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Freedom in the World 2010 - Guatemala

Capital: Guatemala City
Population: 14,027,000

Political Rights Score: 4 *
Civil Liberties Score: 4 *
Status: Partly Free

Ratings Change

Guatemala's political rights rating declined from 3 to 4 due to the government's inability to implement policies and legislation in the face of pervasive organized crime.

Overview

While President Alvaro Colom struggled in 2009 to curb the corruption and impunity that plague Guatemalan institutions, he himself was accused of involvement in a scandal surrounding the state-run Banrural bank and the murder of lawyer Rodrigo Rosenberg in May. Separately, the release of a new report on civil war-era human rights abuses in March led to the abduction and torture of the wife of human rights prosecutor Sergio Morales. Violent crime continued unabated during the year, and civil society activists suffered a number of threats and attacks.

The Republic of Guatemala, which was established in 1839, has endured a history of dictatorship, foreign intervention, military coups, and guerrilla insurgencies. Civilian rule followed the 1985 elections, and a 36-year civil war, which claimed the lives of more than 200,000 people, ended with a 1996 peace agreement. The Guatemalan National Revolutionary Unity (URNG) guerrilla movement became a legal political group, and a truth commission began receiving complaints of rights violations committed during the conflict. However, voters in 1999 rejected a package of constitutional amendments that had been prepared in accordance with the peace plan. The general consensus was that the government failed to implement substantive reforms, including ending military impunity, fully recognizing the rights of the Maya Indians, and reforming taxation to pay for health, education, and housing programs for the poor.

In 2003, the Constitutional Court ruled that retired general Efraim Rios Montt – who employed brutal tactics against the URNG during his 18 months as ruler of Guatemala in

1982 and 1983 – could run for the presidency. Before the decision, the Guatemalan Republican Front (FRG) party mustered armed supporters to intimidate the court's justices and critics, and Rios Montt was later chosen as the FRG's candidate. However, in the first round of the presidential election, he placed third behind Oscar Berger of the Grand National Alliance (GANAA) and Alvaro Colom of the National Unity for Hope (UNE). Berger went on to defeat Colom in the runoff with 54 percent of the vote.

The 2007 general elections were the bloodiest in Guatemala's recent history, with more than 50 candidates, activists, and their relatives slain during the campaign period. This violence, some of which was not overtly political, was fueled by the drug trade, gang activity, and armed groups including rogue soldiers and paramilitary forces. The September vote was nevertheless regarded by international observers as largely free and fair. The UNE party captured 51 seats in Congress, followed by GANA with 37 seats, and former general Otto Perez Molina's Patriot Party with 29 seats. The FRG lost 65 percent of its congressional base, falling to just 14 seats, though the seat secured by Rios Montt gave him immunity from prosecution; a Spanish court in 2006 had issued arrest warrants for eight former military leaders, including Rios Montt, for crimes against humanity. In the presidential contest, Colom defeated Perez in a runoff vote, capturing 53 percent of the ballots amid a turnout of 45 percent.

Colom, who since taking office had dismissed several senior officials in response to scandals, corruption charges, or policy ineffectiveness, continued his attempts to curb official corruption and impunity in 2009. In March, he established a committee tasked with declassifying military archives from the civil war era. He also extended the mandate of the UN-backed International Commission against Impunity in Guatemala (CICIG), widely considered to be one of the only legitimate public institutions in the country, through September 2011. The biggest scandal of the year involved the May assassination of lawyer Rodrigo Rosenberg, who recorded a video prior to his death in which he accused Colom of ordering his murder. He also accused First Lady Sandra Torres and top government officials of covering up illegal business deals involving Banrural, a development bank. Colom denied the accusations and ordered an investigation into Rosenberg's murder, which was ongoing at year's end.

In other developments in the fight against impunity, in March 2009 the special prosecutor for human rights, Sergio Morales, released a landmark report on abuses committed during the civil war, based on military archives. The following day, Morales's wife, lawyer and professor Gladys Monterroso, was kidnapped and tortured by unknown assailants. A separate report released in September, based on archives from the presidency's social welfare department, indicated that at least 333 children and possibly thousands more were kidnapped by security forces during the war and sold abroad. In June, Guatemala's Forensic Anthropology Foundation opened the country's first DNA testing lab to identify victims from wartime mass graves. And in August, former paramilitary Felipe Cusanero became the first person in Guatemala to be convicted of forced disappearances. He was sentenced to 150 years in prison for ordering the disappearance of six civilians between 1982 and 1984.

Famine conditions in 2009 claimed the lives of at least 460 people, as a combination of rising food prices, prolonged drought, and a drop in migrant remittances linked to the global economic downturn exacerbated malnourishment, particularly in rural areas. Roughly 80 percent of the population lives below the poverty level and does not benefit from social security. The country also continues to rank high on inequality indicators, with some 63 percent of gross domestic product concentrated in the hands of 20 percent of the population. Guatemala is a party to the Dominican Republic-Central American Free Trade Agreement (DR-CAFTA) with the United States, and it joined Venezuela's Petrocaribe program in July 2008 to receive preferential rates on oil imports.

Political Rights and Civil Liberties

Guatemala is an electoral democracy. Despite intimidation and violence during the campaign period, the 2007 presidential and legislative elections were regarded by international observers as generally free and fair. The constitution stipulates a four-year

presidential term and prohibits reelection. The unicameral Congress of the Republic, consisting of 158 members, is elected for four years. Elections take place within a highly fragmented and fluid multiparty system. Two notable traditional parties are the FRG and the National Advancement Party (PAN). Other parties include the URNG, formerly a guerrilla movement, and the UNE, led by current president Alvaro Colom. The GANA coalition, which had supported former president Oscar Berger, included the Patriot Party, the National Solidarity Party (PSN), and the Reformist Movement (MR) party. In 2008, divisions within GANA caused it to split into two factions.

Efforts to combat corruption, such as the introduction of an electronic procurement system for government entities, have made some progress. During 2009, former Congress president Eduardo Meyer, a close ally of Colom, was investigated in connection with a scandal involving the transfer of \$10.9 million in congressional funds to a stockbroker. Opposition leader Otto Perez Molina was among a number of others implicated in the affair.

The Law for Free Access to Public Information took effect in April 2009, promoting transparency and granting citizens access to information on budgets and salaries, among other topics. The government has taken related steps to establish an institutional framework for transparency, including the creation of a Viceministry of Fiscal Transparency and Evaluation, and a Public Information Unit responsible for handling requests for public records. Guatemala was ranked 84 out of 180 countries surveyed in Transparency International's 2009 Corruption Perceptions Index.

While freedom of speech is protected by the constitution, those who vigorously condemn the government or past human rights abuses can face persecution. The press and most broadcast outlets are privately owned. A Mexican businessman, Angel Gonzelez, owns a monopoly of broadcast television networks and has significant holdings in radio. Newspaper ownership is concentrated in the hands of moderate business elites, and most papers have centrist or conservative editorial views. Twitter user Jean Anleu Fernandez was arrested in May 2009 for a posted comment in which he urged people to withdraw their money from the allegedly corrupt state-owned bank Banrural. He was charged with "inciting financial panic," and his arrest led tens of thousands of protesters to take to the streets in June. In August, publisher Raul Figueroa-Sarti was sentenced to one year in prison for publishing a photograph on the cover of a novel without the photographer's permission, but some argued that the case had been brought in retaliation for his publication of books on human rights abuses. Journalists often face threats and practice self-censorship when covering drug trafficking, corruption, and organized crime. Two television reporters were murdered separately in 2009, and other media workers suffered serious attacks.

The constitution guarantees religious freedom. However, members of indigenous communities have faced discrimination for the open practice of their Mayan religion. The government does not interfere with academic freedom, but scholars have received death threats for raising questions about past human rights abuses or continuing injustices.

Freedom of assembly is guaranteed and generally respected in practice. However, police often use force to end disruptive demonstrations, resulting in the injury and death of some protesters. In October 2009, police clashed with protesters in a long-running land dispute over a \$1 billion nickel-mining project, leaving one man dead and several others injured.

The constitution guarantees freedom of association, and a variety of nongovernmental organizations (NGOs) operate without major legal or government obstacles. However, labor, human rights, and environmental activists continued to face death threats or attacks in 2009, and even international agencies suffered intimidation and office burglaries. In one case, Juana Baca Velasco, coordinator of the Association of Ixhil Women, was assaulted in March and continued to receive death threats for several months thereafter.

Guatemala is home to a vigorous labor movement, but trade unions are subject to intimidation and violence, particularly in rural areas during land disputes. Workers are frequently denied the right to organize and face mass firings and blacklisting, especially in export-processing zones. Countless union members have been threatened or attacked, and some union activists' families have been targeted for rape and murder. In April 2008, the U.S.-based AFL-CIO labor federation, along with six Guatemalan unions, filed a complaint with the U.S. Labor Department for violations of the labor provisions of DR-CAFTA, citing Guatemala's failure to protect unionists. No action had been taken on this complaint at the end of 2009.

The judiciary is troubled by corruption, inefficiency, capacity shortages, and the intimidation of judges, prosecutors, and witnesses. Threats against judicial-sector workers are common, and according to the NGO Lawyers' Rights Watch Canada, at least 40 judges and lawyers have been murdered since 2005, including 4 between January and July 2009. In September 2009, the CICIG reported irregularities in the selection of various judges, including cases of nepotism by members of the nominating committees. The CICIG has also reported that difficulties in working with the Office of the Public Prosecutor have impeded its investigations of corruption and organized crime within public institutions.

Pretrial detention is legally limited to three months, but inmates often spend years in jail before trial. Since 2007, the government has introduced 24-hour courts in some areas to increase efficiency. Prison conditions are harsh, and the facilities are rife with gang- and drug-related violence and corruption. Although the provision of indigenous language translators in courtrooms is legally mandated, a lack of funding has prevented proper implementation.

Police have been accused of torture, extortion, kidnapping for ransom, and extrajudicial killings of suspected gang members. Several police officers were charged with drug-related crimes in 2009, including the director general, assistant director, and director of operations of the National Civil Police, all of whom were fired in August over the disappearance of more than 100 kilograms of seized cocaine. The government's use of the military to maintain internal security remains controversial, since the 1996 peace accords placed limits on the practice.

Guatemala is one of the most violent countries in Latin America, and in 2009 it experienced its most violent year in recent history, with 6,451 homicide victims; the country registered an average of 18 murders a day in 2009, compared with 15 a day in 2008. It is estimated that only 2 percent of murder cases result in a conviction. Violence related to drug trafficking has spilled over border from Mexico, with rival gangs and cartels battling over territory. In March 2009, authorities discovered a training camp in Quiché run by the Zetas, a notorious Mexican drug gang; also that month, Colom received death threats from Mexico's Gulf cartel. Trafficking organizations operate with impunity in the jungles of northern Guatemala, which serve as a storage and transit hub for cocaine en route to the United States. These traffickers have also contributed to a growing local drug problem by paying Guatemalan associates in cocaine rather than cash. In the wake of the global economic downturn, Guatemala has been forced to cut funding for the military's efforts to fight drug smuggling and organized crime.

In other forms of violence, at least 200 transportation workers were murdered during 2009, with officials estimating that organized crime groups extorted nearly \$10,000 a day from bus drivers. Meanwhile, the continued practice of lynching, mutilation, torture, and political assassinations – carried out by plainclothes security forces, angered mobs, gangs, and other groups – has shocked the country.

Indigenous communities suffer from especially high rates of poverty and infant mortality. Indigenous women are particularly marginalized, and more than half of those over age 15 are illiterate. Discrimination against the Mayan community continues to be a major concern. The government in recent years has approved the eviction of indigenous groups to make way for mining, hydroelectric, and other development projects.

Sexual harassment in the workplace is not penalized. Young women who migrate to the capital for work are especially vulnerable to harassment and inhumane labor conditions, and women overall earn 60 percent of what men in the same jobs are paid. Violence against women and children is widespread. Guatemalan women and children are drawn into prostitution both locally and in neighboring countries. In 2008, Congress passed a law against femicide, the murder of a woman for gender-related reasons, which now carries a penalty of 25 to 50 years in prison; the law similarly recognized and increased penalties for a range of other crimes against women. Transgender women and gay men also continue to be targets of violent attacks.

Guatemala has the highest rate of child labor in the Americas, with one-third of school-aged children forced to work on farms or in factories. A new law against human trafficking came into force in April 2009, clarifying the legal definition of the crime and increasing penalties. However, Guatemala remained on the Tier 2 Watch List in the U.S. State Department's Trafficking in Persons Report in 2009, due to the government's failure to comply with minimum international standards to eliminate trafficking. Casa Alianza, the foremost nonprofit operator of shelters for trafficking victims, was forced to close its Guatemala facilities in 2009 due to lack of funding.

**Countries are ranked on a scale of 1-7, with 1 representing the highest level of freedom and 7 representing the lowest level of freedom.*

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