation of insecurity and of impunity that affects the common citizen.”

The need for protection for the common citizen is clear. In the first eight months of this year, 458 women were brutally murdered, on average two a day. Of the 1,897 women murdered between January 2001 and July 2005, fewer than twelve perpetrators have been successfully prosecuted. Social cleansing—ridding society of “undesirable elements”—is suspected in some cases, for example, when female sex workers are murdered. Other victims of social cleansing are street children, as well as suspected thieves and members of gangs. Members of the security forces, according to the Human Rights Procurator’s Office, are believed to be involved in the social cleansing. According to reports, suspected gang members have been beaten to death by police officers. Elements of the security forces, the Procurator’s Office notes, may not be taking their orders from the government, but the tactics used—torture, the coup de grace shot to the head, and strangling with a tourniquet—closely resemble methods used by the death squads during the war.

A NEW TACTIC: PROSECUTION

Use of the justice system as a means to intimidate and threaten human rights defenders and social activists has emerged recently as a primary tactic of repression. The International Commission of Jurists, after an August 2005 visit to Guatemala, noted with concern the Guatemalan government’s “use of criminal justice with the aim of restricting social protest.” This year arrest warrants have been requested for more than ninety human rights defenders and social leaders. A full list of these is available from GHRC/USA. The examples that follow give a general idea.

Chixoy Dam Protest— The 1975-1985 Chixoy Dam project was funded and overseen by the World Bank and the Inter-American Development Bank, in partnership with the military regimes controlling Guatemala at the time. Repression related to the construction of the dam included the massacre of over 400 children, elderly, women, and men, forced displacements from home and community, loss of land, and more. On September 7, 2004, over 1,000 members of Mayan-Ach’i communities forcibly displaced by the dam project demonstrated peacefully at the site of the dam, protesting the lack of reparations for human rights violations and losses incurred during the dam’s construction. On September 8, the communities peacefully ended the protest after representatives of the State Electricity Institute (INDE) and other government authorities signed an agreement with the communities to set up a “discussion table” to assess the damages and losses caused by the dam.

On September 14, however, INDE representatives who had pledged to dialogue instead filed a complaint with

the Public Prosecutor’s Office, charging the community leaders with making threats, causing bodily harm, false entry into the offices of the State Electricity Institute, actions against public services, and threatening the internal security of the nation. In January, Carlos Chen Osorio, the leader and negotiator for the communities, was arrested on those charges. Although he was conditionally released later that same day, the charges against him were not dropped. Antonio Vásquez Xitumul, another community leader, was arrested and held for approximately thirty hours. On February 16, the remaining seven community leaders presented themselves to a judge in Cobán. According to the police report, the demonstration was nonviolent and resulted in no criminal damage. Nonetheless, all nine are now under “restriction orders”—they must present themselves to their local magistrates every fifteen days for the duration of the investigation.

CAFTA Protest—Leaders of a Central American Free Trade Agreement (CAFTA) protest in Guatemala City were threatened with arrest on March 14, although they had apparently broken no laws. They fled to the offices of the Labor and Popular Action Unity, where they were surrounded by police who threatened to arrest everyone inside. When the officers left, saying they were going to get arrest warrants, leaders sought refuge in the office of Human Rights Procurator Sergio Morales. The harassment continued there. Police officers on twenty motorcycles, led by a police car, circled the procurator’s office building continually, sounding sirens. The procurator requested writs of habeas corpus for forty-seven of the leaders to guarantee their safety. Together with Monsignor Rodolfo Quezada Toruño, Morales finally secured the leaders’ safe passage out of his office by negotiating with Vice President Eduardo Stein and Interior Minister Carlos Vielmann.

BREAK-INS

Break-ins, or raids, are not a new tactic—during the internal armed conflict they were used by military intelligence to intimidate human rights and union organizations and to gather crucial information through the theft of documents and files. The new element this year, however, is the dramatic rise in their use. Under Alfonso Portillo’s administration, an average of seventeen break-ins per year were carried out. In the first ten months of this year, twenty-six break-ins occurred. Evidently, the break-ins were not random. A pattern of multiple raids carried out in a short time period against organizations working on the same issue emerged. This pattern first became clear in late January and early February, when several organizations supporting indigenous rights were raided. Guatemalan human rights analysts believe the break-ins were related to the protests against mining in Sololá. The offices included the Indigenous Women’s Defense Organization, raided on January 30; Rights Action, on January 30; the Maya Defense Organization, on February 2; and the National Council of Mayan Education, on February 3.

In May another spate of raids occurred, this time

linked to CAFTA. Between May 8 and May 12, as Guatemalan President Oscar Berger was in Washington, DC, promoting CAFTA, break-ins occurred at eight organizations in Guatemala that had been vocal opponents of CAFTA. On the night of May 8, the headquarters of the National Coordinating Committee of Campesino Organizations (CNOC) was raided. Fifteen computers containing vital information about the work of CNOC and its members were stolen, while other valuable equipment was left behind. Following the raid, CNOC moved into the offices of the Guatemalan Institute of Comparative Studies in Criminal Science. On May 11, CNOC's new headquarters were raided.

Break-ins also occurred at the General Confederation of Guatemalan Workers and the Confederation of Labor Unity of Guatemala. The home of a member of the Coordinating Committee of NGOs and Cooperatives was also raided, and clear signals of intimidation were left.

On the night of May 11, intruders entered the offices of Children for Identity and Justice against Oblivion and Silence (HIJOS), searched the files, and stole photographs and two computers. They left behind a laptop which, being new, had no information on the hard-drive. HIJOS members aim to recover the historical memory of their relatives killed or disappeared by the army during the armed conflict. HIJOS had also been in the front lines at protests against CAFTA.

In a press release, Amnesty International stated, "The new wave of raids against the work of social and human rights organizations brings to light an organized campaign by clandestine groups to obtain intelligence on the work of human rights defenders and social activists who threaten certain political interests."

On May 24, concerned about the increasing attacks, human rights and social organizations met with high-level government representatives. In a statement, the organizations said,

[B]ehind the acts of violence perpetrated against social organizations and their leaders, against human rights defenders, judicial personnel, journalists, members of the church, and other sectors are illegal bodies or clandestine apparatus linked to the security forces, particularly military intelligence, as well as with organized crime and certain business sectors. . . . [A] high percentage of the attacks show indications of having been carried out by structures that, over time, have perfected the use of methods and techniques of intelligence, operate with a complex division of labor, and enjoy access to resources and impunity. These are structures that could not likely be outside of the state apparatus, or compete with the state apparatus, or be totally outside of the knowledge of the state. ³

The human rights organizations demanded an immediate investigation of the attacks against them and a full report on the government's actions to investigate, dismantle, and prosecute the clandestine structures operating in Guatemala. The government promised to answer within a week but responded more than a month later, after fifty-four more attacks had occurred. Human rights defenders found the government's answer lacking, both in

concern and in "practical responses that truly combat the attacks on human rights defenders."

The attacks continued. Many were threats—in total, threats accounted for thirty-two percent of the attacks reported in the first ten months of this year. But more violent methods of silencing dissent were also employed.

MURDERS

From January 1-October 21, four human rights defenders were murdered.⁴

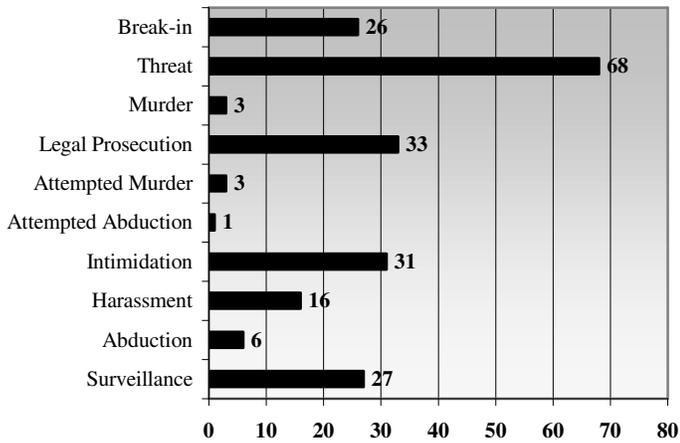
Security forces opened fire on protesters in Sololá on January 11, killing Raúl Castro Bocel. The protesters were blocking a truck carrying mining equipment to a gold mine in northern Guatemala. The truck was escorted by approximately 800 army soldiers, accompanied by a similar number of police officers, armed with combat gear and flanked by an armored vehicle. The protesters opposed the project in part because they had not been consulted, as required by Convention 169 of the International Labor Organization. Along the route during the day they threw bottles and stones. As night fell, the security forces opened fire. No police officers or army personnel were suspended, investigated, or prosecuted for the killing. The only arrest warrants issued were for five leaders of the protest.

Security forces opened fire on a CAFTA protest on March 15 in Colotenango, Huehuetangango. At least seven people were injured. José Sanchez Gómez, a teacher, was wounded so badly that his leg had to be amputated. Juan López Velásquez, a member of the Campesino Unity Committee, was dragged into an alley by police officers. According to eye-witnesses, as well as forensic information, he was beaten by the officers and then executed with a shot to the back of his head at point-blank range.⁵

Alvaro Juárez, director of the Association of the Displaced of the Petén, was assassinated on July 8 by heavily armed men who came to his house in San Benito, Petén, as he was eating dinner with his wife. The Association of Displaced of the Petén is a member of the Alliance for Life and Peace, a network of organizations that had been carrying out campaigns against CAFTA and against the construction of hydroelectric dams in the Petén.

Harold Rafael Pérez Gallardo was shot to death by an unidentified man at 9:30 A.M. on September 2 in Guatemala City. Pérez was advising Casa Alianza on several pending cases involving irregular adoptions, murders, sexual exploitation, human trafficking, and other human rights violations against children.

**Attacks on Defenders by Type
January 1 - October 21, 2005**



INTERNATIONAL RESPONSE

As the human rights situation in Guatemala steadily worsens, international pressure has varied. The European Parliament on July 7 issued a resolution expressing concern about increased attacks on human rights activists and noting that “legal personnel and members of state monitoring bodies are still being murdered.” In contrast, the new US ambassador to Guatemala, James Durham, implied that he would be reluctant to criticize the Guatemalan government publicly.⁶ He said human rights would occupy the second tier of US government concerns because it was a more gradual, long-term process that depended on judicial reform and the strengthening of other civil institutions. In his list of top-tier concerns, judicial reform and the strengthening of civil institutions did not figure, however. The issues the US wanted to work on immediately, he explained—the first-tier issues—would be migration and the implementation of CAFTA.

ENDNOTES

1. The UPD is part of the National Human Rights Movement. The graphs and statistics in this report are from the UPD. Previous reports by the UPD can be found on the website of the Center for Human Rights Legal Action (www.caldh.org/analysis).
2. “The United States Find the Groundwork Laid,” by the Myrna Mack Foundation, published in *Revista Envío*, June 2005.
3. Formal letter to the Vice President of the Republic of Guatemala from various social organizations, Guatemala, May 24, 2005.
4. The UDP counts three murders of human rights defenders in 2005, defining defenders as members of an organized group. Raul Castro Bocel, who was not affiliated with a group, was therefore not counted. GHRC defines “defender” to mean those acting to defend their rights and the rights of others, in this case the right to a clean environment, the right to be consulted, and the right to protest.
5. The Labor and Popular Action Unity (UASP) has filed a law suit on behalf of his family, charging the Guatemalan President, Minister of Defense, Minister of the Interior, and Chief of Police with extrajudicial execution. Both Nery Barrios, the leader of UASP, and Walter Robles, the attorney in the case, have received serious death threats as a result. No action has been taken to investigate or suspend the officials named in the suit.
6. Remarks made in a June 29 meeting with GHRC staff and other human rights defenders in Washington, DC.



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Founded in 1982, the Guatemala Human Rights Commission/USA is a nonprofit, nonpartisan, humanitarian organization that monitors, documents, and reports on the human rights situation in Guatemala, advocates for and supports survivors of the abuses, and works toward positive systemic change.