

Guatemala

Open Letter from Amnesty International to Guatemalan Presidential Candidates for the September 2007 Elections

29 August 2007

Amnesty International (AI) is a worldwide movement of over 2.2 million people who campaign for internationally recognized human rights. AI's vision is of a world in which every person enjoys all of the human rights enshrined in the Universal Declaration of Human Rights and other international human rights standards.

AI has always valued open and constructive communication with authorities and decision makers around the world. In Guatemala, the organization has been documenting the human rights situation and making recommendations to successive governments for more than forty years. It is in this spirit that Amnesty International now turns to you, the Presidential candidates, to engage with you on the human rights issues affecting Guatemala.

Human rights concerns affect all areas of life in Guatemala. Although specific human rights concerns have fundamentally changed since the end of the internal armed conflict in 1996, serious issues remain largely untackled: respect for the rule of law, impunity, torture, violence against women and discrimination against indigenous peoples, among others. Without a strong and healthy respect for human rights Guatemala will continue to face the current crisis in areas of public security, administration of justice, poverty and exclusion based on gender and ethnicity.

To address these issues Guatemala needs resources, innovative and inclusive policies. The government of Guatemala's concrete political will remains, however, the first and foremost requirement if the current human rights concerns in the country are to be successfully addressed. Without the real political will of the office you aspire to, real change in Guatemala will be slow and difficult. As Presidential candidates AI calls on you to expressly commit yourselves to demonstrating in practice the political will necessary to address human rights concerns.

In 1998 the UN-sponsored Commission for Historical Clarification (CEH) concluded that over 200,000 people were forcibly disappeared or killed during the internal armed conflict which ended in 1996. Widespread rape, torture and acts of genocide perpetrated against Indigenous peoples were also documented by the CEH. Of the victims it could document and identify, 83 per cent were of Mayan origin. Some 93 per cent of human rights violations were attributed to government forces. Despite these facts there have been few satisfactory prosecutions of those responsible for perpetrating human rights violations during the internal

armed conflict and the whereabouts of most of the adults and children who were forcibly disappeared still remain unknown.

It is in this context that the legacy of the internal armed conflict continues to be most present in modern day Guatemala. The failure to hold to account those responsible for past extrajudicial executions, rape, torture and forced 'disappearances' is linked to the present human rights situation: the freedom with which clandestine groups (criminal networks that have infiltrated many state institutions) operate, the *de facto* impunity perpetrators of human rights violations enjoy and the consistent attacks against human rights defenders. These problems are the result of the failure of successive governments to hold to account those accused of committing human rights violations, to combat impunity, to strengthen the rule of law and to make the respect and defence of human rights a priority.

Over the last few years, the situation of public security has deteriorated with higher and higher murder rates being reported by the police. In this context, agents of the security forces have been accused of carrying out extrajudicial executions and torture. Reports from local organizations and international bodies, including the United Nations, have made credible and substantiated allegations that members of the security forces are implicated in cases of torture and extrajudicial execution of those they deem to be criminals or members of youth gangs, including minors. These serious allegations, sometimes referred to as "social cleansing", require the immediate attention of the authorities.

Within the context of the public security crisis, AI has repeatedly expressed its concern over the number of women killed in Guatemala and the manner in which they are killed. Many cases of women killed continue to show signs of sexual violence, torture and exceptional brutality, including mutilation. According to police records, 581 women were killed in 2006. Despite repeated calls from the UN international treaty monitoring bodies to improve key areas in the prosecution and investigation of the killings (such as the collection of forensic evidence and the elimination of gender bias in the investigations) and the treatment of surviving relatives (such as terminating the practice of focussing on the sexual history of the victims), little progress has been made.

Human rights defenders are sometimes considered a 'barometer' of the general human rights situation: the freedom with which they are able to conduct human rights work is indicative of the degree of respect for human rights within a country. In Guatemala, year on year there are large numbers of reports of threats and intimidation against human rights defenders. In 2007 AI has received reports of at least two human rights defenders being killed, together with two of their relatives. In addition, there has been at least one attempt to kill two other defenders. AI considers it imperative that the next President of Guatemala commits to ensuring protection for defenders and freedom to carry out their legitimate human rights work.

AI has continuously expressed its concern over the incidents, threats and acts of intimidation which human rights defenders have suffered over the years. According to local organizations there have been approximately 577 incidents against human rights defenders between 2004 and 2006, and another 136 in the first six months of 2007. These incidents have taken the form of killings, threats (delivered by telephone and in written notes), break-ins into offices of human rights organizations and surveillance.

The existence and operations of clandestine groups embedded in the State apparatus is widely accepted. These groups openly flout the rule of law and have a knock-on effect on the administration of justice, as their freedom to act with impunity is unchallenged. Despite repeated assurances from the current government that it would tackle impunity, strengthen the rule of law and combat clandestine groups, such assurances have so far resulted in no significant progress.

The ratification of the International Commission Against Impunity in Guatemala (Comisión Internacional contra la Impunidad en Guatemala, CICIG) on 1 August 2007 is an important step for Guatemala that must be followed by immediate and effective cooperation and support by the government to ensure the Commission is able to set up with full powers and without further delay.

Another legacy (and cause of) the internal armed conflict is the high degree of land concentration coupled with high levels of rural poverty and the socio-economic exclusion of Indigenous peoples (who mostly live in rural areas). In this context disputes over the tenancy and ownership of land are widespread as are the human rights violations associated with them.

Since 2004, AI has received reports of more than 85 evictions have taken place in rural areas. Forced evictions have been recognized by the UN Commission on Human Rights to be a gross violation of human rights. AI has already called on the government to place a moratorium on forced evictions until non-violent mechanisms for dispute resolution are put in place. The organization now calls on the Presidential candidates to commit to such a moratorium.

The various issues raised above give cause for much concern for the human rights situation in Guatemala. In turn, national and international non-governmental human rights organizations have produced a large body of research which substantiates these concerns. The organizations, including AI, have also made recommendations aimed at addressing specific policies, practices and legislation.

During the electoral period AI urges the Presidential candidates to commit to implementing these recommendations should they succeed in obtaining office. These recommendations are aimed at contributing to improving the rule of law and respect for human rights in Guatemala.

The implementation of these recommendations will require financial, legal and political initiative to ensure they succeed. These elements are in second place to the political will that is necessary of the candidates and future President in order to ensure they are implemented and for human rights to be respected in Guatemala.

AI expresses its desire to continue communication with you and hopes the future government of Guatemala will be willing to engage with the organization in constructive and open dialogue.

On the Peace Accords and recommendations of the CEH:

- Review the Government's implementation of the Peace Accords to date and set an agenda for the implementation of the remaining accords.

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On impunity and the administration of justice:

- Present and support a legislative agenda which seeks to ensure the effective functioning of CICIG.
- Address the investigative and prosecutorial deficiencies in the administration of justice by setting out a timetable for the full implementation of all outstanding recommendations made by the United Nations, in particular by the Special Rapporteur on the independence of judges and lawyers, Dato' Param Cumaraswamy, in his 2001 report.

On the public security crisis:

- Ensure effective and independent judicial investigations into all reports of torture and extrajudicial executions by members of the security forces of minors or so-called criminal suspects.
- In line with the recommendations of the UN Committee Against Torture, end the practice of joint patrols and ensure that the armed forces do not have a role in internal security.
- Ensure that all state agents linked to human rights violations, in particular agents of the National Civilian Police (Policía Nacional Civil, PNC) and the Public Prosecutor's Office are suspended from active duty pending full investigations.

On human rights violations that occur in the context of land disputes:

- Ensure that the government adopts measures aimed at creating a non-violent conflict resolution mechanism for disputes over land.
- Place a moratorium on forced evictions until a proper mechanism for the peaceful resolution of disputes is in place.
- Ensure that excessive force is not used during forced evictions, and that proper training relating to evictions is provided to the police (using for example, UN Basic principles on the use of force and firearms by law enforcement officials).
- Present and support a legislative agenda which seeks to suspend the Law of Supplementary Titles, modify articles of the Labour Code relating to labour entitlements, and modify articles of the criminal code relating to usurpation.

On violence against women:

- Ensure effective cooperation amongst all state institutions responsible for preventing and resolving cases of violence against women, in particular amongst the PNC, the Public Prosecutor's Office, and, in regard to information management, the judicial system.

- Ensure the appropriate funding of the National Institute of Forensic Sciences (Instituto Nacional de Ciencias Forenses, INACIF) in order to strengthen forensic evidence on gender related killings.
- As President present and support a legislative agenda which seeks to eliminate discriminatory provisions (such as Articles 200, 176 and 177) and improve protection and respect for the rights of women.

On the protection of human rights defenders:

- Ensure that human rights defenders are free to carry out their activities without any restrictions or fear of reprisals, as set out in the United Nations Declaration on the Rights and Responsibilities of Individuals, Groups and Institutions to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms, adopted by the General Assembly on 8 March 1999.
- Ensure that reports of killings, threats, attacks and acts of intimidation against human rights defenders are thoroughly and promptly investigated.
- Ensure protection of human rights defenders by setting up appropriate measures to assess cases swiftly and effectively.

On crimes against humanity and other human rights violations committed during the internal armed conflict:

- Ensure that it is the policy and priority of the State of Guatemala that all cases of human rights violations committed during the internal armed conflict are investigated and prosecuted either in Guatemala or abroad without further delay.
- As President, and in your role as Commander-in-Chief of the Armed Forces, ensure that military documents relevant to cases of human rights violations committed during the internal armed conflict are released to domestic and foreign courts that request them.
- Ensure that witnesses, survivors and human rights defenders, judges, prosecutors and others associated with cases of human rights violations committed during the internal armed conflict are able to advance their cases in the courts free from persecution and intimidation.
- Ensure all necessary steps are taken to clarify the whereabouts of adults and children who disappeared during the internal armed conflict.