

Guatemala
Open Letter from Amnesty International to
Guatemalan Presidential Candidates for the
September 2011 Elections

16 August 2011

With a view to the forthcoming presidential elections on 11 September in Guatemala, Amnesty International is writing to all the presidential candidates to raise the organization's human rights concerns with them. Amnesty International calls for the prioritisation of human rights of all Guatemalans without discrimination.

The challenges to the respect of human rights remain significant and widespread in Guatemala. The violation of the human rights of certain majority sectors of society continues to be a common thread which has marked Guatemala since its internal armed conflict and during the last decades. For example, after enduring violence, women often suffer discrimination at the hands of police and prosecutors, rural workers, often indigenous, see the strong arm of the law manifest itself when evicting them, yet it is absent when it comes to enforcing their rights. Human rights defenders often find themselves subject to threats and attacks because of their activism, yet it is the exception to the norm that the authorities will act to protect them.

Amnesty International calls on all candidates to commit to prioritising the respect, promotion and protection of all human rights. The organisation ask you to publicly commit to a series of specific measures, which while not an exhaustive list of human rights recommendations, could serve as a first step towards improving the human rights of all Guatemalans.

Ensure the investigation of the crime of genocide, crimes against humanity, war crimes and other human rights violations committed during the internal armed conflict, and prosecution of those responsible.

The internal armed conflict, which ended in 1996, still casts a long shadow over the human rights history of the country. To this day, justice has not been achieved for the vast majority of the 200,000 victims and their families, they have not recognition or reparation. The lexicon of grave human rights violations - genocide, crimes against humanity, rape, torture, war crimes, enforced disappearance - is associated with the internal armed conflict and Guatemala's modern history. For this to cease to be the case, Guatemala needs to look to the future by dealing with its past. Victims have the right to justice, and Guatemalan society has the right to know who among it are responsible for grave human rights violations.

There have been successful cases of prosecutions against those who committed human rights violations during the internal armed conflict. In recent years, cases of enforced

disappearance have been brought, tried in open court and concluded with those being found guilty sentenced to jail terms. Justice can be done. On 2 August a court convicted and sentenced four former members of the army to over 6,000 years of prison for their role in the 1982 Dos Erres massacre in which over 250 women, children and men were killed. In addition, recently, the country's first case for the intellectual authorship of the crime of genocide was opened. It is possible, with effective investigation and prosecution, as well as political will of the authorities, to provide justice for victims of human rights violations. The progress that has been made should be a source of encouragement and inspiration to settle the debt the country has with justice. The vast majority of the victims and their families still await justice, and the new President will have to demonstrate his or her political will to ensure that justice is done.

Ensure respect for human rights is incorporated into policies and actions aimed at improving the situation of public security.

The thousands of homicides and other incidents of violent crime which currently occur each year are indicative of weakness in the criminal justice system which has contributed to the grave precarious public security situation. Addressing these issues will be a priority for the new President. Improving the protection of human rights and the effectiveness with which the police and Public Prosecutor's Office investigate and prosecute crimes should be a priority if impunity is to be tackled. Lasting solutions that address underlying weaknesses in the State's ability to ensure the safety of its citizens and their access to justice should be the aim. The United Nations Special Rapporteur on Extrajudicial Executions issued two reports on Guatemala, in 2007 and 2009. He called Guatemala "a good place to commit a murder, because you will almost certainly get away with it" and recommended reforming and expanding the criminal justice system - especially the police and the Public Prosecutor's Office - to effectively investigate and prosecute homicides.

Ensure improvements aimed at the investigation of acts of violence against women, the treatment of victims and prosecution of those responsible.

According to police records 695 women were killed in 2010. Few if any of the perpetrators are brought to justice. As the United Nations Committee on the Elimination of Discrimination against Women in its 2009 Concluding Observations on Guatemala, the climate of impunity for femicides and violence against women has not been eradicated, and much more needs to be done. The implementation of gender-sensitive training for law enforcement personnel, the judiciary and health-service providers, to ensure that they are sensitized and can respond effectively to all forms of violence against women should be a priority. Areas such as collection of forensic evidence, the treatment of victims and other aspects that have a direct bearing on the investigation and prosecutions phases of femicides should be subject of improvement. In the particular the President, as head of State, should have a significant role in pushing forward policies aimed at improving the level of coordination between the various State bodies that have a role in collecting information on, coordinating policies relevant to, protecting victims of, and investigating and prosecuting cases of, violence against women.

End the policy of using forced evictions in order to resolve disputes over land.

The problem of disputes over land continues to manifest itself with forced and often violent evictions of rural communities. Conflicts over land have been a near-permanent feature in the social landscape of Guatemala. It is rural, often indigenous, communities who most suffer at the failure of the State to address deficiencies such as the failure of prosecutors and judges to thoroughly investigate claims to land, or to address often legitimate grievances which rural communities may have before resorting to forced evictions. Amnesty International has previously noted that the definition of usurpation in the criminal code violates the principle of legality as outlined by international human rights bodies such as the Inter American Court of Human Rights, which emphasizes the need of a clear definition of the criminalized conduct. As such the current frequent use of the crime of usurpation by the Public Prosecutor's Office when dealing with disputes over land often contributes to a worsening of particular disputes. Amnesty International has repeatedly called for a moratorium on forced evictions until such deficiencies are addressed and reforms implemented.

Ensure protection of human rights defenders.

For many years human rights defenders have suffered threats, attacks and other acts of intimidation intended to deter them from carrying out their legitimate work. In 2010 local human rights organisation reported 305 incidents of intimidations, threats and/or attacks against human rights defenders. The vast majority of these are not effectively investigated or prosecuted. In recent years Amnesty International has found an increase in threats and attacks against human rights defenders whose work focuses on economic, social and cultural rights. This tendency to target those working to defend human rights in the context of land disputes, mining projects, labour disputes and other areas is a worrying development which the new President should address. Impunity for attacks and threats against human rights defenders need not be the norm, as evidenced by the conviction on 28 July 2011 of a person responsible for telephone threats against human rights defender Norma Cruz. When threats are taken seriously and investigated, human rights defenders can be better protected. The new President in addition to ensuring protection for human rights defenders should publicly recognise their role in defending human rights and commit to upholding the UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms.

Respect international human rights commitments.

Amnesty International expects the political manifestos of candidates to reaffirm Guatemala's commitment to international human rights standards. In particular that recent judgments of the Inter-America Court of Human Rights, decisions of the Inter-American Commission on Human Rights, concluding observations and recommendations of UN Mechanisms must be implemented to ensure Guatemala's international human rights obligations are adhered to. In addition, the ratification of the Rome Statute of the International Criminal Court should be a clear goal set by the new President.

Amnesty International expects that in the run-up to the elections on 11 September, all candidates will give due priority to the promotion, respect and protection and human rights, without discrimination. Amnesty International looks forward to hearing

candidate's clear and specific proposals in this regard. The consolidation of the rule of law, which includes a full respect for human rights, must be the overarching goal.

The priorities the new President will face in leading the country will be many and varied. Above all, Amnesty International hopes and expects that human rights will be understood not as a secondary or separate issue from daily issues of politics and economics, but as integral and essential to Guatemalan society. The objective of the head of State should be the prioritisation of human rights, and the political will demonstrated will be an essential component of Guatemala's efforts to improve the protection of human rights of its citizens.