

GUATEMALA

Date of admission to UN: 21 November 1945.

TREATIES AND REPORTS TO TREATY BODIES

Land and People: The core document prepared by the government for use by the treaty bodies (HRI/CORE/1/ Add.47) contains demographic and economic data as well as information on the system of government, the Office of the Human Rights Procurator, the Public Prosecutor's Department, the Office of the National Procurator-General and the general framework within which human rights are protected. The core document was submitted prior to the signing of the peace accord.

As of 1994, under the Constitution, treaties and conventions accepted and ratified by Guatemala took precedence over internal law. The rights and guarantees in the Constitution, however, are established in such a way that the interests of society take precedence over individual interests. The comprehensive agreement concluded between the government and the Unidad Revolucionaria Nacional Guatemalteca (UNRG) in March 1994 included: a general agreement on human rights; stipulation that the functioning of institutions such as the Human Rights Procurator must be unrestricted, unrestrained and unimpaired; agreements to end impunity, illegal security bodies and clandestine operations and to regulate the bearing of arms; guarantees of freedom of association and movement; a stipulation that conscription for compulsory military service will be non-coercive, fair and non-discriminatory; guarantees and protection for individuals and organizations working to safeguard human rights; and, provision for compensation and/or assistance for victims of human rights violations.

The Office of the Human Rights Procurator is headed by a Congressional Commissioner with the powers of supervision over the administration, and who reports annually to Congress. The Public Prosecutor's Department is part of the public administration and the courts, but functions autonomously, with the principal function of ensuring compliance with national laws. The Office of the National Procurator-General is responsible for advising state institutions and entities. Both of the latter officials are appointed for four-year terms and enjoy the same prerogatives and immunities as Supreme Court judges. As well, in addition to monitoring compliance with national law both are responsible for monitoring the implementation of and respect for human rights.

Economic, Social and Cultural Rights

Acceded: 19 May 1988.

Guatemala's second periodic report was due 30 June 1995.

Civil and Political Rights

Acceded: 5 May 1992.

Guatemala's second periodic report is due 4 August 1998.

Racial Discrimination

Signed: 8 September 1967; ratified: 18 January 1983.

Guatemala's eighth periodic report was due 17 February 1998.

Guatemala's seventh periodic report (CERD/C/292/Add.1) was considered by the Committee at its March 1997

session. The report included information on implementation of articles 2 through 7 with a focus on the situation of indigenous peoples-social issues, health, education, access to justice and legal protection, support programmes for the voluntary return of refugees, and the peace process.

The Committee's concluding observations and comments (CERD/C/304/Add.21) acknowledge that the long period of conflict and civil war impeded implementation of the Convention and, further, that the changes needed to achieve peace in Guatemala go beyond disarmament and must address the attitudes and values related to the culture of violence. In this context, the Committee noted that racial discrimination, especially against indigenous populations, is still prevalent in some parts of the society.

A number of aspects were viewed positively by the Committee, including: the signing of the Agreement on Identity and Rights of Indigenous Peoples and the Agreement for the Resettlement of Uprooted Populations; ratification of ILO Convention (No. 169) concerning Indigenous and Tribal Populations in Independent Countries; the constitutional provision that international obligations, including those arising from the Convention, prevail over national law; the steps taken to revise the Penal Code to include the prohibition of racial discrimination, and to introduce legislation on land rights and the protection of indigenous identity; the dissolution of military commissions and civil defence volunteer committees; the establishment of various bodies to facilitate racial reconciliation and to promote a democratic society based on the principle of equality; the establishment of the Commission on Historic Clarification (Truth Commission) in order to investigate killings and disappearances during the armed conflict and the provision that military files will be made available to this Commission; establishment of a secretariat of indigenous peoples in the public prosecutor's office and a commission on homeless children; that the number of complaints on the grounds of human rights violations has decreased; that a large number of the people, mainly indigenous, who had fled during the conflict have returned; and that a fund has been established to assist returnees in resettlement.

A number of areas of concern were identified, including: the climate of violence and intimidation which still exists and the detrimental effects it is having on the indigenous population; lack of legislation aimed at eliminating racial discrimination; lack of legislation prohibiting incitement to racial discrimination; lack of effective protection and remedies in the national courts for indigenous peoples from violations of human rights because of the lack of interpreters and the insufficient availability of public legal defenders; continuing impunity for state officials which shields them from criminal prosecution for abusing and violating the human rights of poor people, especially indigenous people and women; arising from de facto impunity, the incidence of people taking the law into their own hands, resulting in a significant number of lynchings; continuing problems in the area of land rights related to allocation of land and/or compensation, especially with respect to the return of lands to the indigenous peoples after the end of the armed conflict; confrontations arising over the ownership of property in the course of which indigenous peoples have been detained and threatened; failure to institute a programme of training on