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2011 Country Reports on Human Rights Practices - Guatemala

EXECUTIVE SUMMARY

Guatemala is a multiparty constitutional republic. On November 6, Otto Perez Molina of the Patriot Party (PP) won the presidential election for a four-year term beginning January 2012. International observers considered the election generally free and fair. During the year security forces reported to civilian authorities, although there were instances in which members of the security forces, particularly the police, acted independently of civilian control.

The principal human rights-related problems included widespread institutional corruption, particularly in the police and judicial sectors; police involvement in serious crimes, including unlawful killings, drug trafficking, and extortion; and widespread societal violence, including violence against women and numerous killings, many related to drug trafficking.

The country's human rights problems also included harsh and dangerous prison conditions; arbitrary arrest and detention; failure of the judicial system to ensure full and timely investigations and fair trials; failure to protect judicial sector officials, witnesses, and civil society representatives from intimidation; threats and intimidation against, and killings of, journalists and trade unionists; discrimination against women; trafficking in persons; discrimination against indigenous communities; discrimination on the basis of sexual orientation and gender identity; and ineffective enforcement of labor and child labor laws.

The government increased its efforts to prosecute and punish officials in the security services and elsewhere in the government who committed crimes and abuses. However, impunity for crimes committed by government officials remained a widespread problem.

Section 1. Respect for the Integrity of the Person, Including Freedom from:

a. Arbitrary or Unlawful Deprivation of Life

Although there were no reports that the government committed politically motivated killings, members of the police force allegedly committed unlawful killings. Corruption, intimidation, and ineffectiveness within the police force and other institutions prevented adequate investigation of many such killings as well as the arrest and successful prosecution of perpetrators.

The National Civilian Police (PNC) and its Office of Professional Responsibility (ORP) reported they investigated 15 accusations of killings involving 13 PNC agents, who remained under investigation at year's end.

Between March and June, three indigenous persons were killed during the eviction of families from a sugar plantation in Alta Verapaz conducted by police, military, and private security forces. Responsibility for the killings was unclear and investigations by the Public Ministry continued at year's end (see section 6, Indigenous People).

On October 27, PNC officer Alberto Fuentes Gomez was sentenced to 25 years in prison for the extrajudicial killing of Byron Camacho Gomez in September 2010. Two other PNC agents, Benjamin Moises Lopez Baten and Lizardo Florencio Joachin Lopez, were sentenced to three years in prison as accomplices to the crime.

At year's end army major Hugo Leonel Zielke Puac; PNC officials Ernesto Gutierrez Cos, Jairo Manuel Orozco, Osmandi Lopez Fuentes, and Jorge Amilcar Ramirez Cerna; and Korean businessmen Woo Kun Yang and Young Gag Lee remained in prison awaiting trial for the January 2010 killing of Te Paek Soung Kim.

There were no known developments in a number of additional cases pending against PNC officers accused of unlawful killings in 2010.

During the year the Public Ministry arrested several former army officers in connection with their alleged roles in pending cases from the country's armed internal conflict (1960-96). Developments in historical cases during the year included:

On June 17, former chief of the defense staff Hector Mario Lopez Fuentes was arrested on charges of genocide, crimes against humanity, and forced disappearance. Prosecutors claimed that Lopez Fuentes gave the orders that resulted in 12 massacres and the deaths of 317 people between 1982 and 1983 in the Ixil region of the Quiche Department. Retired brigadier general Jose Mauricio Rodriguez Sanchez, the director of military intelligence under Lopez Fuentes, was arrested on October 12 and also charged with these crimes. At year's end both suspects were being held in preventive detention awaiting trial. On October 24, former defense minister Oscar Humberto Mejia Victores, charged with being the intellectual author of a policy of genocide, surrendered to authorities in connection with the Lopez Fuentes and Rodriguez Sanchez cases. However, government medical experts declared the 80-year-old unfit to stand trial due to age-related mental illness. He was being held in a military hospital at year's end.

On August 25, retired lieutenant colonel Carlos Antonio Carias Lopez and Sergeants Reyes Collin Gualip, Daniel Martinez Mendez, and Manuel Pop Sun were each sentenced to more than 6,000 years in prison for crimes against humanity for their participation in the 1982 massacre of 201 civilians at the village of Dos Erres. A fifth suspect in the Dos Erres case, former sergeant Pedro Pimentel Rios, was arrested by authorities on July 12. At year's end Pimentel Rios was in preventive detention awaiting trial.

On December 14, a judge ruled that there was sufficient evidence to try a former military commissioner and four ex-members of the Civilian Auto Defense Patrol for their alleged involvement in the massacre of 256 villagers at Plan de Sanchez, Rabinal, in July 1982. At year's end the five suspects – Lucas Tecu, Julian Acoj Morales, Mario Acoj Morales, Santos Rosales Garcia, and Eusebio Grave Garcia – remained in preventive detention awaiting trial.

There were no developments in the 1993 killing of Jorge Carpio Nicolle; the 1990 "street children case" and the "white van case" of 1987 and 1988; or the killings in 1982 of 177 civilians in Rio Negro, Baja Verapaz.

b. Disappearance

There were no reports of politically motivated disappearances.

On February 17, the Supreme Court upheld the 2009 conviction of 150 years in prison for former military commissioner Felipe Cusanero for his participation in the forced disappearance of six indigenous persons between 1982 and 1984.

On April 8, retired army colonel Jorge Humberto Gomez Lopez was arrested for his alleged role in connection with the 1984 forced disappearance of student leader and trade union activist Fernando Garcia. Gomez Lopez had been the commander of the unit responsible for Garcia's capture. On June 9, retired army colonel Hector Bol de la Cruz also was arrested for his alleged role in the case. Both Bol de la Cruz and Gomez Lopez were under house arrest awaiting trial at year's end.

On July 26, authorities arrested former police commander Pedro Garcia Arredondo for the 1981 forced disappearance of student Edgar Saenz Calito. Garcia Arredondo remained in preventive detention awaiting trial at year's end.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

Although the constitution and the law prohibit such practices, government agents did not always respect these provisions. There were credible reports of abuse and other mistreatment by PNC members, including abusive treatment of minors in police detention (see section 6, Children). Complaints typically related to the use of excessive force during police operations.

Prison and Detention Center Conditions

Prison conditions remained harsh and dangerous, and there were multiple instances of killings of inmates by other inmates. The prison system continued to suffer from a severe lack of resources, particularly in the areas of prison security and medical services and facilities. Prisoners complained of inadequate food and often had to pay for additional sustenance. Prison officials reported running shops at three of the national prisons to provide jobs to inmates. Some prisoners worked while incarcerated in order to pay for their basic needs and support families. Prisons had inadequate provisions for sanitation; bathing; ventilation; temperature; lighting; basic emergency, dental, and medical care; and access to potable water. Illegal drug sales and use were widespread. Prison officials reported frequent escape attempts, gang fights, fabrication of homemade weapons, and other manifestations of prisoner unrest. Prisoners reportedly used cell phones to direct criminal activity both inside and outside of prisons, including demanding extortion payments and coordinating kidnappings for ransom and killings of bus drivers and assistants (who were targets for the frequently violent extortion of bus fares, a pervasive problem). The prison guard force of 2,250 was inadequate to control prisoners effectively.

The media and nongovernmental organizations (NGOs) reported that physical and sexual abuse of female and juvenile inmates was a serious problem. Female inmates reported unnecessary body searches and verbal abuse by prison guards. Children under three years of age could live in prison with their mothers, although the penitentiary system provided inadequate food for young children and many suffered from illness. Lesbian, gay, bisexual, and transgender (LGBT) rights groups noted that gay and transgender prisoners often were raped by other prisoners.

Prison overcrowding continued to be a problem. According to the prison system registry, 19 prisons and jails designed to hold 6,974 persons held 12,835 inmates. There were 951 women and 585 juveniles in the national penitentiary system.

On rare occasions male and female detainees in immigration facilities were held together. In Puerto Barrios a prison for men designed to hold 300 inmates held 535 men and 42 women. While the women had separate living quarters, they did not have the same level of access to recreational spaces as the men. Generally, however, conditions for male and female prisoners were comparable throughout the country.

Pretrial detainees sometimes were held in the same prison blocks with the general prison population. On rare occasions juveniles and adults were held together. Prisoners and detainees had reasonable access to visitors and were permitted religious observance. Authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship and to request investigation of credible allegations of inhumane conditions. While the government nominally monitored prison and detention center conditions, authorities did not regularly investigate credible allegations of inhumane conditions or document the results of such investigations in a publicly accessible manner.

The government permitted prison-monitoring visits by local and international human rights groups, the Organization of American States (OAS), public defenders, religious groups, and family members.

The human rights ombudsman does not have authority to serve on behalf of prisoners and detainees to consider such matters as alternatives to incarceration for nonviolent offenders, circumstances of confinement of juvenile offenders, or procedural improvements to ensure prisoners do not serve beyond the maximum sentence for the charged offense. There were no steps taken during the year to improve recordkeeping or to use alternatives to sentencing for nonviolent offenders.

The government's Social Rehabilitation Program assigns a multidisciplinary team to each prison with experts in labor, education, psychology, social work, and medicine. Each team works with inmates to provide them with the necessary skills to reintegrate into their communities. Program officials reported that their effectiveness was hampered by limited resources.

d. Arbitrary Arrest or Detention

The constitution and the law prohibit arbitrary arrest and detention, but there were credible reports of arrests without judicial warrants, illegal detentions, and failure to adhere to prescribed time limits in legal proceedings. In practice, arresting officers sometimes failed to bring suspects before magistrates within the legally mandated six-hour deadline, and magistrates sometimes failed to hold a hearing within the legally mandated 24-hour period.

Role of the Police and Security Apparatus

The 24,600-member PNC, overseen by the Ministry of Government and headed by a director general appointed by the ministry, has responsibility in law and practice for law enforcement and maintenance of order in the country. Civilian authorities generally maintained effective control over the PNC, but the government lacked effective mechanisms to investigate and punish abuse and corruption. There were reports of impunity involving security forces during the year. The PNC remained understaffed, inadequately trained, and insufficiently funded, all of which substantially impeded its effectiveness.

While no active members of the military served in the police command structure, the government continued to employ the military to support police units in response to rising crime. Joint police and military operations under PNC operational control continued in Guatemala City's high-crime neighborhoods and other areas.

Police impunity for criminal activities remained a serious problem. There were credible reports that individual PNC officers and some police units or persons disguised as police officers stopped cars and buses to demand bribes or steal private property and in some cases kidnapped, assaulted, and raped victims. Police and immigration officials reportedly extorted and mistreated persons attempting to enter the country illegally. The PNC routinely transferred officers suspected of wrongdoing rather than investigating and punishing them.

Police threatened persons engaged in commercial sexual activities with false drug charges to extort money or sexual favors and harassed LGBT persons with similar threats. Critics accused police of indiscriminate and illegal detentions when conducting antigang operations in some high-crime neighborhoods. Security officials allegedly arrested and imprisoned suspected gang members without warrants or on false drug charges. There were reports of police involvement in kidnappings for ransom. However, the ORP reported that during the year there were no complaints filed for kidnapping by PNC personnel.

The ORP, which is the mechanism for investigating security force abuse, conducted internal investigations of misconduct by police officers. During the year it reported receiving 1,814 complaints, which included 15 complaints of killings, six forced disappearances, 138 illegal detentions, 68 thefts, 14 rapes, 117 threats, and 323 cases of abuse of authority.

During the year the ORP investigated 1,259 police officers, 95 of whom were subsequently dismissed and 537 of whom were exonerated. The PNC trained 1,667 cadets in human rights and professional ethics. The army required civil affairs officers at each command to plan and document human rights training provided to soldiers. At year's end 7,737 military officers and soldiers had received human rights training, according to the Ministry of Defense.

Arrest Procedures and Treatment While in Detention

The law requires that a court-issued arrest warrant be presented to a suspect prior to arrest unless the suspect is caught in the act of committing a crime. Police may not detain a suspect for more than six hours without bringing the case before a judge. However, this right was not respected in practice. Detainees often were not promptly informed of the charges filed against them. After a suspect is arraigned, the prosecutor generally has three months to complete the investigation and file the case in court or seek a formal extension of the detention period. The law prohibits the execution of search warrants between 6 p.m. and 6 a.m. unless a state of siege has been declared. The law provides for access to lawyers and bail for most crimes. The government provides legal representation for indigent detainees, and detainees have access to family members. A judge has the discretion to determine whether bail is necessary or permissible for pretrial detainees, depending on the circumstances.

In high-crime areas of Guatemala City, Mixco, and Villa Nueva, the government continued to operate five 24-hour court pilot projects that enhanced the government's ability to comply with legal requirements to bring suspects before a judge within six hours of initial detention, thereby significantly reducing the number of cases dismissed for lack of merit or on technical grounds.

Arbitrary Arrest: During the year the ORP received 138 accusations of illegal detention. There were no reliable data on the number of arbitrary detentions, although most accounts indicated that police forces routinely ignored writs of habeas corpus in cases of illegal detention, particularly during neighborhood antigang operations.

Pretrial Detention: Although the law establishes a three-month limit for pretrial detention, prisoners often were detained past their legal trial or release dates. Authorities did not release some prisoners in a timely fashion after completing full sentences due to the failure of judges to issue the necessary court order or other bureaucratic problems. Trial delays often were due to the Public Ministry and courts' lack of resources and staff. The government did not keep statistics on the percentage of the prison and detainee population in pretrial detention or the average length of time detainees were held, including whether this equaled or exceeded sentences for alleged crimes.

e. Denial of Fair Public Trial

While the constitution and the law provide for an independent judiciary, the judicial

system often failed to provide fair or timely trials due to inefficiency, corruption, insufficient personnel and funds, and intimidation of judges, prosecutors, and witnesses. The judiciary was generally independent, although there were reports of ineffectiveness and manipulation in practice. Many high-profile criminal cases remained pending in the courts for long periods, as defense attorneys employed successive appeals and motions.

Judges, prosecutors, plaintiffs, and witnesses continued to report threats, intimidation, and surveillance. During the year the special prosecutor for crimes against judicial workers received 243 complaints of threats or aggression against workers in the judicial branch, compared with 154 in 2010.

The Ministry of Government assigned police officers to the International Commission to Combat Impunity in Guatemala (CICIG) to augment security. The CICIG-vetted prosecutor unit, created by the Public Ministry, continued to be directly supervised by a senior CICIG prosecutor. At year's end CICIG continued its investigation of 27 high-profile cases, prosecutions, and various other cases involving killings of women, bus drivers, and bus assistants; trafficking in persons; and attacks against and killings of unionists and human rights defenders.

There were credible reports of killings of witnesses. At year's end 33 persons were in the Public Ministry's witness protection program.

On February 15, Judge Erick Caceres Rodriguez was killed on his way to court in San Benito, Peten. Marvin Victor Giovanni Cruz was arrested for the killing two days later and sentenced to 25 years in prison on October 26.

On May 24, Assistant Prosecutor Allan Stowlinsky Vidaurre, who had prosecuted a case against members of the Zeta narcotics trafficking organization, was killed in Coban, Alta Verapaz. On June 16, authorities arrested 16 suspects, including PNC agent Victor Omar Guillermo, on charges relating to Stowlinsky's kidnapping and killing. At year's end the trial continued.

The Supreme Court continued to seek the suspension of judges and to conduct criminal investigations for improprieties or irregularities in cases under its jurisdiction. The Judicial Disciplinary Unit investigated 1,223 complaints of wrongdoing and held hearings for 846 complaints during the year, and applied sanctions to several cases, ranging from written notice to 30-day suspension.

Trial Procedures

The constitution provides for the right to a fair public trial, the presumption of innocence, the right to be present at trial, and the right to counsel in a timely manner. Juries are not used at trials. The government provides at public expense attorneys for defendants facing serious criminal charges, including indigent persons. Defendants and their attorneys have access to government-held evidence relevant to their case. The law provides for plea bargaining and the right of appeal. Three-judge panels render verdicts. The law provides for oral trials and mandates language interpretation for those needing it, in particular the large number of indigenous persons who are not fluent in Spanish, although inadequate government funding limited effective application of this requirement. The Public Ministry utilized 20 interpreters nationwide, including in former conflict areas of the country, and the Office of the Public Defender employed 47 bilingual public defenders in locations where they could also serve as translators.

The Public Ministry, acting semi-independently of the executive branch, may initiate criminal proceedings on its own or in response to a complaint. Private parties may participate in the prosecution of criminal cases as plaintiffs. Lengthy investigations and frequent procedural motions used by both defense and prosecution often led to excessively long pretrial detention, frequently delaying trials for months or years.

Regional Human Rights Court Decisions

At year's end the government had not responded to an order reissued by the Inter-American Court of Human Rights in December 2010 to investigate fully the 1992 forced disappearance of Efraín Bamaca Velasquez. A Supreme Court hearing to consider reopening the case was scheduled for 2012.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

Individuals and organizations had access to administrative and judicial remedies to bring lawsuits seeking damages for, or cessation of, a human rights violation or other alleged wrongs. While the judiciary was generally impartial and independent in civil matters, it suffered from inefficiency and institutional weaknesses. There were problems in enforcing civil court orders. Some killings resulted from the PNC's failure to enforce restraining orders promptly.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The constitution and the law prohibit such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

Status of Freedom of Speech and Press

The constitution provides for freedom of speech and press, and the government generally respected these rights in practice.

Freedom of Press: The independent media were active and expressed a wide variety of views without overt government restriction.

Violence and Harassment: Members of the press claimed that increasing levels of impunity and violence in the country threatened the practice of free and open journalism. The press also complained of threats by organized crime and drug-trafficking organizations, noting that these threats increased journalists' sense of vulnerability.

The Special Prosecutor's Unit for Crimes against Journalists received 34 complaints of attacks and other acts of intimidation against journalists, compared with 13 during 2010.

At year's end there were no arrests for the May 19 killing of reporter Yensi Roberto Ordonez Galdez in Nueva Concepcion, Escuintla. The journalist had allegedly received threats for some of his reporting and had also been the victim of extortion.

At year's end there were no arrests for the April 2010 nearly fatal shooting of journalist Luis Felipe Valenzuela.

Censorship or Content Restrictions: Some members of the press reported receiving pressure by various public officials regarding the selection and content of their reporting. Some owners and members of the media also accused the government of following a discriminatory advertising policy, particularly with respect to leading print and broadcast media that expressed news or commentary perceived as critical of the president, his administration, the first lady, or public officials and programs.

Internet Freedom

There were no government restrictions on access to the Internet or credible reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the expression of views via the Internet, including by e-mail.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

b. Freedom of Peaceful Assembly and Association

The constitution provides for freedom of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion

See the Department of State's [2010 International Religious Freedom Report](#).

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The constitution and the law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice.

Protection of Refugees

Access to Asylum: The country's laws provide for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees.

Durable Solutions: During the year the government received 16 requests for refugee status and accorded asylum or refugee status to 16 persons.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of nearly universal suffrage for those 18 years of age and older. Members of the armed forces and police are not permitted to vote.

Elections and Political Participation

Recent Elections: On November 6, Otto Perez Molina of the PP won a four-year term as president. The OAS international observation mission characterized the elections as generally free and fair. The Office of the Human Rights Ombudsman reported 36 killings of political activists or candidates, mostly at the municipal level, during the election cycle. There were few arrests or convictions for such killings, and the actors behind them were generally unknown.

Participation of Women and Minorities: There were 20 women in the 158-seat Congress. A total of 343 women served as judges nationwide, including one on the Supreme Court and one on the Constitutional Court. In October a woman was elected to serve a one-year term as president of the Supreme Court. There were no women in the 13-member cabinet. Six of the country's 333 mayors were women.

Despite a sizable indigenous population, there were no indigenous cabinet members or Supreme Court justices. There were 113 indigenous mayors and approximately 20 indigenous members of Congress.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption. The government did not implement the law effectively, however, and officials frequently engaged in corrupt practices with impunity. There was substantial corruption within the police and judiciary.

Government corruption was widely perceived to be a serious problem. The Public Ministry continued to prosecute for corruption former vice president Reyes Lopez and other senior members of previous governments.

On January 11, former minister of government Raul Velasquez surrendered to authorities for his alleged involvement in a scheme to embezzle 52 million quetzales (\$6.7 million) in gasoline coupons for PNC patrol units. Former secretary of presidential administrative affairs Juan Carlos Leal Medina was arrested on May 20 for his alleged participation in the case. Both officials remained in preventive detention awaiting trial at year's end.

On May 9, former minister of defense and former minister of government Eduardo Arevalo Lacs was acquitted of embezzlement charges.

At year's end several former government officials were under arrest, awaiting trial, or were fugitives from justice on corruption-related charges involving refurbishing the Fraijanes II Detention Center.

In May 2010 authorities arrested Oscar Humberto Andrade Elizondo, Ricardo Gustavo Maldonado Ortega, and Ricardo Alfonso Lancerio Ignacio from the Foundation for Development and Technology (Fundtech) on suspicion of stealing 17 million quetzales (\$2.2 million). In September 2010 authorities arrested Rodrigo Lainfiesta on fraud and money-laundering charges, and former Office of the Comptroller General auditors Fernando Rodriguez Trejo, Francisco Javier Alvarado, Carlos Enrique Lopez Gutierrez, Luis Alvarez Pereira, and Francisco Villatoro for involvement in alleged corrupt activities with Fundtech. Authorities were also investigating former ministers of government Raul Velasquez and Salvador Gandara in relation to the case.

On August 26, the Constitutional Court upheld the U.S. request to extradite former president Alfonso Portillo on charges of conspiracy to commit money laundering. On November 15, President Alvaro Colom announced that he would uphold the court's decision to extradite. At year's end the Public Ministry was awaiting the outcome of its appeal of Portillo's May 9 acquittal for embezzlement charges in Guatemala.

Public officials who earn more than 8,000 quetzales (\$1,024) per month or who manage public funds are subject to financial disclosure laws overseen and enforced by the Controller General's Office. Lack of political will and widespread impunity facilitated government corruption.

The law provides for the right of citizens to access public information and establishes fines for government agencies that obstruct such access. In practice the government granted access to public information for citizens and noncitizens, including foreign media, although at times it provided access in a slow and incomplete manner. There is no formal mechanism to appeal denials of requests. However, petitioners often successfully appealed to the Office of the Human Rights Ombudsman for assistance relating to a government denial of public information.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views.

A number of NGOs, human rights workers, and trade unionists reported threats or intimidation by unidentified persons, many of which they asserted had links to organized crime and private security companies, and complained that the government did little to investigate these reports or prevent further incidents.

The Office of the Special Prosecutor for Human Rights opened new cases involving anonymous telephone or written threats, physical assaults, and surveillance of workplaces, residences, and vehicular movements. The majority of such cases remained pending for lengthy periods without investigation or languished in the court system.

The NGO Guatemalan Human Rights Defenders Protection Unit (UDEFEUGA) reported 19 killings of human rights defenders during the year. UDEFEUGA also reported 402 attacks against human rights defenders during the year, a 33 percent increase from 2010. According to UDEFEUGA, many of the attacks were related to conflicts over land and the exploitation of natural resources.

At year's end no one had been arrested in connection with the 2010 killings of Evelinda Ramirez Reyes, president of the NGO Resistance Front in the Defense of Natural Resources (FRENA), or FRENA member Octavio Roblero.

UN and Other International Bodies: The Office of the UN High Commissioner for Human Rights maintained an office in the country; it advised and assisted the government and monitored the human rights situation. The government cooperated with the office and other international organizations, including CICIG.

Government Human Rights Bodies: The Office of the Human Rights Ombudsman reports to Congress and monitors the human rights set forth in the constitution. The ombudsman operated without government or party interference, had the government's cooperation, and issued reports and recommendations that were made public, including an annual report to Congress on the fulfillment of its mandate. The office did not have adequate resources. The public generally questioned the ombudsman's effectiveness.

The President's Commission on Human Rights (COPREDEH) is charged with formulating and promoting the government's human rights policy, representing the government before the Inter-American Commission on Human Rights (IACHR), and negotiating amicable settlements in cases before the Inter-American Court of Human Rights. COPREDEH also led coordination of police protection for various human rights and labor activists during the year. COPREDEH enjoyed the government's cooperation and operated without government or party interference. It did not have adequate resources but was considered reasonably effective and had the trust of the public.

The Congressional Committee on Human Rights drafts and provides advice on legislation regarding human rights matters. By law all political parties represented in Congress are required to have a representative on the committee. NGOs reported that they considered the committee to be an effective public forum for promoting and protecting human rights. The committee was not independent of party or government influence.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The constitution and the law prohibit discrimination based on race, gender, disability, language, or social status. In practice the government frequently did not enforce these provisions due to inadequate resources, corruption, and a dysfunctional judicial system.

Women

Rape and Domestic Violence: The law criminalizes rape, including spousal rape and aggravated rape, and sets penalties between five and 50 years in prison. The law also establishes penalties for physical, economic, and psychological violence committed against women because of their gender. However, the government did not enforce the law effectively.

Rape and other sexual offenses remained serious problems. According to the Public Ministry, 3,922 cases of rape were reported during the year. At year's end 10,526 additional cases of sexual abuse and other forms of physical violence were reported, according to the judiciary, PNC, and Institute of Public Defense.

Police had minimal training or capacity to investigate sexual crimes or assist victims of such crimes. The government maintained the PNC's Special Unit for Sex Crimes, Office of Attention to Victims, Office of the Special Prosecutor for Crimes against Women, and a special unit for trafficking in persons and illegal adoptions within the Special Prosecutor's Office for Organized Crime. Rape victims frequently did not report crimes due to lack of confidence in the justice system and fear of reprisals.

Violence against women, including domestic violence, remained a serious problem. The law prohibits domestic abuse, provides for the issuance of restraining orders against alleged aggressors and police protection for victims, and requires the PNC to intervene in violent situations in the home. In practice the PNC often failed to respond to requests for assistance related to domestic violence. Women's groups commented that few officers were trained to deal with domestic violence or assist victims.

The Institute of Public Criminal Defense continued to provide free legal, medical, and psychological assistance to victims of domestic violence. At year's end the project had attended to 12,956 cases of domestic violence.

The government's Program for Prevention and Eradication of Intrafamily Violence, under the Secretariat of Social Work, reportedly received on average five calls daily from battered women and children via its three emergency hotlines. At year's end the Public Ministry reported that it received more than 15,171 complaints of violence against women and children, including domestic violence and economic violence. Of the 14,448 complaints of sexual crimes, the government reported 477 convictions at year's end.

Justices of the peace issued an unspecified number of restraining orders against domestic violence aggressors and ordered police protection for victims. Full investigation and prosecution of domestic violence and rape cases took an average of one year. Although the law affords protection, including shelter, to victims of domestic violence, in practice there were insufficient facilities for this purpose.

The Office of the Ombudsman for Indigenous Women within COPREDEH provided social services for victims of domestic or social violence, as well as mediation, conflict resolution, and legal services for indigenous women. The office also coordinated and promoted action by government institutions and NGOs to prevent violence and discrimination against indigenous women but lacked human resources and logistical capacity to perform its functions on a national level. The office does not maintain statistics on the cases it handles.

Femicide affected both women and girls and continued to be a serious concern. In most killings, sexual assault, torture, and mutilation were evident. The PNC reported 632 killings of women during the year. There were few convictions for such cases, and NGOs noted that the severity of sentences was not always appropriate to the crime.

The Ministry of Government continued to operate eight shelters for victims of abuse in departments with the greatest incidence of domestic violence. The centers provided legal and psychological support and temporary accommodation. The Institute of Public Criminal Defense hotline to assist female victims of physical violence received 59,613 calls during the year.

A Guatemala City women's shelter for victims of violence continued to operate with capacity to house 20 victims and their families for six months at a time. There were also two other shelters for women and their children, with a capacity to house 40 persons each, in Guatemala City and Quetzaltenango. The government and foreign donors provided funding for these three shelters. An unknown number of smaller private shelters operated in the countryside.

Sexual Harassment: The law does not prohibit sexual harassment, and there were no accurate estimates of its incidence. Human rights organizations reported, however, that sexual harassment was widespread, especially in industries in which the workforce was primarily female, such as the textile and apparel sectors. Sexual harassment was also a problem in the police force.

Reproductive Rights: Couples and individuals have the right to decide freely and responsibly the number, spacing, and timing of children, free from discrimination, coercion, and violence. The government provided access to family planning information and sex education through the public health system. The UN Population Fund (UNFPA) reported that 34 percent of women used modern contraceptives.

Cultural, geographic, and linguistic barriers existed in access to reproductive health care, particularly for indigenous women in rural areas. Discriminatory attitudes among health-care providers and a lack of culturally sensitive maternal health services also deterred many indigenous women from accessing these services. The UNFPA estimated that the maternal mortality rate was 110 deaths per 100,000 live births. The principal causes of maternal mortality included limited access to skilled health-care attendants and, in some instances, poor prenatal and postnatal care. The National Survey on Infant and Maternal Health reported that between 2008 and 2009, among women who received prenatal care, 63 percent of rural women used services at home or from a traditional midwife, and 76 percent of urban women went to clinics or hospitals. The UNFPA estimated that only 41 percent of births during the year were attended by skilled personnel. Women and men had equal access to diagnosis and treatment for sexually transmitted infections.

Discrimination: While the law establishes the principle of gender equality, in practice women faced job discrimination and were less likely to hold management positions. Women were employed primarily in low-wage jobs in agriculture, retail businesses, the service sector, the textile and apparel industries, and the government. Women were more likely than men to be employed in the informal sector, where pay and benefits generally were lower. Women may legally own, manage, and inherit property on an equal basis with men, including in situations involving divorce.

The government's Secretariat for Women's Affairs advises the president on interagency coordination of policies affecting women and their development. The secretariat's activities included seminars, outreach, and providing information on discrimination against women.

Children

Birth Registration: Citizenship is derived by birth within the country's territory or from one's parents. The Office of the UN High Commissioner for Refugees reported problems in registering births, especially in indigenous communities, due to inadequate government registration and documentation systems. Factors such as the need to travel to unfamiliar urban areas, interact with nonindigenous male government officials, and speak Spanish inhibited some indigenous women from registering themselves and their children. Lack of registration sometimes restricted children's access to public services.

Child Abuse: Child abuse remained a serious problem. The Unit of Adolescent and Child Victims of the Special Prosecutor's Office for Women investigated cases of child abuse but did not report on its cases. The judiciary reported a total of 262 cases of child abuse, 204 of which resulted in convictions. Many children left home after being abused.

The Secretariat of Social Welfare, with oversight for children's treatment, training, special education, and welfare programs, provided shelter and assistance to children who were victims of abuse but sometimes placed children under its care in shelters with juveniles who had criminal records. The government operated a girls' shelter in Antigua and a boys' shelter in San Jose Pinula. Two other shelters in Quetzaltenango and Zacapa served both boys and girls. The government devoted insufficient funds to shelters, and authorities often preferred to send juveniles to youth shelters operated by NGOs.

Child Marriage: The minimum legal age for marriage is 16 for boys and 14 for girls with parental consent and 18 without it. There were credible reports of forced early marriages in some rural indigenous communities. There were no reported government efforts to combat child marriage.

Sexual Exploitation of Children: Child prostitution and child sex tourism remained problems, with credible reports of child sex tourism in Antigua, Guatemala City, and the Solola Department. The minimum age of consensual sex is 18. The law provides sentences ranging from 13 to 24 years in prison, depending on the victim's age, for sex with a minor. The law also prohibits child pornography and establishes penalties of six to 10 years in prison for the production, promotion, and selling of child pornography and two to four years' imprisonment for possession of it.

The Human Rights Ombudsman's Office reported 26 ongoing cases of child prostitution. The Office of the Attorney General reported no convictions in cases of child prostitution during the year.

Displaced Children: Criminals often recruited street children, many of whom were former victims of domestic abuse, for purposes of stealing, transporting contraband, prostitution, and illegal drug activities. According to the Public Ministry and PNC, approximately 3,000 youth were involved in street gangs. The NGO Mutual Support Group reported that 55 minors suffered violent deaths nationwide between January and October. NGOs dealing with gangs and other youth reported concerns that street youth detained by police were subject to abusive treatment, including physical assaults.

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism

There were no reports of anti-Semitic acts. The Jewish population numbered approximately 2,000 persons.

Trafficking in Persons

See the Department of State's [2011 Trafficking in Persons Report](#).

Persons with Disabilities

The constitution contains no specific prohibitions against discrimination based on physical, sensory, intellectual, and mental disabilities in employment, education, access to health care, or the provision of other state services or other areas. The law, however, mandates equal access to public facilities and provides some other legal protections. In many cases persons with physical and mental disabilities did not enjoy these rights, and the government devoted few resources to addressing the problem. The law does not mandate that persons with disabilities have access to information or communications. The National Council for Persons with Disabilities reported that few of the country's persons with disabilities attended educational institutions or held jobs. The council, composed of representatives of relevant government ministries and agencies, is the principal government entity responsible for protecting the rights of persons with disabilities. It met regularly to discuss initiatives and had a budget of five million quetzales (\$640,000).

There were minimal educational resources for persons with special needs, and the majority of universities did not have accessible facilities for persons with disabilities.

On December 10, a group of 35 persons with disabilities protested at the Urban Transport (Transurbano) headquarters in Guatemala City over the lack of accessible public transportation in the country. Transurbano's spokesperson dismissed the protesters as misinformed.

The National Hospital for Mental Health, the principal health provider for persons with mental illness, lacked basic supplies, equipment, hygienic living conditions, and adequate professional staffing.

Indigenous People

Indigenous persons from 22 ethnic groups constituted an estimated 43 percent of the population. The law provides for equal rights for indigenous persons and obliges the government to recognize, respect, and promote their lifestyles, customs, traditions, social organizations, and manner of dress. Indigenous communities were not regularly consulted on or able to participate in decisions affecting the exploitation of resources in their territories, including energy, minerals, timber, or other natural resources.

Maya indigenous communities reported a lack of infrastructure in their communities, including poor roads and limited access to running water and electricity. Maya and Garifuna indigenous persons reported the need for schools with bilingual education and cultural studies, educational scholarships, leadership training in order to increase indigenous persons' participation in politics, and the construction of universities (not just extension campuses), hospitals, and health clinics in their communities.

Indigenous representatives voiced concerns that a number of regional development projects not only lacked consultation with local communities but also were used to enrich corrupt local officials and political cronies, with few benefits returning to indigenous groups.

In May 2010 the IACHR issued precautionary measures recommending the suspension of operations at the Marlin Mine, a gold mine in San Marcos, due to environmental concerns. However, Goldcorp, the Canadian firm that owned the mine, continued operations through the year, while the government provided additional information to the IACHR in an effort to seek a change in the precautionary measures. After reviewing information provided by the parties, the IACHR issued new precautionary measures on December 14 that, if fulfilled, could allow for the lifting of the suspension.

Although some indigenous persons attained high positions as judges and government officials, they generally were underrepresented in politics and remained largely outside the country's political, economic, social, and cultural mainstream due to limited educational opportunities, poverty, lack of awareness of their rights, and pervasive discrimination. While the indigenous population increased its political participation, some civil society representatives questioned whether such participation had resulted in greater influence in the national political party structure. Indigenous lands often were not effectively demarcated, frequently making problematic the formal recognition of titles to land they occupied or claimed. Indigenous rights advocates asserted that continuing lack of sensitivity by security authorities to indigenous cultural norms and practices engendered misunderstandings, and they complained that few indigenous police officers worked in their own ethnic or linguistic communities.

In March a week-long government operation to evict an estimated 500 indigenous families from a former sugar plantation in the department of Alta Verapaz resulted in the death of Antonio Bevilacqua, injury of several others, and destruction of crops and makeshift houses. On May 21, Oscar Reyes was killed in a confrontation with private security guards of the Chabil Utzaj Sugar Company that was reportedly related to the eviction. On June 4, unknown gunmen killed community leader Maria Margarita Chub Che, also apparently in connection with the eviction. At year's end no one had been arrested in connection with the three killings.

Many indigenous persons were illiterate, and approximately 29 percent did not speak Spanish, according to the 2006 National Statistics Institute National Survey of Life Conditions report, the latest data available. While the average nonindigenous child from seven to 17 years of age had received 4.4 years of schooling, indigenous children of the same age range had received an average of 3.7 years, according to the same report. More than 50 percent of indigenous women over the age of 15 were illiterate, and a

disproportionate number of indigenous girls did not attend school. According to the Ministry of Education, approximately 82,970 preschool- and kindergarten-age indigenous children were enrolled in Spanish-indigenous language bilingual education programs.

The Department of Indigenous People in the Ministry of Labor, tasked with investigating cases of discrimination and representing indigenous rights, counseled indigenous persons on their rights; however, limited resources hindered the department's effectiveness.

Legally mandated court interpreters for criminal proceedings were rarely available, placing indigenous persons arrested for crimes at a disadvantage due to their sometimes limited comprehension of Spanish. There were 118 judges who spoke Mayan languages among the 536 tribunals in the country. There were 72 court interpreters, including 52 bilingual Mayan speakers, and the Supreme Court reported that the judicial system had 914 employees who spoke indigenous languages. However, in many instances bilingual judicial personnel continued to be assigned to areas where their second language was not spoken.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

LGBT rights groups alleged that members of the police regularly waited outside clubs and bars frequented by LGBT persons to demand that those engaged in commercial sexual activities provide protection money or pay police to avoid being put in jail. Police often harassed male sex workers, many of whom were minors, as well as transgender sex workers. According to LGBT rights groups, gay men and transgender persons experienced police abuse frequently because of their visibility and the number of places in which they were known to socialize.

A lack of trust in the judicial system and a fear of further harassment or social recrimination discouraged victims from filing complaints. There was general societal discrimination against LGBT persons in access to education and health care, employment, and housing. The government undertook minimal efforts to address this discrimination; however, cooperation between the LGBT community and the government improved modestly over the course of the year through the establishment of three government health clinics for LGBT persons.

On February 24, Victor Jose Cruz, a transgender person, was shot and killed in Quetzaltenango. On July 18, the body of a man dressed in women's clothing was found in Guatemala City. Police failed to investigate both cases, and there were no arrests in connection with either by year's end.

LGBT rights groups reported that when bodies of LGBT persons were found, the victim's genitals were often mutilated and insults were written on the body or burned on the skin.

Other Societal Violence or Discrimination

The law does not expressly include HIV/AIDS status among the categories prohibited from discrimination, and there was societal discrimination against persons with HIV/AIDS.

According to PNC statistics, vigilante mobs (most often in rural indigenous communities) killed 44 persons and injured 21 in lynchings and attempted lynchings during the year. Targets were often individuals suspected of rape, kidnapping, theft, or extortion. Many observers attributed the lynchings to public frustration with the failure of police and judicial authorities to provide security and to the emergence of local citizen-security groups. In many instances PNC agents refused to intervene due to fear for their own safety.

On October 4, Luis Gilberto Tian disappeared, allegedly at the hands of an 80-person vigilante organization in Panajachel, Solola; the motive was unclear. On October 31,

Juan Manuel Ralon Solorzano and Victor Manuel Anleu Mogollon, two of the alleged leaders of the group, were arrested on charges of illegal detention and causing serious bodily harm. A third suspect wanted on the same charges, Manuel Santiago Cululen Cumes, remained at large at year's end.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law provides all workers, with the exception of security force members, the right to form and join trade unions of their choice and allows workers to conduct legal strikes and bargain collectively. The law places some restrictions on these rights. For instance, legal recognition of a new industry-wide union requires that the membership constitute a 50 percent-plus-one majority of the workers in an industry and restricts union leadership to citizens.

By law a strike must have the support of 51 percent of a company's workforce. The president and cabinet may suspend any strike deemed "gravely prejudicial to the country's essential activities and public services." The government defined "essential services" more broadly than international standards, thus denying the right to strike to a large number of public workers, such as those working in education, postal services, transport, and energy production, transportation, and distribution. Public employees and workers in sectors deemed essential may address grievances by means of mediation and arbitration through the Ministry of Labor's General Inspectorate of Labor and also directly through the labor courts.

The law prohibits employer retaliation against strikers engaged in legal strikes. However, employers may suspend or fire workers for absence without leave if authorities have not recognized a strike as legal. The law calls for binding arbitration if no agreement is reached after 30 days of negotiation.

A factory or business owner is not obligated to negotiate a collective bargaining agreement unless at least 25 percent of workers in that factory or business are union members and request negotiations. The law prohibits antiunion discrimination and employer interference in union activities and requires employers to reinstate workers dismissed illegally for union-organizing activities.

The government did not systematically enforce legislation on freedom of association, collective bargaining, or antiunion discrimination. The government did little to investigate, prosecute, and punish employers who violated freedom of association and collective bargaining laws or to reinstate workers illegally dismissed for engaging in union activities. Inspectors repeatedly failed to take action, including failing to seek police assistance, to ensure access to worksites in response to employers' refusal to permit labor inspectors to enter facilities to investigate worker complaints. Penalties for labor law violations were inadequate and rarely enforced.

The Labor Ministry cannot sanction employers for labor law violations discovered during inspections but must refer these cases to the courts. Only labor courts have the authority to impose sanctions for labor law violations, although according to ministry officials, courts rarely sanctioned employers for ignoring legally binding court orders, and employers frequently refused to honor those decisions favorable to workers. Appeals by employers, along with widespread use of legal maneuvers such as reincorporation as a different entity, often prolonged reinstatement proceedings. The labor courts had a backlog of cases regarding the reinstatement of workers. The length of time to process such cases was excessive, with cases often taking two to four years and some lasting more than 10 years. The delay in processing labor law complaints – from submission to final resolution – facilitated impunity for employers.

In September and December 2010 the government took part in formal cooperative labor consultations under the Dominican Republic-Central America-United States Free Trade Agreement's (CAFTA-DR) Labor Chapter to address concerns about systemic weaknesses

in enforcement of labor laws, first identified in the 2009 official report in response to a 2008 public submission. The labor consultations failed to resolve the issues of concern, resulting in a bilateral meeting of the agreement's Free Trade Commission in June under the CAFTA-DR Dispute Settlement Chapter. The government's failure to take concrete enforcement action to improve measurably compliance with the country's labor laws resulted in a request on August 9 for the establishment of an arbitral panel. At year's end panel members had not yet been selected.

The Special Prosecutor's Unit for Crimes against Unionists within the Office of the Special Prosecutor for Human Rights is charged with investigating attacks against union members. The unit's small size (four prosecutors) limited its effectiveness. According to Public Ministry statistics, the unit achieved no convictions in the 53 cases it handled. The International Labor Organization (ILO) noted its concern that the failures of the justice system had grown worse with respect to violence against trade unionists.

Union formation restrictions effectively eliminated the possibility for workers to exercise their rights to negotiate and engage employers formally at an industry level. The International Trade Union Confederation's annual report noted numerous and arbitrary obstacles for union registration in practice.

Violence and threats against trade unionists and worker activists remained serious problems and, combined with weak and ineffective enforcement of labor and employment laws, restricted freedom of association and the right to collective bargaining. Several labor leaders were killed and others reported receiving death threats and being targets of other acts of intimidation. UDEFEGUA indicated in its annual report that at least four trade unionists were killed by unknown assailants. The ILO continued to stress its deep concern regarding violence against trade union leaders and members, and the government's lack of political will to combat violence against them or to combat impunity.

Most acts of violence and threats were not well investigated and went unprosecuted, often making it difficult to identify motives for killings. Local unions urged authorities to investigate the killings of unionists and called for increased security for union leaders and members. During the year four members of the Banana Workers Union of Izabal (SITRABI) were shot and killed in the Izabal Department: Oscar Humberto Gonzalez Vasquez on April 10, finance secretary Idar Joel Hernandez Godoy on May 26, Henry Anibal Marroquin Orellana on September 24, and Pablino Yaque Cervantes on October 16. At year's end no one had been arrested in connection with the killings.

At year's end no arrests were made and none were expected in the 2010 deaths of four union members belonging to the Guatemalan National Health Care Workers' Union and the serious wounding of a fifth in a series of separate shooting incidents.

Procedural hurdles, combined with the small number of unionized workers and impunity for employers ignoring court orders, limited freedom of association and collective bargaining in practice. Many employers ignored judicial rulings requiring the employer to negotiate with recognized unions.

Employers routinely resisted union formation attempts, and there were credible reports of retaliation by employers against workers who tried to exercise their rights, including numerous complaints filed with the Ministry of Labor and Public Ministry alleging employer retaliation for union activity. Common practices included termination and harassment of workers who attempted to form workplace unions, creation of illegal company-supported unions to counter legally established unions, blacklisting of union organizers, and threats of factory closures. Employers threatened not to renew contracts or not to offer subcontracted workers permanent employment if the worker joined a union or refused to disaffiliate. There continued to be reports that management or persons hired by management harassed and made death threats against workers who did not accept employer dismissals or refused to forfeit their right to reinstatement.

During the year workers who suffered illegal dismissal won court injunctions ordering reinstatement, but in practice employers often failed to comply with reinstatement orders. Employers, often with impunity, failed to pay the full amount of legally required severance payments to workers or to pay court-ordered fines.

Local unions reported that businesses also continued to use fraudulent bankruptcies, ownership substitution, and reincorporation of companies to circumvent legal obligations to recognize newly formed or established unions. Unions and workers also reported that employers subdivided into smaller companies in order to make it more difficult for nascent unions to find the 20 supporters required.

An active *Solidarismo* (a national solidarity association movement) exists. Unions may operate legally in workplaces that have solidarity associations, and workers have the right to belong to either or both. Although the law stipulates that trade unions have an exclusive right to negotiate work conditions on behalf of workers, unions asserted that management promoted solidarity associations to discourage the formation of trade unions or to compete with existing labor unions.

b. Prohibition of Forced or Compulsory Labor

The law prohibits all forms of forced or compulsory labor. The government failed to enforce these laws effectively in some cases, and there were reports that men and women were subjected to forced labor in agriculture and domestic service. There were also reports of forced child labor occurring in practice (see section 7.c.).

Also see the Department of State's *2011 Trafficking in Persons Report*.

c. Prohibition of Child Labor and Minimum Age for Employment

The law bars employment of minors under the age of 14 without written permission from parents and the Ministry of Labor. The law prohibits persons under the age of 18 from work where alcoholic beverages are served, in unhealthy or dangerous conditions, and at night or overtime. The legal workday for persons younger than 14 is six hours, and for persons 14 to 17 years of age, seven hours.

The Ministry of Labor's Child Worker Protection Unit is charged with enforcing restrictions on child labor and educating minors, their parents, and employers on the rights of minors in the labor market. While penalties in theory are adequate to deter child labor, the government did not effectively enforce these laws, a situation exacerbated by the weakness of the labor-inspection and labor-court systems. In exceptional cases the Labor Inspectorate may authorize children under the age of 14 to work, but the Ministry of Labor has committed not to provide such authorizations, and the Labor Inspectorate reported that it did not make any authorizations during the year. The government devoted insufficient resources to prevention programs.

Child labor was a widespread problem. The NGO Conrad Project Association of the Cross estimated that the workforce included approximately one million children between the ages of five and 17. Most child labor occurred in rural indigenous areas. The informal and agricultural sectors regularly employed children below 14 years of age, usually in small family enterprises, and there were reports during the year that child labor existed in the production of broccoli, coffee, corn, fireworks, gravel, and sugar. Indigenous children also worked frequently in street sales and rubber and timber production and as shoe shiners and bricklayer assistants. Some child laborers worked an average of 45 hours per week.

An estimated 39,000 children, primarily indigenous girls, worked as domestic servants and were often vulnerable to physical and sexual abuse. In the Mexican border area, there were reports of forced child labor in municipal dumps and in street begging.

Also see the Department of Labor's *2010 Findings on the Worst Forms of Child Labor*.

d. Acceptable Conditions of Work

The law sets national minimum wages for agricultural and nonagricultural work and work in garment factories. The minimum wage was 63.70 quetzales (\$8.16) per day for agricultural and nonagricultural work and 59.45 quetzales (\$7.61) per day for work in garment factories. In December the National Statistics Institute estimated that the minimum food budget for a family of five was 2,440 quetzales (\$312) per month. The basic basket for vital needs, including food and housing, was 4,452 quetzales (\$570). Labor representatives noted that even where both parents worked, the minimum wage did not enable a family to meet the basic basket of vital needs.

The legal workweek is 48 hours with at least one paid 24-hour rest period. Daily and weekly maximum hour limits do not apply to domestic workers. Workers in the formal sector receive the standard pay for a day's work for official annual holidays. Time-and-a-half pay is required for overtime work, and the law prohibits excessive compulsory overtime.

The Ministry of Labor conducted inspections to monitor compliance with minimum-wage law provisions, but the government allocated inadequate resources to enable inspectors to enforce the law, especially in the agricultural sector and very large informal sector. The Ministry of Labor employed approximately 240 labor inspectors, although many of them performed conciliation or administrative duties rather than clearly defined inspection duties. The Ministry of Labor operated a call center that received calls to request information or advice or register complaints about labor law violations. Complaints were referred to labor inspectors and labor courts for further action.

Labor inspectors reported uncovering numerous instances of overtime abuses, but effective enforcement was undermined due to inadequate fines, labor court inefficiencies, employer refusals to permit labor inspectors to enter facilities or provide access to payroll records and other documentation, and inspectors' lack of effective follow-up in the face of such refusals, including failure to seek police assistance to gain access to worksites when needed. Fines were insufficient to deter violations. Moreover, labor inspectors were not authorized by law to sanction employers but had to send alleged violations to the labor courts, where decisions favorable to workers were rarely enforced.

The government sets occupational health and safety standards, which were inadequate and poorly enforced. Authorities often failed to investigate fully or assign responsibility for negligence, and employers rarely were sanctioned for failing to provide a safe workplace. Legislation requiring companies with more than 50 employees to provide onsite medical facilities for their workers was not enforced.

Trade union leaders and human rights groups charged that employers required workers to work overtime without legally mandated premium pay and did so with impunity. Management often manipulated employer-provided transportation to force employees to work overtime, especially in export processing zones located in isolated areas with limited transportation alternatives. Noncompliance with minimum wage provisions in the agriculture and informal sector was widespread. Advocacy groups estimated that more than half of the workers in rural areas who engaged in daylong employment did not receive the wages, benefits, and social security allocations required by law. According to credible estimates, between 65 and 75 percent of the workforce continued to work within the informal sector and outside the basic protections afforded by law.

Local unions continued to highlight and protest violations by employers who failed to pay employer and employee contributions to the national social security system despite employee contribution deductions from workers' paychecks. These violations, particularly common in the private sector and export industries, resulted in limiting or denying employees' access to the public health system and reducing or underpaying workers' pension benefits during their retirement years. Although workers have the right to remove themselves from dangerous work situations without reprisal, few workers were willing to jeopardize their jobs by complaining about such conditions. Three

construction workers were killed and seven were injured while building a church in August.
