

insisted was exceptional. "We have no reason to see [the sales] as a policy shift, rather as something that happened because of a hurricane that doesn't happen every month in Cuba," explained Cuban Vice-President Carlos Lage.

In May, Senator Jesse Helms and Senator Joseph Lieberman introduced draft legislation in Congress to allocate up to \$100 million over four years to assist dissidents, opposition groups, political prisoners, and other nongovernmental voices in Cuba. The bill, known as the Cuban Solidarity Act of 2001, was criticized by some of its potential beneficiaries, who feared that receiving U.S. government aid would damage their credibility and help discredit their views. A parallel bill had been introduced in the House in March. Both versions of the draft legislation were still under review by congressional committees as of November.

A Cuban émigré, Eriberto Mederos, faced denaturalization proceedings in Florida at the end of the year. Mederos could be stripped of his U.S. citizenship because of allegations by another Cuban-American who accused Mederos of torturing him when he was a political prisoner in Cuba in the 1960s. According to the former prisoner, Mederos subjected him to painful electrical shock treatments that lacked any medical justification.

GUATEMALA

HUMAN RIGHTS DEVELOPMENTS

Aside from the successful conclusion of one landmark trial, Guatemala made little progress in addressing persistent human rights problems, with certain conditions worsening. State agents were responsible for some abuses, while others were carried out by non-state actors who were able to operate with impunity because their crimes were not adequately investigated. There were increased reports of threats and violence targeting human rights advocates, labor leaders, judges, prosecutors and journalists. Meanwhile, the army's continued influence over the civilian government was evidenced by President Alfonso Portillo's decision to postpone the dismantling of the Presidential Guard (Estado Mayor Presidencial, EMP), an elite army corps associated with past human rights violations. The 1996 peace accords had called for the dismantling of the EMP.

One positive development was the successful prosecution of those responsible for the murder of Bishop Juan Gerardi, who was bludgeoned to death in April 1998, two days after he released the Catholic Church's report on human rights abuses during Guatemala's internal conflict which ended in 1996. In June, a three-judge tribunal found retired army Col. Byron Lima Estrada and his son, army Capt. Byron Lima Oliva, guilty of murder. The two men were sentenced to thirty years in prison. Also convicted were former presidential bodyguard José Obdulio Villanueva and Roman Catholic priest Mario Orantes, who received sentences of thirty years and twenty years respectively.

A major obstacle to investigating and prosecuting human rights violations committed by the army was the intimidation of prosecutors, judges and witnesses through terror tactics. In this, the Gerardi trial was no exception. From the outset, key participants in the case were subjected to “systematic” and “planned” harassment that “intensified in the key procedural moments” of the trial, according to the United Nations Verification Mission in Guatemala (Misión de Verificación de las Naciones Unidas en Guatemala, MINUGUA). One judge, one prosecutor, and several witnesses fled the country before the trial got underway after receiving death threats. In January, Luis García Pontaza, a potential defense witness with links to organized crime, was found dead in a Guatemala City jail. Prior to his death, he told MINUGUA that he had resisted pressure from the EMP to testify that certain individuals linked to the Catholic Church had been involved in the Bishop’s murder. One of the trial judges, Yasmín Barrios Aguilar, reported that two strangers attempted to break into her home a week before the trial and on March 21, the day before the oral debate was scheduled to begin, grenades were exploded at the back of her home. The special prosecutor for the case, Leopoldo Zeissig, reported receiving anonymous telephoned threats and being tailed by strangers. After the trial concluded, he fled the country, as did another witness.

While the trial’s outcome represented an enormous advance for the country, there was little or no progress made in several of the other high-profile human rights cases before the Guatemalan courts. The prosecution of soldiers implicated in the 1995 massacre in Xamán, department of Alta Verapaz, remained in its preliminary stages six years after the crime, and there were no advances in the prosecution, begun in 1994, of soldiers accused of perpetrating the 1982 massacre in Dos Erres, department of Petén. After years of delay the trial of military officers accused of ordering the 1990 assassination of anthropologist Myrna Mack was set to begin in October 2001.

Impunity also remained a serious problem in less prominent cases. MINUGUA documented hundreds of human rights abuses during the year, the majority of which it attributed to the failure of government authorities to investigate and punish the perpetrators adequately. One case that exemplified this pattern of failure involved the family of retired Gen. Otto Pérez Molina, who had helped to negotiate the 1996 peace accords and was preparing to launch a new political party. In November 2000, unknown assailants in an automobile shot and wounded his daughter-in-law. Then, in February 2001, assailants attacked and wounded his daughter and, moments later, shot and killed the driver of a car traveling next to one his wife was driving. Yet, the authorities mounted no serious investigation into the case, failing even to take testimony from an army officer who witnessed the fatal attack. The general’s family left the country for their own safety. Francisco Arnoldo Aguilar, whose wife was the driver killed in the February attack, pressed for an official investigation and urged the creation of a citizens’ group to combat impunity. In May, however, he was assassinated in front of his home in circumstances that, MINUGUA said, ruled out robbery as a motive. The authorities nonetheless insisted that it was a common crime.

The authorities also failed to take strong action against anti-union violence that undermined workers’ right to freedom of association. In March, twenty-four men

were tried for a 1999 incident in which five leaders of the Union of Banana Workers of Izabal (Sindicato de Trabajadores Bananeros de Izabal, SITRABI) were held at gunpoint, ordered to quit the union and their jobs, and call off a planned work stoppage in protest against the firing of 918 banana workers in violation of a collective bargaining agreement. They were indicted on lesser charges of false imprisonment and coercion, however, rather than for kidnapping or other crimes that carry a mandatory prison sentence. All but two were convicted; they received three-and-a-half year prison sentences but these were immediately commuted upon payment of fines. With these men again at large, the five SITRABI leaders feared for their safety and that of their families, and fled the country.

The absence of effective law enforcement and the high incidence of common crime contributed to a climate of insecurity, and the continued use of lynching as a form of vigilante justice. MINUGUA documented eighty-eight lynchings between July 2000 and June 2001, resulting in thirty-seven deaths. Local authorities often played a role in inciting and perpetrating lynchings.

Officers of the National Civilian Police (Policía Nacional Civil, PNC) were responsible for numerous human rights violations, including extrajudicial executions and torture, and for obstructing justice. In October 2000, Rolando Barillas Herrera was detained by two PNC agents in Gualán, Zacapa, brought to a station, and put in cell at midnight. At 5:00 a.m., Barillas was found dead from asphyxiation. A forensic exam found signs of beating and ruled out suicide. Yet, a year later, government investigators still had not identified those responsible for the killing. In April 2001, the PNC detained Julio Alberto Casasola and William Cotom Rodas in Quetzaltenango, having allegedly caught them in the process of stealing a car. The two were tortured and then transferred to a prison. The next day, Casasola was brought to a hospital where he died as a result of the blows he had received from the police.

There was a marked increase in threats made against people who challenged the actions of public authorities. In March, the president of the Constitutional Court, Judge Conchita Mazariegos, reported that she had received threatening phone calls and that shots had been fired at her house. Earlier that month, the Constitutional Court had lifted the immunity of members of Congress, including Gen. Efraín Ríos Montt, so that they could face prosecution for illegally altering the text of a law after it had been voted on by Congress. Three days before the attack on Judge Mazariegos's home, the court had ruled unconstitutional a decree passed by General Ríos Montt's party that would allow him and his colleagues to retain their congressional seats during their prosecution.

Also in March, several members of Congress who defected from the ruling Guatemalan Republican Front party (Frente Republicana Guatemalteca, FRG), reported being subject to threats and acts of intimidation. These politicians had joined the opposition National Unity of Hope party (Unidad Nacional de la Esperanza, UNE). The UNE's offices had previously been raided in August 2000 by people who stole documents and left threatening messages behind.

One journalist was killed; others harassed and threatened, apparently to influence their reporting. Radio journalist Jorge Mynor Alegría was assassinated by unknown assailants in September in the port city of Puerto Barrios, department of

Izabal. A colleague said that before his killing Alegría had rejected an attempt by local municipal authorities to bribe him to stop criticizing local corruption in his broadcasts. Other journalists received threats, including Claudia Méndez Villaseñor of *El Periódico*, who reported receiving telephone threats from two government officials in January when she was investigating alleged government corruption. In March, Silvia Gereda and Martín Juárez, two other *El Periódico* journalists reported receiving death threats and being assaulted. Juárez told MINUGUA that a car followed him for two hours before he was intercepted and forced to stop by another car, whose occupants then got out and pointed a gun at his head and threatened to kill him. The same month, Gustavo Soberanis of *Siglo XXI*, was threatened with a firearm by the comptroller of the president's office (*Contralor General de Cuentas*) when he tried to interview him about its expenses. Journalists in the departments of Zacapa, Quetzaltenango, and Chiquimula also reported receiving death threats. In June, the Public Ministry created a Special Prosecutor's Office for the Protection of Journalists and Unionized Workers (*Fiscalía Especial para la Protección a Periodistas y Sindicalistas*).

Union leaders also continued to be subject to threats. In February, union leaders who organized a work stoppage in the Puerto Barrios harbor received threats and were later fired. In May and June, union leaders in two Izabal banana plantations were also subject to firings and death threats. And during the year, union members were threatened and subject to discriminatory firing by municipal mayors in several towns throughout the country.

Discrimination remained a problem for indigenous people who made up roughly half the country's population. They faced unequal access to education, justice, health and other government services. According to MINUGUA, the government's record with regard to implementing the 1996 peace accords was particularly poor in the area of indigenous people's rights.

Guatemala continued to violate its international treaty obligations in its application of the death penalty. In November 2001, twenty-eight prisoners were on death row. Thirteen of them had been sentenced for kidnappings that did not result in death, a crime that was not a capital offense when the American Convention on Human Rights entered into force. Because the American Convention prohibited extending the death penalty to cover additional crimes, Guatemala's Constitutional Court ruled in October 2000 that the laws extending the death penalty to non-fatal kidnappings violated Guatemala's obligations under the Convention. In June, however, a newly constituted court overturned that earlier ruling.

In October 2000, Guatemala ratified the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights.

DEFENDING HUMAN RIGHTS

In 2001, Guatemala experienced an alarming rise in the number of threats and incidents of harassment and targeted violence against human rights advocates.

MINUGUA documented 171 such cases between July 2000 and June 2001 and concluded that they were the result of “systematic action.”

In November 2000, the Rigoberta Menchú Foundation received threats in the days leading up to a ruling by Spain’s highest court (the Audiencia Nacional de España) on a genocide case that the foundation had brought before it. In May, two members of the organization Relatives of the Detained-Disappeared of Guatemala (Familiares de Detenidos-Desaparecidos de Guatemala, FAMDEGUA) were assaulted outside their Guatemala City office. Two armed men forced their way into their car and interrogated them about the organization’s work while driving them around the city, before releasing the two FAMDEGUA activists and escaping in their car. The Center for Studies, Information and Basis for Social Action (Centro de Estudios, Investigación y Bases para la Acción Social, CEIBAS) reported that its office was repeatedly burgled between February and May, and the Association for Justice and Reconciliation (Asociación Justicia y Reconciliación, AJR) reported that its president was attacked and wounded by a man with a knife, who threatened him and other witnesses in a criminal complaint that the organization had brought against General Ríos Montt and other former military commanders for genocide and crimes against humanity. In June, an Amnesty International representative undertaking research on human rights in Guatemala was the victim of an apparent abduction attempt by unidentified assailants in her Guatemala City hotel.

THE ROLE OF THE INTERNATIONAL COMMUNITY

The international community continued to play a prominent role in monitoring the Guatemalan government’s compliance with the 1996 peace accords and with international human rights norms. The United Nations and the Organization of American States provided mechanisms to which Guatemalans could denounce human rights abuses by the government. The United States also monitored Guatemala’s human rights record, though its responses to this record varied, with the Senate penalizing its shortcomings while the United States Trade Representative rewarded its perceived gains.

United Nations and the Organization of American States (OAS)

The United Nations verification mission, MINUGUA, continued its institution-building activities as well as playing a central role in monitoring compliance with the peace accords. MINUGUA’s reports contained detailed human rights analyses and indicated that significant aspects of the accords remained unimplemented. In September, MINUGUA issued a human rights report for the period July 2000 to June 2001, and at other times it issued communiqués on specific human rights abuses.

The U.N. special rapporteur on the independence of judges and lawyers, Param Cumaraswamy, visited Guatemala in May and found that the climate of insecurity for members of the legal community continued to undermine the rule of law. He

noted that recommendations he made after a 1999 visit had been largely ignored by government authorities.

In November 2000, the Committee against Torture expressed concern about a “deterioration” of the human-rights situation in Guatemala, and recommended, among other things, that independent commissions be established to monitor the performance of the police and to investigate cases of kidnapping and “disappearances.”

In May, the Committee on the Rights of the Child met with the Guatemalan government to discuss its implementation of the Rights of the Child. The committee expressed concern that violence against children was increasing in Guatemala and urged the government to adopt legislation that would protect the children’s rights.

In July, the Human Rights Committee, responding to a report submitted by the Guatemala government, commended Guatemala for providing resources for human rights institutions, yet expressed concern at ongoing “glaring and systematic violations.” It recommended that the Guatemalan government give priority to investigating and bringing to justice the perpetrators of human rights violations.

The Inter-American Commission on Human Rights issued four case reports on Guatemala. In one, it urged the government to reform provisions of the civil code that imposed unequal spousal and familial obligations on women and men. In the other three, it called for the government to investigate and punish extrajudicial executions, forced disappearances and other serious human rights violations committed by the security forces during the 1980s and 1990s, and to compensate victims’ families.

United States

In July, the United States Senate voted to maintain a ban on regular military training and funding for Guatemala’s military. The report that accompanied the Senate foreign operations bill cited the Guatemalan government’s failure to dismantle the EMP and to address the deteriorating human rights situation.

In October 2000, the United States Trade Representative (USTR) took the unprecedented step of initiating a review of Guatemala’s status as a beneficiary of the U.S. Generalized System of Preferences (GSP) largely in response to the failure of government authorities to adequately punish anti-union violence. A review examines a country’s compliance with certain internationally-recognized workers’ rights to determine its eligibility for GSP tariff benefits. In May 2001, the Bush administration’s new USTR lifted the review of Guatemala’s beneficiary status, citing as positive government steps the reinstatement of illegally dismissed banana workers, and the conviction of the twenty-two gunmen involved in the October 13, 1999 incident. In fact, the banana workers’ reinstatement was the result of a negotiated settlement between the workers and management not governmental intervention.