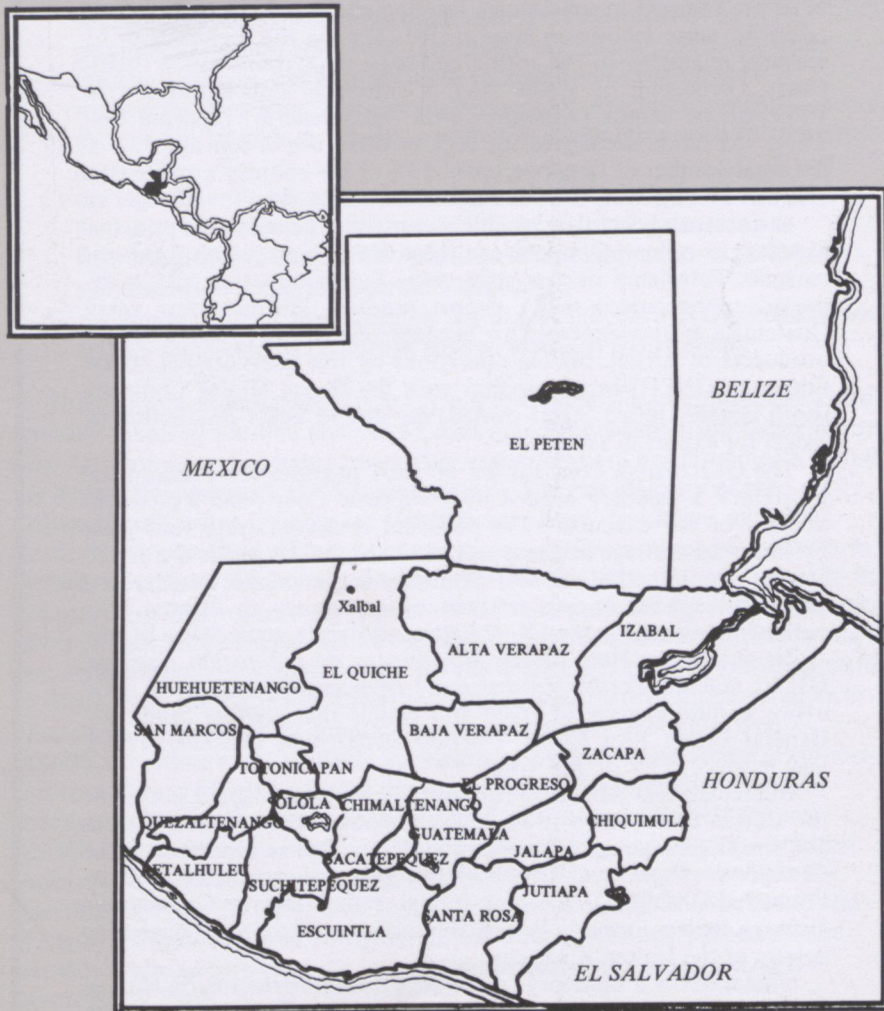

Amnesty International Briefing

GUATEMALA



December 1976

AMNESTY INTERNATIONAL BRIEFING ON GUATEMALA

ERRATA

Page 2, second paragraph, tenth line should read:
"....Carlos Castillo Armas...."

Page 2, third paragraph, third line should read:
".....Carlos Castillo Armas....."

Page 8, first paragraph, fourth line should read:
".....Article 425....."

Page 10, third paragraph, second line should read:
".....Article 79....."

Page 16, first paragraph, first line should read:
".....Officer Osorio....."

GUATEMALA IN OUTLINE

Guatemala is the most populous of the six republics of the Central American isthmus. It has a population of six million of whom 60% are Spanish-speaking *mestizos*: descendants of the country's original inhabitants and of the Spaniards who conquered it in 1524. The remaining 40% is entirely indigenous and speaks the languages of the ancient Mayas.

Approximately 75% of Guatemalans are *campesinos* (peasants). Most are engaged in subsistence farming and supplement their food crops by wage labour on large coffee farms in the highlands or by seasonal migration to the cotton and sugar plantations of the Pacific Coast. Ownership of arable land is extremely concentrated. The 1964 official census (*Segundo Censo Agropecuario*) reported that 2% of the farms accounted for 63% of this land. In contrast 87% of the total number of farms occupied 19% of the country's arable land area and averaged less than two hectares each in size.

At present agricultural products constitute Guatemala's principal exports. In order of importance these are coffee, cotton, beef and bananas. Petroleum has recently come into production and is expected to become a major export product. Within a few years, Guatemala is also expected to become one of the world's leading producers of nickel. Mining operations by the International Nickel Company (INCO) in partnership with the Hanna Mining Company (both largely United States owned) are due to begin production of nickel for export in 1977.

The Guatemalan Constitution of 1965 provides for a unicameral legislature, a judiciary headed by a Supreme Court, and a president as head of the executive. The president is elected every four years by universal suffrage and may not be re-elected. He heads the armed forces, appoints the cabinet, administers the public treasury and may issue special decrees in time of emergency or disaster. The current president, General Kjell Laugerud García, took office in July 1974 as the candidate of the *Movimiento de Liberación Nacional* (MLN) and the *Partido Institucional Democrático* (PID). He took office despite charges of fraud and claims that another candidate, General Efraín Ríos Montt, (*Partido Democracia Cristiana*, PDC), had received 53% of the vote.

Guatemala has pursued a foreign policy closely aligned to that of the United States since 1954. It is a member of the United Nations and the Organization of American States, as well as a member of the *Consejo de Defensa Centroamericana* (Central American Defence Council, CONDECA). A major foreign policy issue is Guatemala's claim to Belize, formerly British Honduras, and now a self-governing colony of the United Kingdom.

Guatemala is a signatory of the American Convention on Human Rights (1969) and is a party to the American Declaration of the Rights and Duties of Man (1948).

Guatemala

1. Introduction

The following human rights issues in Guatemala are of particular concern to Amnesty International:

- a) the incidence (almost daily) of extrajudicial executions of political dissidents, common law criminals and ex-criminals, following extralegal detention either by formally-constituted security forces or by paramilitary groups composed principally of civilians, operating with the knowledge of and at times close cooperation of government authorities. This issue at present dominates all other human rights concerns;
- b) the practice of torture, usually reported in conjunction with extrajudicial execution;
- c) the legal detention by-judicial warrant of individuals for political reasons for relatively short periods of time. Formal political detention and imprisonment has been little used since extralegal detention (abduction) and execution began to occur on a large scale;
- d) the imposition and application of the formal provision in Guatemalan law for the death penalty, although applied relatively infrequently.

The majority of extrajudicial executions in Guatemala occur after detention without a judicial warrant, and can be considered abduction under Guatemalan law. Abductions of this nature, in which neither robbery nor ransom is a motive, are known in Guatemala as "disappearances". The vast majority of the "disappeared", when located, are found to have been the victims of violent death. Many are found with signs of torture or mutilation along roadsides or in ravines, floating in plastic bags in lakes and rivers, or buried in mass graves in the countryside. Other victims are shot in their homes or in the street. The disappearances are not only a major human rights problem, but also a social problem: a volunteer organization exists to care for the destitute families of the disappeared.

Since 1966 the victims of covertly-sanctioned murders or disappearances in Guatemala are believed by Amnesty International (AI) to number over 20,000, according to all available information. Although governmental authorities have always officially denied responsibility for the problem, individual members of government have acknowledged government involvement and justified the actions as a necessary response to leftwing and common criminal violence. However, although it originated after 1966 in response to leftwing guerrilla activities in two of Guatemala's largely rural departments, Izabal and Zacapa, the massive use of extrajudicial execution continued unchecked and actually widened following the virtual elimination of the organized rural guerrillas by 1968.

The massive killings which began in the 1960's in the name of counter-insurgency, or "pacification" and anti-communism, continued unabated into the

1970's. The early 1970's also saw a renewal of a relatively high level of political violence in both rural and urban areas directed at government personnel, security forces and wealthy individuals, although never in the organized manner of the guerrilla movements of the 1960's.

2. The Political Context

From 1931 to 1944 Guatemala was governed by General Jorge Ubico who ruled as a dictator by decree and by the exercise of arbitrary authority. Following General Ubico's forced resignation in 1944, the governments of democratically-elected presidents Juan José Arévalo (1944-51) and Colonel Jacobo Arbenz (1951-54) brought substantial reforms. These included expanding suffrage, permitting the organization of political parties and trade unions, revising traditional privileges, and the introduction of economic measures aimed at ending the monopolies of foreign-owned corporations, particularly the United Fruit Company. Agrarian land reform under President Arbenz redistributed over 1,500,000 acres, much of it expropriated from the United Fruit Company.

Both these reformist governments faced denunciations both at home and abroad as being "pro-communist"; however, it was only under the government of President Arbenz that the communist party was legalized as the *Partido Guatemalteco del Trabajo* (Guatemalan Labour Party, PGT) and subsequently gained four seats in the 56-seat Congress. Although few members of the PGT held positions in the government, this participation, at the height of the "Cold War", coupled with nationalist economic and foreign policies, was cited as a reason to justify foreign intervention and the overthrow of the government. This occurred in June 1954, when a small army of mercenaries and exiles led by Carlos Castillos Armas invaded Guatemala and successfully staged a *coup d'état* in which the United States Central Intelligence Agency (CIA) played a leading role.

Following the coup thousands of supporters of President Arbenz were imprisoned and most of the reforms brought by Presidents Arévalo and Arbenz were reversed. President Carlos Castillos Armas (1954-57), and his successors General Miguel Ydígoras Fuentes (1958-63) and Colonel Enrique Peralta Azurdia (1963-66) ruled largely by decree. Although street demonstrations led by students and trade unionists occurred sporadically under these three governments, no sustained violent opposition arose until leftwing guerrilla groups appeared during the government of Colonel Enrique Peralta Azurdia.

The beginnings of official "counter-terror". By 1966 a number of guerrilla groups with a considerable popular base had begun operating throughout Zacapa and Izabal departments (provinces) in the northeast of the country, attacking police and military authorities, large landowners and the property and personnel of foreign-owned companies. Military operations against the guerrillas proved largely ineffective. As a tactical innovation in response to the growing threat from the guerrillas, official, but extralegal, repression of groups thought to be harbouring or supporting them was initiated towards the end of the administration of President Peralta. The PGT, operating clandestinely since 1954, was

considered to be such a group. On 6 March 1966, 28 PGT leaders and trade unionists were arrested while attending a clandestine meeting. The authorities denied knowledge of the detentions, but four months later, participants in the arrests confirmed that the 28 had been tortured and murdered.

In March 1966, Mario Méndez Montenegro, leader of the *Partido Revolucionario* (Revolutionary Party, PR), was elected to the presidency. Although a civilian, he remained heavily dependent upon the military. In October 1966 an intensive campaign was begun to eliminate the guerrillas. For the first time, civilians were systematically integrated into the security apparatus on a semi-permanent basis, although as early as 1962 civilians had been reportedly used temporarily by the government to support formally constituted security forces. In March 1962 during street demonstrations protesting fraudulent congressional elections, President Ydígoras told the international press that 2,000 armed civilians had been brought in from the provinces to help maintain order, and that as many as 40,000 would be brought to stop rioting in Guatemala City. As many as 100 demonstrators were reported killed.¹

From mid-1966 the *Movimiento de Liberación Nacional* (Movement of National Liberation, MLN), a party formed by the participants in the 1954 coup, supported the organization of armed groups of civilians to fight "subversion". A manifesto published by MLN on 27 September 1966 noted that "the government should not consider it strange that citizens organize to take justice into their own hands..." In June 1966 the first leaflets appeared from a new group calling itself MANO - *Movimiento Anticomunista Nacional Organizado* (National Organized Anti-Communist Movement), its symbol a white hand in a red circle. It was soon known as the *Mano Blanca*, the White Hand. By early 1967 some 20 similar groups had emerged.

The principal focus of the new measures against the guerrillas and their supporters was in the northeast of the country. In October 1966, intensive counter-insurgency measures began in the Izabal and Zacapa departments, incorporating the police, the military and civilians. In December 1966, legislation was approved commissioning large landowners and their administrators as law enforcement agents whose representatives were authorized to bear arms. Between 3,000 and 8,000 Guatemalans are reported to have died in the Zacapa-Izabal campaign from October 1966 to March 1968. In this area the guerrillas were largely eliminated, although urban guerrilla actions were to become increasingly frequent in the capital. Credit for the success against the rural guerrillas was attributed in large part to the use of "counter-terror" methods by civilian paramilitary groups against the suspected guerrilla supporters. Colonel John Webber, United States military attaché during the Zacapa campaign (later assassinated by guerrillas) was reported by *Time* magazine (26 January 1968) to have acknowledged that "it was his idea and at his instigation that the technique of counter-terror had been implemented by the Guatemalan Army in the Izabal areas." The *Area Handbook for Guatemala*, March 1970 edition, prepared for the use of United States diplomatic and military personnel, drew attention to the use of armed civilian groups against the guerrillas:

the organizing and functioning of any militia outside the supervision of the Army is strictly prohibited by the Constitution and is punishable. This restriction on militia does not, however, deter the Army from using armed civilian groups under its control when the need arises. As recently as the 1967 campaign against a guerrilla stronghold in the mountainous Zacapa area, the Army supplied and supported vigilante groups of small landowners of the region to supplement the five regular rifle companies operating there. (page 314)

The use of "counter-terror" against the leftwing opposition was justified by Lic. Mario Sandóval Alarcón, now Vice-president and secretary general of the MLN party who has also claimed responsibility for the formation of *Mano Blanca*. An interview in 1967 quoted him as saying:

The Army was demoralized by the guerrillas last year until we organized the White Hand....In the systematic elimination of the guerrillas a series of injustices have been committed.... Several hundred persons have been killed, but between January and March (1967) the guerrillas have almost been completely eliminated from the Guatemalan Oriente. The terrorism of the guerrillas.... has forced the government to adopt a plan of complete illegality, but this has brought results.²

The paramilitary groups did not limit their operations to the largely rural guerrillas or their supporters. From late 1966 rightwing groups claimed responsibility for the increasing numbers of tortured and mutilated corpses discovered in and around Guatemala City. Most were so badly mutilated as to make identification difficult. Many were accompanied by notes attributing the deaths to the communist sympathies of the deceased. At times several different groups claimed "credit" for a single killing.

In March 1968 the excesses of the paramilitary groups reached a climax with the kidnapping of Archbishop of Guatemala Mario Casariego. Originally intended to appear as the work of leftwing guerrillas, it was soon learned that *Mano Blanca* was in fact responsible and the archbishop was released unharmed. The ensuing scandal resulted in the removal from office of the Minister of Defence, the Chief of National Police and various other police authorities. Colonel Carlos Arana Osorio was relieved of his command of the Zacapa military zone and sent to Nicaragua as ambassador. Subsequently, there was a lull in political killings until the shooting in August 1968 of United States Ambassador John Gordon Mein during an attempted kidnapping by guerrillas. Even then, however, killings and disappearances did not reach the previous levels of 1966-67.

In 1969 Colonel Arana Osorio returned from Nicaragua and accepted the presidential nomination of the MLN party. He won the subsequent elections and eight months later, with the declaration of a State of Siege in November 1970, a second major wave of repression began. At his inauguration on 1 July 1970, Colonel Arana had told the nation:

You elected Arana and Cáceres Lenhoff [the vice-president] and gave them

a mandate: pacify the country and end the wave of crimes. You did not give them conditions or tell them how....

Three months earlier, in April of that year, leftwing guerrillas had kidnapped Count Karl von Sprei, Ambassador of the Federal Republic of Germany, and finally murdered him after the Guatemalan government refused to release 40 detained guerrillas. Subsequently, in June, Colonel Arana promised that he would destroy the guerrilla movement during his term of office. With regard to kidnappings by guerrillas, he said:

I will set a deadline for their [captives'] release at four o'clock in the afternoon, and for each hour that passes I will shoot one *Fuerzas Armadas Revolucionarias* (Revolutionary Armed Forces, FAR) criminal in our prisons.³

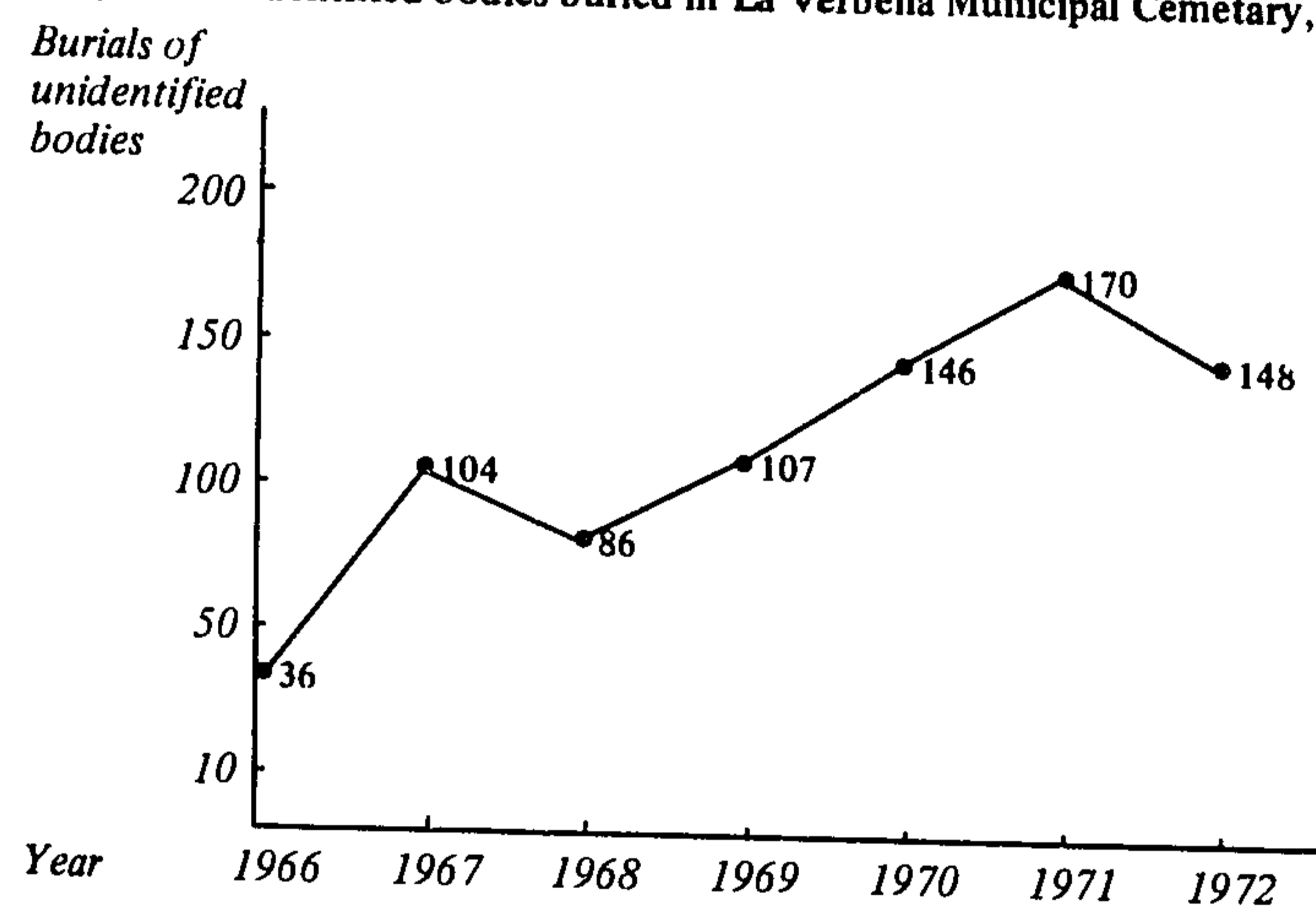
High government sources were cited at that time by foreign journalists as acknowledging that over 700 executions were carried out by government and unofficial paramilitary groups in the first two months of the State of Siege. In 1971 submissions from a number of organizations to the Inter-American Commission on Human Rights of the Organization of American States concerning the 700 reported deaths led the Commission to request information on the cases from the government of Guatemala. In April 1972, the government replied that "government forces were not involved in the killings and that the killings were imputable to extremist factions engaged in mutual destruction."

During the 1970-71 State of Siege, the incidence of murders and disappearances reached extremely high levels. Whereas the victims of the Izabal and Zacapa campaign who were mostly peasants remained unknown, the names of many of the dead of 1970-71 were recorded, as a high percentage were urban dwellers. AI records on this period are incomplete but Guatemalan sources, including the Committee of the Relatives of Disappeared Persons, claim that over 7,000 persons disappeared or were found dead in 1970 and 1971, while over 15,000 have been listed in the first three years of President Arana's government. While AI cannot confirm these figures, other sources which tend to corroborate them include René Schlotter de Leon, secretary general of the *Partido Democracia Cristiana de Guatemala* (Guatemalan Christian Democratic Party, PDC), who cites the figure of 2,500 who died or disappeared in 1970 and 1971. The Guatemala City newspaper *El Gráfico* (31 December 1971) reported that over 1,000 were *shot dead* in the period, without giving a figure for those who were murdered after detention and abduction.

One study which appears to illustrate the beginnings of large scale extra-judicial execution in 1966 and 1967, and the later escalation of such actions under the State of Siege from November 1970 to October 1971, was undertaken by the Guatemala City magazine *Domingo*. Using the official register of one of Guatemala's principal cemeteries, *La Verbena*, statistics were compiled on burials of *unidentified* bodies from 1966 to 1972. The report noted that most of the bodies were recovered from places in which they would be assumed to go

unnoticed, "sandpits, ravines or heavy brush", and that most showed "signs of violence". Of the 797 unidentified bodies buried in *La Verbena* in the seven years, only 23 were women. Graph 1, based on the numbers of burials in each year covered by the survey indicates peaks which coincide with reported times of intensification of governmental and government-sanctioned paramilitary violence:

Graph 1: Unidentified bodies buried in La Verbena Municipal Cemetery, 1966-72



The current situation. In July 1974 President Kjell Laugerud García, formerly Minister of Defence and chief of the general staff of the army, took office amidst widespread protests of electoral fraud. The opposition candidate, General Efraín Ríos Montt, was declared by many international sources to have been the actual winner by a large margin. General Laugerud and Lic. Mario Sandóval Alarcón had sought office as the presidential and vice-presidential candidates of the *Movimiento de Liberación Nacional* (Movement of National Liberation, MLN) and the *Partido Institucional Democrático* (Institutional Democratic Party, PID) with the personal approval of the previous president, General Carlos Arana Osorio.

Although there was a general lessening of political violence in the pre-election period, a rash of political killings by paramilitary groups began immediately after the March 1974 elections. Following the catastrophic earthquake of February 1976, which killed some 22,000 Guatemalans, extrajudicial executions increased once more; over 200 persons alleged to be common criminals were killed by paramilitary groups, according to reports in the Guatemalan press. General Leonel Vassaux Martínez, then Minister of the Interior (*Gobernación*), justified the summary executions in March 1976 saying that the patrols of citizens responsible for the killings were vitally important in protecting lives and

property, and had resulted in an improvement in the "control [exercised] by police authorities". When asked whether members of the opposition were not also victimized by these groups, he answered that such allegations "could not be proven".⁴

The government of General Laugerud has been notable for its policy of supporting agrarian cooperatives of small farmers. However, Vice-President Sandóval as well as former President Arana have repeatedly attacked the cooperatives as approaching communism, and security forces under the present government have taken part on a number of occasions in the detention and subsequent disappearance of members and leaders of agrarian cooperatives. In July 1975 over 30 peasant farmers were abducted by uniformed paratroopers in the region of Ixcán Grande. In January 1976 four cooperative leaders in the area of Chisec were summarily executed by four men in civilian clothes later identified as members of the *Guardia de Hacienda* (a formal security force).

Although AI knows of no judicial investigation into these two incidents, the government on at least one occasion has investigated a disappearance, and made arrests of persons considered responsible. In August 1975 AI launched an appeal on behalf of Lieutenant Waldemar Orozco de León, an ex-naval officer employed in a government development agency. His body was located on 30 May 1976, buried in the courtyard of "Santoni" factory, owned by a principal business partner of former President Arana, Elías Zimeri Nassar. Four alleged "bodyguards" of the Zimeri family were detained. Police sources initially claimed that Sr Zimeri and his son, as well as two active duty army officers, Lieutenants Fernando Morales Pineda and Antonio Reyes Rodas, were responsible for the abduction and execution of Lieutenant Orozco de León and others. Shortly afterwards, however, Minister of Interior Vassaux Martínez contradicted police reports and stated categorically that the Zimeri family was not involved in the political killings. The "Santoni" factory has long been claimed by opposition sources to be the headquarters of one of the paramilitary groups operating with impunity since the 1960's. At the time of writing it is not known whether any members of the Zimeri family have been detained.

Although many observers believe that President Laugerud García has the will to check the routine disappearances and killings, it is too early to draw any conclusions regarding possible policy changes. The resignation of General Leonel Vassaux Martínez as Minister of the Interior in June 1976 has been interpreted by some as a step away from the policies of the past, but this remains uncertain.

From 1 July 1974, the date of inauguration of President Laugerud, until the end of April 1976 AI has recorded 379 cases of deaths and disappearances in Guatemala in which extrajudicial execution is believed to have occurred.

3. The Legal Situation

Summary executions in Guatemala are carried out illegally. However, in spite of provisions in law which strictly regulate the actions of members of the security forces and the bearing of arms by civilians, administrative provisions for internal security exist which may provide a legal basis on which semi-official paramilitary groups have been founded. In theory, legal mechanisms (including

habeas corpus) which provide recourse against governmental abuse of authority, especially arbitrary or illegal detention, are well developed.

(i) Legislation regulating the actions of security forces

The Guatemalan Penal Code (1973) provides penalties for crimes committed by public functionaries or employees. Article 418 provides for up to 3 years' imprisonment for any act committed by authorities or their representatives of an "arbitrary or illegal nature" in prejudice of private individuals. Article 424 provides for 2 to 5 years' imprisonment for those who "order undue constraints, tortures, infamous punishments, abuses or measures not authorized by law, against a prisoner or detainee", and also establishes the liability of authorities that conceal detentions. Military laws and regulations govern the actions of the army. In practice, however, cases of extrajudicial execution by members of the security forces have only very rarely led to prosecution for murder.

(ii) Legislation regulating armed civilian groups

Article 215 of the Constitution of 1965 states that "The organizing or functioning of militias other than the army of Guatemala is punishable." Article 398 of the Penal Code punishes those who "organize, constitute or lead groups of armed men or militias that are not those of the State" as well as those that "aid or collaborate economically in the maintenance of these groups", with a penalty of 3 to 10 years' imprisonment. However, to AI's knowledge, no member of a paramilitary group has been prosecuted under this provision, although such groups often operate openly. For example, Vice-President Sandóval told the international press in November 1975 that if the Guatemalan Army did not invade the territory of Belize (claimed by Guatemala, although a self-governing colony of the United Kingdom), he would order the 4,000-man armed force of the MLN party to do so.

(iii) Legally constituted security forces

Legally constituted security forces include the military, with a combined total of about 11,000 men (1975 statistics); the National Police, with about 5,000 men, two thirds of these based in Guatemala City (1968 statistics); and the Customs Police (*Guardia de Hacienda*) with about 1,200 members (1968 statistics) which, although initially dealing largely with control of international borders and the collection of revenue, acquired a counter-insurgency role in the 1960's. In the late 1960's a military unit with a special role in combatting rural insurgency in areas with no National Police personnel was created — the Mobile Military Police (*Policía Militar Ambulante*). The intelligence branch of the military is known as the "Section G2". The government of President Arbenz created the *comisionados militares*, civilians who serve as local representatives of the military, and as intermediaries between the military and the local communities. They have the right to bear arms. The intelligence and secret service arm of the National

Police was until recently termed the *Policía Judicial* (Judicial Police) and is now called the *Cuerpo de Detectives* (Corps of Detectives).

The London Institute of Strategic Studies reports 3,000 men in government paramilitary forces in its annual survey *The Military Balance* (1975). The report does not specify the forces included in the survey.

(iv) The legal basis of paramilitary groups

Administrative provisions for internal security allow for large numbers of armed civilians to function legally as agents of law enforcement at the local level, or as special security agents. The largely unregulated selection and supervision of these semi-official security forces provides a pool of legally armed men, with some official authority, which can be seen as an important contributing factor to the formation of paramilitary groups.

In much of the country there are no members of the National Police available for law enforcement. Although the vacuum is in some areas filled by the military (especially the Mobile Military Police), civilians attached to local authorities provide basic law enforcement functions. In addition to the *comisionados militares* who are named by the military on local recommendations, an unlimited number of civilians can be appointed as law enforcement agents attached to the political authorities of each administrative region (*municipio*). These are nominated by the mayor (*alcalde*) of each district. Mayors and their deputized security agents, *alcaldes auxiliares*, are both automatically authorized to use and bear arms. Although mayors are elected in nominally democratic elections, rural administrations are often dominated by local large landowners. The deputy mayors and the *comisionados militares* are often seen as agents not only of local political authorities, but of local economic and social authority. One source describes the cases of 4,000 rural localities which are in fact single large private landholdings, but which nonetheless qualify as administrative units with independent armed bodies for law enforcement:

Over 4,000 of these localities are organized farms constituting a form of company town work force. Some develop fairly sizeable security units of their own, making governmental control largely unnecessary from the viewpoint of the farmowner.⁵

It is these local, rural parapolice forces that are reported to be responsible for the majority of deaths and disappearances in rural areas.

Another body of legally recognized but unregulated security agents is made up of the security guards of government functionaries. *El Gráfico* reported in August 1972 the protests of opposition congressional representatives that over 800 men were officially accredited as "security agents" attached to individual members of the governing parties, the MLN and PID, as personal bodyguards. Protest was also made over the absence of legal regulations concerning either the recruitment or supervision of these security agents.

(v) Legal remedy against illegal detention: habeas corpus

The basic legal mechanism by which private individuals can appeal against illegal detention is *habeas corpus*. By writs of *habeas corpus*, appeals can be made by prisoners or by persons acting on their behalf, to judicial authorities to request the security forces to exhibit a prisoner to a member of the judiciary and account for the detention. Article 79 of the Constitution of 1965 provides that:

Any person who finds himself illegally imprisoned, detained or restrained in any other way in the enjoyment of his individual liberty.... has the right to request an immediate hearing before the courts of justice....

Article 84 states that *habeas corpus* is to be initiated by specific appeals and the request that a prisoner be personally brought before a member of the judiciary can be placed by any interested person:

The recourse of personal appearance (*exhibición personal*) may be sought by the interested party or by any other person, without being subject to requisite of any kind.

Obstructions of the guarantee of *habeas corpus* are made punishable under article 7:

Authorities who order the concealment of the detained person or who refuse to present him to the proper court, or who in any other way frustrate this guarantee, as well as agents who carry out such an order, shall be considered to have committed the crime of abduction and will be subject to punishment in accordance with the law.

The suspension of *habeas corpus* can only occur during a State of Siege, under the *Ley de Orden Publico* (Law of Public Order), and then only in part. Even under these exceptional circumstances, the *Ley de Habeas Corpus, Amparo y Constitucionalidad* (Law of Habeas Corpus, Amparo and Constitutionality, Decree Number 8 of the Constituent Assembly of 1965) holds that provisions for personal appearance of a detainee are retained, although in limited form:

the exhibition will be carried out in the place of detention and will be limited to the establishment of the treatment of the detainee. (Article 95, Decree Number 8)

In practice, however, appeals of *habeas corpus* rarely succeed in locating "disappeared" persons in political cases. While there is some indication that judicial authorities seek to apply these measures, it is clear that without the cooperation of the security forces, their role is impossible to fulfil. In addition, at the local level in rural areas, the political authority, the mayor, often fulfils the duties of the Justice of the Peace (*Juzgado de la Paz*), resulting in an overlapping of judicial and executive functions.

One of the cases which has come to AI's attention is that of a political activist who was illegally detained by officially-constituted security forces – the National Police – in Guatemala City under the government of President Arana and whose repeated applications for *habeas corpus* were frustrated by specific measures taken by the security forces. The prisoner, now in self-imposed exile, has described the methods used by his captors to frustrate *habeas corpus* on his behalf:

Every day for more than a week after detention I was removed from my cell, bound, and forced to lie on the floor of a van painted as a florist's delivery truck. The van drove aimlessly through Guatemala City during the hours in which judicial authorities would normally visit places of detention. In the evenings I was returned to various police stations....

Repeated writs of *habeas corpus* were filed on his behalf, but police authorities denied he had been detained. Judicial authorities were unable to locate him in any known place of detention. He was eventually released with no explanation, and without ever having been produced before a court.

4. Number and Analysis of Extrajudicial Executions and Disappearances

Although impossible to verify through individual case dossiers, AI estimates that the total number of deaths and disappearances in Guatemala attributable to official and semi-official forces since 1966, is likely to exceed 20,000. This figure is based on reports from the domestic and international press, government and opposition statements, and AI's own statistical findings. Prior to 1972, AI had recorded the names of over 1,000 Guatemalans reported executed or "disappeared". From 1972 up to April 1976, a total of 1105 individual cases of executions and disappearances were documented. Of this total, 786 were abducted before "disappearance" or being found dead, while 320 were shot outright.

The majority of the reported victims were either unidentified or identified by name only: AI believes that most come from the peasantry or the urban poor. Many were probably petty criminals. The second largest group of victims were clearly identified as peasants (*campesinos, agricultores*). Others included members and leaders of opposition parties, trade unionists and journalists, students and teachers. A relatively small number of businessmen were named as victims, as well as a number of functionaries of municipal governments and government development agencies.

For the same period, Guatemala City newspapers reported a high incidence of leftwing political violence, including 149 murders of members of security forces, other government personnel, businessmen and large landowners and their employees. Although this survey itself is inconclusive, the evidence suggests that extensive official and semi-official violence has not proven effective in curbing violent opposition, and indeed may have induced further violence.

Chart 1 illustrates the incidence of deaths and disappearances during the period 1972 - 30 April 1976 which can be attributed to official or semi-official violence.

Chart 1: Disappearances and probable extrajudicial executions 1972 - 30 April 1976

source: Amnesty International case dossiers

a) Yearly totals: character of victims

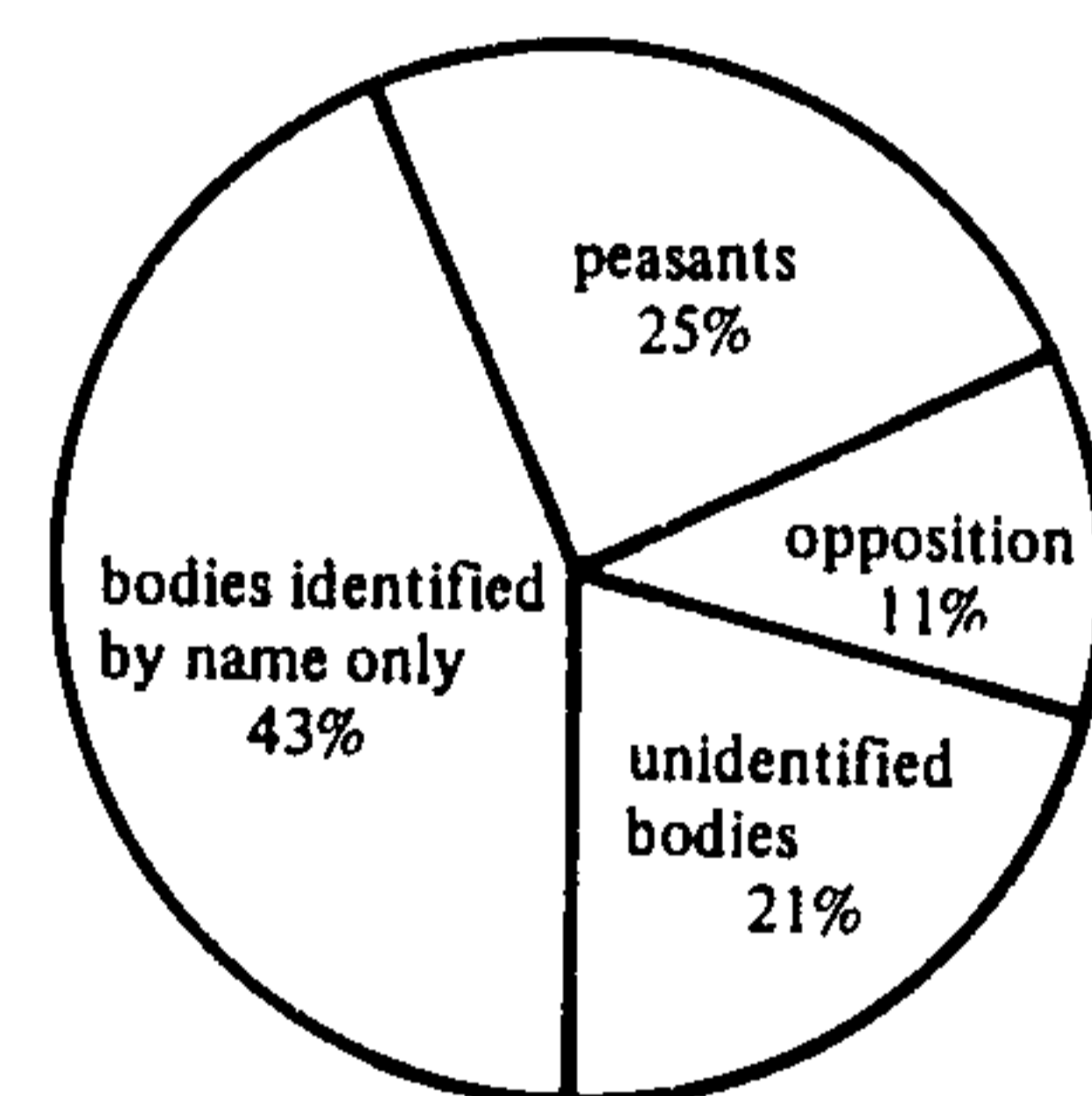
	1972	1973	1974	1975	to 30 April 1976
peasants	30	151	25	52	24
opposition	39	34	10	29	12
unidentified bodies	80	57	44	12	35
bodies identified by name only	147	167	56	57	44
	296	409	135	150	115

Total: 1105

This does not include an estimated but unconfirmed 200 shot dead in the aftermath of the earthquake of February 1976.

b) Percentage totals: character of victims

The unidentified and those identified by name only are generally considered to have been peasants or poor urban residents. The figures for opposition include journalists, students, trade unionists, teachers as well as members and leaders of opposition parties.



While the social and political identity of the victims appeared to remain relatively unchanged over the period 1972 - 30 April 1976, the geographical regions in which the greater numbers of killings occurred showed some variation. Guatemala City and the region immediately surrounding it consistently represented over 20% and as much as 33% of the total cases (with an average of 28%). This is in part explicable both through the concentration of nearly one sixth of Guatemala's total population in the area and its predominance in both the political and economic life of the nation.

The most striking finding of the survey is that cases in the departments considered together as the North, the most sparsely-populated area of the country, rose from an average of 4% in 1972, 1973 and 1974 to 22% in 1975

Chart 2: Geographic distribution of disappearances and probable extrajudicial executions, 1972 - 30 April 1976

source: Amnesty International case dossiers

	Central Highlands	North	Guatemala City	Pacific Coast	East
1972	22%	6%	33%	14%	25%
1973	20%	4%	28%	22%	26%
1974	26%	5%	25%	24%	20%
1975	26%	22%	22%	15%	15%
1976 to 30 April	13%	28%	33%	15%	11%

Central Highlands: San Marcos, Huehuetinango, Solola, Sacatepeque, Quetzaltenango, Totonicapan, Baja Verapaz, El Progreso, Chimaltenango

North: Peten, Alta Verapaz, Quiche

Pacific Coast: Santa Rosa, Escuintla, Retalhuleu, Suchitepequez

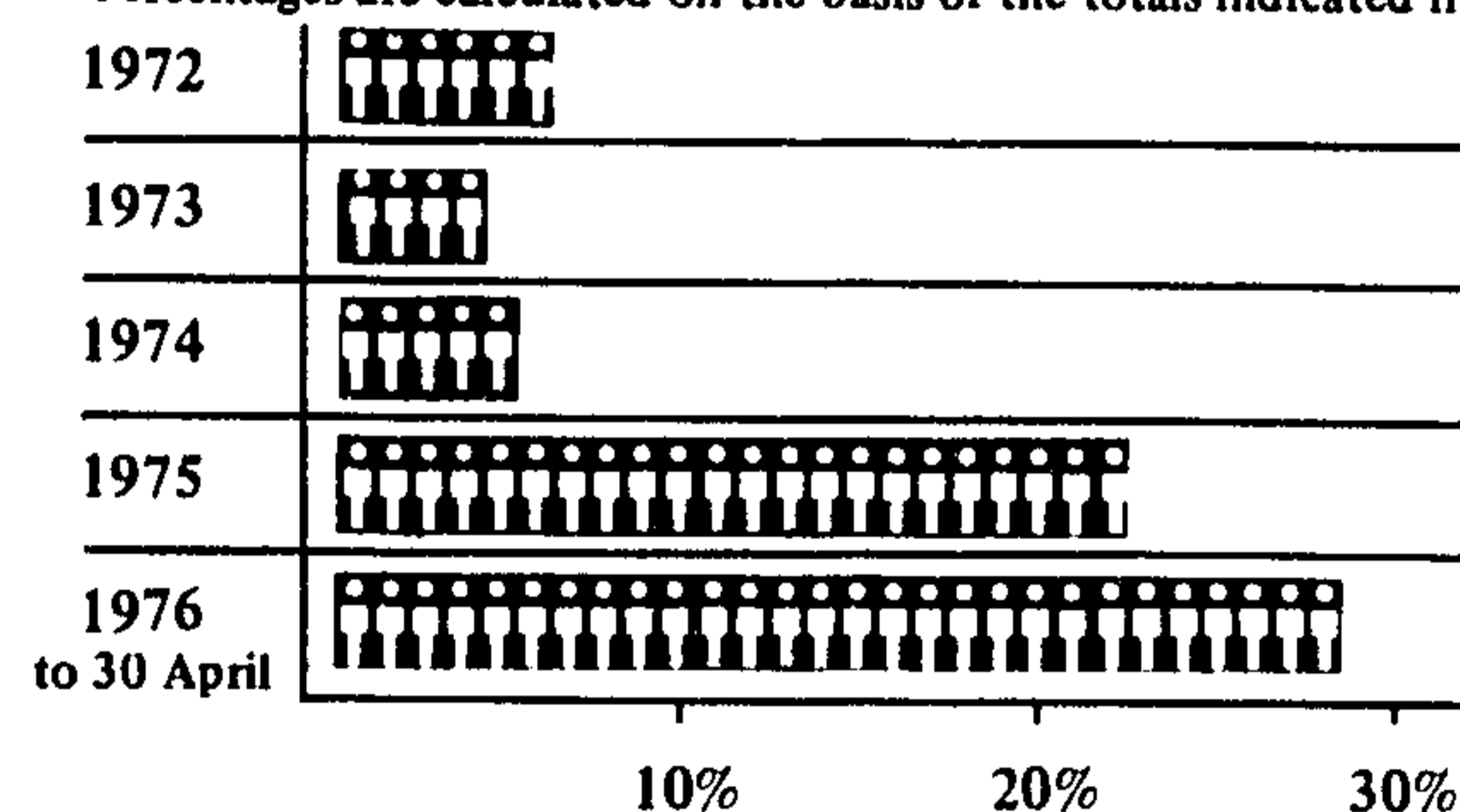
East: Jalapa, Jutiapa, Chiquimula, Zacapa, Izabal

and 28% in 1976, with a resulting relative decline in deaths and disappearances in the Central Highlands and in the East. Most of the individuals killed or "disappeared" in the North have been peasant farmers. The high figures are in part due to large scale detentions and disappearances in the northern part of Quiche department: over 30 peasant cooperativists were detained by uniformed paratroopers in July 1975 and have since disappeared. Further disappearances have occurred on a large scale since then. One factor alleged by observers to have affected the situation in the Quiche area has been the rapid increase in value of the land - presently occupied largely by peasant smallholders organized in cooperatives - due to the planned construction of a major highway into the area linking agricultural land with national markets, as well as the discovery of petroleum deposits in the region. (See Chart 3, page 14)

In 1975, AI presented to both the government of Guatemala and to the Inter-American Commission on Human Rights a survey of cases of political violence reported in the Guatemala City press: 134 cases of political murder and disappearance were documented between 1 July 1974 and 31 January 1975. The survey examined cases of probable official or semi-official abuses within the overall context of political violence in the country. To this end, all deaths and disappearances reported in the press during that period which appeared to be politically motivated were included, regardless of their apparent political orientation. The survey, however, was intended to show only the scope and character of political violence; the actual number of victims was considered to be higher than press reports indicated, especially when isolated rural areas were taken into account.

Chart 3: Disappearances and probable extrajudicial executions in the North (Peten, Alta Verapaz, Quiche), 1972 - 30 April 1976

Percentages are calculated on the basis of the totals indicated in Chart 2.



The survey found that 30 of the 134 reported victims of political violence were members of police or military bodies, functionaries of the government or of the governing parties, or businessmen and large landowners and their employees. All but one of the 30 were killed outright by being shot in the street, in their homes or in their places of employment; only one was abducted prior to murder. None of the 30 were reported to have been tortured.

Of the remaining 104 victims:

- 39 were identified as peasants;
- 4 were identified as students;
- 3 were named as members or leaders of opposition parties;
- 3 were named as guerrillas or violent assailants;
- 21 were identified by name only, with no occupational or personal data, and probably largely representing poor urban residents and peasants.

Characteristics of the 104 cases were as follows:

- 30 were reported shot dead in assassination-style killings;
- 5 were reported killed in armed encounters;
- 69 were reported "disappeared" or found dead after abduction;
- 29 of those found dead were said to carry the marks of severe tortures.

5. Allegations of Torture

Evidence of torture in Guatemala is almost exclusively limited to reports of the physical condition of corpses of "disappeared" persons when discovered. These reports appear frequently in the Guatemala City newspapers. A number of firsthand accounts in which severe torture is alleged, have been provided by individuals who were presumed "disappeared" but who subsequently escaped or were released.

A student activist, now in exile, was detained by the National Police during the 1970-71 State of Siege and has alleged that he was held in one of Guatemala City's police stations and interrogated under torture which included severe beatings, and "hooding" with a rubber hood into which insecticide was injected. Trade unionists of the *Central Nacional de Trabajadores* (National Federation of Labour, CNT) detained on 27 June 1976 claimed to have suffered severe injuries from beatings during interrogation. A Nicaraguan trade unionist, Donald Castillo, who was visiting the country at the time and who was also arrested, received injuries to his head and genitals. Hooding with insecticide was threatened and a rubber hood was said to have been produced, but not applied.

A more typical case of torture in relation to extrajudicial executions is that of Efraín David Pineda, a peasant farmer from the village of Palo Alto. On 23 May 1975, for no apparent reason, two men in civilian clothes seized him at gunpoint from his home after producing military police credentials. He was detained for some hours in the jail of a nearby village, and then taken by car to an isolated area where he was tied to a tree, severely beaten, and then shot at close range in the legs and chest. He was untied and left for dead; however, he later crawled to a neighbouring village where he was taken to hospital and interviewed by reporters.

6. Judicial Capital Punishment

The Guatemalan Constitution of 1965 provides in Article 54 that "The death penalty shall be considered extraordinary", and may not be applied "to persons guilty of political crimes...." The Penal Code of 1973 in article 132 provides the death penalty for premeditated murder in certain circumstances (*asesinato*):

The prisoner [convicted of] murder will be sentenced to 20 to 30 years' imprisonment; nonetheless, the death penalty will be imposed in place of the maximum imprisonment, if in the circumstances of the act and the occasion, the manner of carrying it out, and the determining motives, a greater or special dangerousness of the agent should be revealed.

Although little research has been carried out into the application of the formally-established death penalty in Guatemala, four cases of execution by firing squad for common law crimes were reported in 1975. In two of these cases a political element was apparent. Two ex-patrolmen of the National Police, Lauro Alvarado y Alvarado and Marco Tulio Osorio, were detained and prosecuted for the September 1972 shooting of María Etelvina Flores Herrera, a killing that may not, in fact, have been of a political nature. Faced with a possible death sentence, however, Officer Alvarado smuggled a declaration from prison in which he told of arresting "on superior orders" a number of leftwing personalities, who after being turned over to superior authorities, disappeared and were subsequently found dead. He was also reported to have prepared a tape recording in which he detailed police involvement in the disappearance of further named individuals, and threatened to name specific police officers implicated.

Both he and Officer Tulio were subsequently condemned to death by firing squad. Although opposition leaders appealed for a stay of execution until the allegations could be investigated, both men were executed on 16 April 1975.

7. Amnesty International Action

AI has worked both for individuals who have been abducted in Guatemala and believed to be possibly alive and in detention and, on a broader level, to create international awareness of extrajudicial executions and disappearances in Guatemala.

- (a) AI made the first of a continuing series of submissions to the Inter-American Commission on Human Rights of the Organization of American States in February 1971 regarding "arrests, disappearances, and murders of the opposition." The initial submissions related to alleged human rights abuses under the 1970-71 State of Siege. Further submissions were made with documented cases in which official security forces were shown to have taken part in extralegal detention and disappearance. On 3 November 1973 the Commission requested permission from the government of Guatemala to carry out an *in loco* investigation of the allegations made in submissions by AI and other organizations.

On 17 October 1974 the Commission adopted a resolution noting the inadequacy of the responses of the government of Guatemala to its requests for information on the "alleged disappearance and arbitrary detention of more than 300 persons, whose full names were given to the government." With the exception of eight of these named, about whom the government supplied information, the Commission resolved:

to presume that those persons have disappeared as a consequence of arbitrary acts, in violation of the rights set forth in article 1 of the American Declaration of the Rights and Duties of Man, and that agents of the Government of Guatemala or persons who had counted with the protection or tolerance of these agents had not been unaware of such acts.

Further submissions have been made by AI following the 17 October 1974 resolution, including a dossier documenting 134 cases of political murder reported in the Guatemalan press from 1 July 1974 to 31 January 1975 – the first seven months of the government of President Laugerud. The same dossier was also submitted to President Laugerud.

- (b) AI groups have been assigned individual cases of disappearances for investigation since 1972. In the course of 1975 and 1976, AI groups were assigned 70 cases of "disappearances" in which participation of official security forces was reported.

- (c) AI has appealed directly to the government of Guatemala concerning both extrajudicial executions and disappearances, and concerning the application of the legal death penalty provided for in the Guatemalan Penal Code. AI opposes both forms of the death penalty as violations of the fundamental right to life.
- (d) In April 1976, Guatemalan authorities received an AI mission composed of Dr Kurt Madlener, head of the Hispanoamerican section of the Max Planck Institute of Foreign and International Penal Law (Freiburg, Federal Republic of Germany) and Michael McClintock of AI's International Secretariat. The delegates were able to speak directly to senior members of government, including then Minister of the Interior (*Gobernación*) General Leonel Vassaux Martínez, Vice-Minister of Foreign Relations Sr Alfredo Obiols Gomez, the head of the judicial branch of government and President of the Supreme Court, Hernán Hurtado Aguilar. The delegates did not carry out research and investigatory work in the course of the mission.

Footnotes

¹ *New York Times*, 17 March 1972.

² Norman Gall, "Guatemalan Slaughter", *New York Review of Books*, 20 May 1971.

³ *Miami Herald*, 28 June 1970.

⁴ *El Tiempo*, 3 March 1976 (Guatemala City).

⁵ *Area Handbook for Guatemala*, US Government Printing Office, 1973.

These papers are intended to summarize available information on political imprisonment, torture and capital punishment in a single country or territory governed by a specific political authority. They are designed to be concise and factual and are written primarily for reference purposes.

Since AI is limited by its statute to act only in specific human rights situations, reference is made to the political, economic and social situation in each country *only where this has direct relevance to particular human rights problems*. The information contained in each paper is accurate at the time of publication.

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AMNESTY INTERNATIONAL opposes torture and capital punishment in all cases and without reservation. It advocates fair and early trials for all political prisoners and works on behalf of persons detained without charge or without trial and those detained after expiry of their sentences.

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Briefing Paper No 8

©Amnesty International Publications 1976

ISBN: 0 900058 39 0

First published December 1976

Original language: English

Published by Amnesty International Publications

Copies of Amnesty International Publications can be obtained from the offices of the national sections of Amnesty International. Office addresses and further information may be obtained from the International Secretariat, 53 Theobald's Road, London WC1X 8SP, England

Printed in Great Britain by the Russell Press Ltd., Gamble Street, Nottingham NG7 4ET

Amnesty International Briefing Papers are available on subscription at £6 (US \$15) inclusive for 10 issues. Single copies are available at 40 pence (US \$1.00), plus 20 pence (US 50 cents) for handling and postage.

A41