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Freedom in the World 2012 - Guatemala

2012 Scores

Status: Partly Free
Freedom Rating: 3.5
Civil Liberties: 4
Political Rights: 3

Overview

The Patriotic Party and National Unity for Hope parties captured two-thirds of the legislative seats in September 2011 elections. After the governing party's presidential candidate was disqualified from the presidential race, Otto Pérez Molina defeated Manuel Baldízón in a November runoff. High profile killings of 27 farm workers and Argentine folk singer Facundo Cabral, and states of siege in Alta Verapaz and Petén, dominated the headlines even though the country's murder rate declined for a second consecutive year.

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 political party, and two truth commissions began receiving complaints of human 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.

In 2003, Óscar Berger of the Grand National Alliance (GAN) defeated Álvaro Colom of the National Unity for Hope (UNE) in runoff presidential elections. In 2007, Colom defeated Otto Pérez Molina of the Patriotic Party (PP) in a runoff vote to become president, capturing 53 percent of the vote amid a mere 45 percent turnout. Elections for congressional seats that September saw the UNE party capture 51 seats, followed by GAN with 37 seats, and Pérez's PP with 29 seats.

Guatemalans returned to the polls in September 2011 to elect a president, all 158 members of the parliament, mayors for each of the 333 municipalities, and 20 members of the Central American Parliament. Manuel Baldizón of the Renewed Democratic Liberty (LIDER) party emerged as the main competitor against presidential candidate Otto Pérez of the PP when the courts determined that the candidacy of former first lady Sandra Torres of the UNE-GAN coalition would violate Article 186 of the constitution, which prevents close relatives from immediately succeeding the president. As a result, the ruling coalition lacked a candidate in the presidential elections. Pérez defeated Baldizón in a November runoff with an estimated 54 percent of the vote. The PP and UNE parties captured two-thirds of the seats in parliamentary elections; nine other parties took the remaining 54 seats.

The elections were generally considered free and fair despite accompanying violence, repeated campaign violations, and vote irregularities. While not as bloody as the 2007 elections, at least 36 candidates, party activists, and their relatives were killed in campaign-related violence. One high profile case involved a mayoral candidate from the municipality of San José Pinula who murdered his two competitors. Both the LIDER and the PP violated campaign spending laws, and electoral observers reported irregularities including intimidation, vote buying, and the burning of ballots and electoral boxes. Five municipal elections had to be repeated due to irregularities. The electoral authority, the Supreme Electoral Tribunal, was criticized for its slow transmission of election results.

The mandate of the UN-backed International Commission against Impunity in Guatemala (CICIG) – tasked with investigating corruption, violence, and organized crime within Guatemalan public institutions, political parties, and civil society – was extended through September 2013. After Attorney General Conrado Reyes was accused of obstructing the CICIG's ability to carry out investigations and having ties to organized crime in 2010, Commissioner Carlos Castresana resigned in protest, citing insufficient

support from Guatemalan officials. Reyes denied the accusations, but the Constitutional Court removed him from office. The United Nations selected former Costa Rican attorney general Francisco Dall'Anese to be the CICIG's new commissioner in June 2010, and Colom nominated Claudia Paz y Paz to become the country's first female attorney general in December.

Two states of siege were in effect in 2011. The first was declared in the department of Alta Verapaz from December 2010 to February 2011 in order to fight increased drug trafficking. However, human rights and local community groups expressed skepticism of the government's intentions, as the department is home to many land conflicts, and at least two community activists were arrested during the siege. The declaration of a state of siege grants security forces the right to conduct searches and to detain suspects without warrants, prohibits gun possession, and limits freedom of association and freedom of the press in the name of security. The president declared a second state of siege in the northern province of Petén in May after 27 workers were murdered on a farm by the Mexican-based Zetas drug gang. The siege remained in effect through the end of the year.

Political Rights and Civil Liberties

Guatemala is an electoral democracy. Despite many difficulties, the 2011 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. The main political parties are the UNE, the Patriotic Party, GANA, the Nationalist Change Union (UCN), LIDER, and the Commitment, Renewal, and Order (CREO) party.

Efforts to combat corruption, such as the introduction of an electronic procurement system for government entities, have made some progress, but serious problems remain. Unregulated campaign financing enables graft and criminal influence on politics. Among other high-profile corruption cases in 2011, former president Alfonso Portillo and his former defense and finance ministers were acquitted by a Guatemalan court in May of having embezzled money from the Ministry of Defense in 2001 during Portillo's presidential term. However, the Guatemalan Constitutional Court ruled in August 2011 that Portillo could be extradited to the United States where he was indicted in 2010 for allegedly embezzling state funds while in office (2000-2004) and laundering the money through Guatemalan, European, and U.S. banks. Guatemalan courts also failed to prosecute Alejandro Giammattei, a former prison director who was accused of participating in the killing of seven inmates during a 2007 uprising at Pavon prison and

the alleged execution of three inmates who escaped from another prison in 2005. After being released in May 2011, Giammattei immediately entered the 2011 presidential race as the candidate for the Center for Social Action Party. Along with Giammattei and 16 other people, ex-police chief Erwin Sperisen and former interior minister Carlos Vielmann fought extradition requests from Switzerland and from Spain respectively for allegedly executing people inside and outside the prison system. On a positive note, the CICIG won convictions against those accused of the murder of Victor Rivera, a former advisor to the country's Interior Minister, and also played an important role in arresting several suspects in the July murder of Argentine folk singer Facundo Cabral and the May massacre in Petén. Guatemala was ranked 120 out of 183 countries surveyed in Transparency International's 2011 Corruption Perceptions Index.

The 2009 Law for Free Access to Public Information grants citizens access to information on budgets and salaries. In line with this legislation, the government has taken steps towards developing an institutional framework for transparency, including the creation of a Vice Ministry of Fiscal Transparency and Evaluation and a Public Information Unit responsible for handling requests for public records.

While freedom of speech is protected by the constitution, journalists often face threats and practice self-censorship when covering drug trafficking, corruption, organized crime, and past human rights violations. A number of journalists received death threats, were physically assaulted, and murdered in 2011. Television correspondent Oscar de León received continuous death threats and his vehicle was fired upon in February following his investigations of police corruption. In May, television reporter Yensi Roberto Ordoñez Galdámez was found stabbed to death in the southern province of Escuintla. Ordoñez had received previous threats related to his reporting and was allegedly being extorted; no arrests had been made by year's end. Journalist Lucía Escobar was threatened and forced to flee for her safety in October after writing a piece for *elPeriódico* that accused a municipal security commission in the city of Panajachel of extralegal activities and the disappearance of a city resident. However, prosecutors arrested the involved assailants. The press and most broadcast outlets are privately owned. Mexican businessman Remigio Ángel González 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.

The constitution guarantees religious freedom. However, indigenous communities have faced discrimination for openly practicing the 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, though police have at times used force to end disruptive demonstrations, resulting in the injury and death of some protesters.

The constitution guarantees freedom of association, and a variety of nongovernmental organizations (NGOs) operate without major legal or government obstacles. However, the Unit for the Protection of Human Rights Defenders in Guatemala identified 402 attacks against human rights defenders in 2011, including journalists and advocates of union and environmental rights. International agencies also encountered intimidation and threats during the year. Amid continued protests against the Marlin Mine in Guatemala's western highlands, the Inter-American Commission on Human Rights (IACHR) in May 2010 granted precautionary protective measures to members of 18 indigenous Mayan communities in the Sipacapa and San Miguel Ixtahuacán municipalities. The indigenous inhabitants allege that the Marlin mine has resulted in grave human rights violations and created serious health hazards for the communities. While activists continued to receive threats throughout 2011, the IACHR withdrew its demand that the government close the Marlin Mine in December after further study indicated that its operations posed no serious threat.

Guatemala is home to a vigorous labor movement, but workers are frequently denied the right to organize and face mass firings and blacklisting, especially in export-processing zones. Trade union members are also subject to intimidation, violence, and murder, particularly in rural areas during land disputes. According to the International Trade Union Confederation, Guatemala is the second most dangerous country in the world for trade unionists after Colombia. In 2010, the United States filed a formal complaint against Guatemala under the Dominican Republic-Central American Free Trade Agreement, alleging government failure to protect workers' rights. In August 2011, the U.S. further requested a dispute settlement panel to address its complaint. Two former policemen were sentenced in October 2011 to 40 years in prison for the 1984 forced disappearance of union leader Fernando García. A former chief of police was also arrested in June 2011 for complicity in García's disappearance. He was awaiting trial at year's end.

The judiciary is troubled by corruption, inefficiency, capacity shortages, and the intimidation of judges, prosecutors, and witnesses. Witnesses and judicial-sector workers continued to be threatened and, in some cases, murdered in 2011. In 2010, the CICIG reported irregularities in the selection of judges and accused the public prosecutor's office of impeding its investigations of corruption and organized crime within public institutions. CICIG voiced similar concerns about the court's integrity following the acquittal of former president Alfonso Portillo in 2011.

Prosecutions of perpetrators of past human rights atrocities continued in 2011. In August, four former military officers each received sentences of 6,060 years for their roles in the 1982 massacre of more than 250 people in Dos Erres, El Petén, and for crimes against humanity. Several high-ranking officials were also arrested throughout the year, including former general and de facto president Oscar Mejia, for their roles in implementing mass killings in the 1980s, which targeted government opponents and civilians.

Police continued to be accused of torture, extortion, kidnapping, and extrajudicial killings. A 2010 Law for the National Prevention of Torture and Other Cruel and Unusual Punishments provides for the creation of a monitoring unit to oversee the prevention of torture in prisons. Police officers continue to be charged with drug-related crimes. The government uses the military to maintain internal security, despite restrictions on this practice imposed by the 1996 peace accord.

Prison conditions are harsh, and the facilities are overcrowded and 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.

Guatemala remains one of the most violent countries in Latin America. Over 5,600 people were murdered during 2011, which actually represents a 5 percent decrease from 2010. Violence related to the shipment of drugs from South America to the United States has spilled over the border from Mexico, with rival drug trafficking organizations battling for territory. These groups have operated with impunity in the northern jungles, which serve as a storage and transit hub for cocaine en route to the United States. The local drug problem has also worsened, as traffickers have paid Guatemalan associates in cocaine rather than cash. The administration of Álvaro Colom reacted to this situation by declaring states of siege in two departments and repositioning police and military.

Indigenous communities suffer from especially high rates of poverty, illiteracy, and infant mortality. Indigenous women are particularly marginalized. 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. Several large indigenous communities have reportedly been forcibly evicted in the Polochic Valley with killings, beatings, and the burning of houses and crops.

The constitution prohibits discrimination based on gender, though gender inequalities persist in practice. 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. Physical and sexual violence against women and children, including domestic violence, remain widespread, with perpetrators rarely prosecuted. While Guatemala now has its first female attorney general, police reform commissioner, and vice president, women remain underrepresented in politics, and held just 13 percent of the seats in congress following September 2011 elections. Sexual minorities also continued to be targets of violent attacks.

Guatemala has one of the highest rates of child labor in the Americas. According to the U.S. State Department, the government does not fully comply with the minimum standards for eliminating trafficking but is making efforts to do so, including launching a program to provide specialized services for trafficking victims.

Ratings Change

Guatemala's political rights rating improved from 4 to 3 due to progress made by the UN-backed International Commission against Impunity in Guatemala in investigating corruption, violence, and organized crime within Guatemalan public institutions, political parties, and civil society, and due to the anticorruption efforts of the country's attorney general.