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It is now almost 7 years since the signing of the Peace Accords in 1996. The human rights situation in Guatemala, however, far from having improved, has been marred by continually high levels of human rights violations and a severe restriction upon the enjoyment of citizens' fundamental rights. This is particularly the case for those more vulnerable sectors of society prone to socio-political and economic exclusion, such as indigenous people and women and for human rights defenders, land activists, members of the legal community and journalists who confront impunity and work to protect and guarantee human rights.

Under the present Guatemalan government there has been a demonstrable rise in political violence and an acute and increasing deterioration in measures to protect and guarantee human rights, a consequence both of the government's persistent lack of will to improve the human rights situation and, as will be shown below, of the policies that it has adopted. In this context, the political strategies of the current Guatemalan government are, if anything, reinforcing certain patterns of violations which were being committed before the signing of the Peace Accords and their policies are aggravating rather than improving the human rights situation. The present wave of violence and intimidation seriously threatens the rule of law and has highlighted a crisis in governability.

Why an assessment at this time?

For many years, Amnesty International (AI) has carried out ongoing monitoring of the human rights situation in Guatemala. At the same time, other international organizations, institutions and governments have carried out their own processes of monitoring and verification of the situation in Guatemala. However, the recommendations for improving the human rights situation which have been and continue to be made by many organizations have been to no avail, as we shall see below. Indeed, international opinion over the human rights situation in Guatemala has been unequivocally demonstrated in recent years.

The visits and subsequent reports and recommendations of United Nations (UN) Special Rapporteurs¹ have underlined the gravity of the human rights situation in Guatemala since May 2001. The findings of Special Rapporteurs, moreover, have focused particularly on the clear failure of the Guatemalan Government to implement the Peace Accords, the

¹ Param Cumaraswamy, the UN Special Rapporteur on the Independence of Judges and Lawyers, visited Guatemala in May 2001; Hina Jilani, the UN Special Representative of the Secretary General on Human Rights Defenders, visited Guatemala in June 2002; Rodolfo Stavenhagen, Special Rapporteur on Human Rights on the Situation of Indigenous People, visited Guatemala in October 2002.

Recommendations of the Comisión de Esclarecimiento Histórico (CEH), Historical Clarification Commission, and to ensure the consolidation of the rule of law.

Serious concern was shown recently both by the European Parliament in a resolution passed on 10 April 2003, expressing extreme concern over the continuing violence, impunity, discrimination and non-compliance with the Peace Accords and by the United States in its 2002 State Department Report on Guatemala.

The Consultative Group, made up of countries and institutions that have been major donors to the Guatemalan peace process,² is scheduled to hold its next meeting in Guatemala on 14-15 May 2003. At its last meeting in Washington, D.C., in February 2002, the Group identified implementation of the Peace Accords, human rights and the struggle against impunity as areas in which it wanted to see progress if the cooperation monies agreed in principle at the 2002 meeting were to be disbursed.

As the forthcoming Consultative Group meeting scheduled for mid-May can be expected to review these areas, Amnesty International would therefore like to place on record its own assessment of the current human rights situation in Guatemala for the consideration of the international community. In this regard, the recent return of an AI delegation from Guatemala means that the organization has up-to-date information to bring to the Consultative Group's attention, as well as a long-term perspective on past human rights violations, and a long-term of view of what needs to be done for the future.

The current Guatemalan human rights situation

Amnesty International has been studying the human rights situation in Guatemala closely over many decades. Like many other observers, the organization had hoped that the far-reaching Peace Accords signed in 1996 would lead to the consolidation of the rule of law, encompassing an end to impunity and genuine respect for human rights. Unfortunately, the AI delegation that visited Guatemala in March 2003 returned with findings that only served further to deepen the organization's concern that the promises of the Peace Accords are far from being fulfilled.

AI's delegation consulted a broad range of sectors, including Government Ministers, members of the Judiciary, Departmental Governors and Police Chiefs, some Special Prosecutors (*Fiscales Especiales*), a broad spectrum of representatives from the diplomatic community, the *Misión de Verificación de las Naciones Unidas en Guatemala* (MINUGUA), United Nations Verification Mission in Guatemala, the *Procurador de los*

² The Consultative Group is made up of member countries, observer countries and international finance and governmental organizations that have all financed the peace process in Guatemala. These include Argentina, Austria, Belgium, Canada, Denmark, Finland, France, Germany, Italy, Japan, Mexico, Netherlands, Norway, Spain, Sweden, Switzerland, United Kingdom, United States of America, the United Nations, the Organisation of American States, the Inter-American Development Bank and the World Bank, and the International Monetary Fund.

Derechos Humanos (PDH), Human Rights Ombudsman, the *Comisión Presidencial Coordinadora de la Política del Ejecutivo en materia de Derechos Humanos* (COPREDEH), the Presidential Human Rights Commission, state institutions working in the area of land conflicts, regional and national human rights organizations, peasant (*campesino*) organizations and journalists. The findings of the delegation reflect many of the concerns expressed by the broad range of social actors it consulted and reinforce AI's long-term perspective on human rights in Guatemala.

The delegation was told by many of these sectors that they considered that the Peace Accords themselves and the recommendations of the Historical Clarification Commission established under them, were becoming a virtual "dead letter". Moreover, they feared that the ongoing and escalating violence in Guatemala demonstrated how the country was spiralling rapidly towards ungovernability.

Little headway in the battle against impunity

On March 13 2003, the Guatemalan Government signed a document to initiate the process to establish a commission to investigate clandestine structures and apparatuses responsible for perpetrating attacks and threats against human rights defenders and *operadores de justicia* (members of the legal community including judges, prosecutors and lawyers, and journalists). The commission, to be named the *Comisión para la Investigación de Cuerpos Illegales y Aparatos Clandestinos de Seguridad* (CICIACS), Commission to Investigate Illegal Armed Groups and Clandestine Security Apparatus, came about due to continued lobbying by Guatemalan human rights organizations with the support of Sergio Morales, the Human Rights Ombudsman. Further progress on the Commission has now been made through the signing of a Governmental Accord. CICIACS represents an important potential instrument in combating the prevailing impunity in Guatemala, although further steps need to be taken until CICIACS is implemented and, critically, followed-up in the coming months and beyond.

Despite these advances, Amnesty International's March 2003 delegation reinforced AI's conclusion that there has been little progress in the battle against impunity. In this regard, much has been made by the government and its supporters of the conviction of several military officers for two of the most egregious cases, the extrajudicial execution of anthropologist Myrna Mack in 1990 and that of Bishop Juan José Gerardi in 1998. Both cases are pending appeals. However, these convictions have not been achieved via state initiatives to uphold the rule of law as should be the case, but were rather the result of courageous, sustained action by independent human rights organizations and relatives of the victims. Additionally, even these few convictions are still awaiting final adjudication, while tens of thousands of human rights abuses committed during the conflict years have gone uninvestigated and unpunished.

Moreover, limited success in several cases does not per se demonstrate a broad improvement in human rights violations and the consolidation of the rule of law if, as it is at present in Guatemala, it is accompanied by an overall increase in political violence and human rights

violations. Furthermore, the fact that 2003 is an election year does not bode well for human rights protection in Guatemala, given that, in many cases, political violence has escalated during election years. The culture of violence and impunity extends to cases that involve current human rights abuses against land activists, signifying that in many areas of the countryside the rule of law is virtually non-existent.

Meanwhile, many of those responsible for the abuses of the past remain in office. The continued failure of the military, particularly the notorious army intelligence agency, the *Estado Mayor Presidencial* (EMP), Presidential High Command,³ to cooperate in human rights inquiries, continues to be a factor impeding the battle against impunity.

Serious problems persist within the judicial system. While there have been advances in the promulgation of legal instruments in several important fields as regards improved legislation and administrative regulations for the judiciary, the Guatemalan government has not developed integrated policies to implement or address the severe underlying problems in the judicial system, which include widespread corruption. Some of the new entities announced, for example the Special Offices of the Public Prosecutor, have not actually made a substantive difference to the capacity of the judiciary to investigate effectively crimes committed against particular sectors of society, while others have not actually come into being. The delegation observed that lack of public political support for these offices, as well as a severe shortage of resources, appeared to be factors here.

During its visit in March, AI's delegation spoke, for example, to several of the Special Prosecutors in the Ministerio Público (MP), Public Prosecutors' Office, assigned to investigate *inter alia* abuses against members of the legal community, trade unionists and journalists, human rights defenders and "special cases". It found that resources and training did not appear to be adequate for the new appointees actually to carry out the task assigned to them. Furthermore, genuine efforts did not appear to be being made in all cases to fulfil the mandate apportioned to each respective prosecutor. Several of the prosecutors seemed, for example, simply to keep hand-written lists in ledgers of the cases reported to them, with no central collection, maintenance and analysis of case information to facilitate subsequent action to investigate the cases.

In cases where the new appointees did seem to be making genuine efforts to fulfil their mandate, they were subjected to threats and intimidation as has been the case with Lic. Tatiana Morales, named in May 2002 as Guatemala's Special Prosecutor to look into abuses against human rights defenders. Significantly, in the first week of April 2003, Lic. Morales was successful in obtaining convictions against 16 ex-agents of the now dismantled *Departamento de Operaciones Antinarcóticas* (DOAN), Department of Anti-Narcotics Operations, for the crime of extra-judicial execution, after a raid carried out in the village of Chocón, Livingston, department of Izabal in January 2002. However, other important cases involving human rights defenders are yet to be resolved and the delegation was concerned that

³ The EMP was to have been abolished under the Peace Accords, but today, seven years later, continues to operate.

this is, in part, due to the lack of public political support and assistance that had been given to the Special Prosecutor.

At the beginning of April 2003 Lic. Morales was promoted to the position of Special Prosecutor on Corruption, after the former Prosecutor, Lic. Karen Fischer, resigned publicly, citing allegations against the *Fiscal General*, Attorney General, Carlos de León Argueta, for his lack of support in cases that involved Guatemalan President Alfonso Portillo. The investigations carried out by Lic. Fischer against five military officials suspected of corruption had made little progress. Moreover, several of the officials named were, at the time of writing, still serving as advisors to President Portillo.

Meanwhile, Lic. Mario Leal and his staff in the *Fiscalía Especial de Casos Especiales*, Special Prosecutor's Office for Special Cases, appointed to enquire into cases of special emblematic importance, reported that the resources assigned to them were insufficient to investigate the many important cases to which they have in principle been assigned. These include the genocide cases being brought by the *Asociación de Justicia y Reconciliación* (AJR), Association of Justice and Reconciliation and the *Centro para Acción Legal en Derechos Humanos* (CALDH), Centre for Human Rights Legal Action against former members of the military high command of the governments of General Romeo Lucas García (1978-1982) and General Efraín Ríos Montt (1982-1983).

The Witness Protection Program, operating under the Public Prosecutors' Office has inadequate resources to protect those individuals in need of its services. Moreover, insufficient resources have also accounted for the lack of effective programs to protect judges and other members of the judiciary. Indeed, AI's delegation was told by Supreme Court President Magistrado Carlos Esteban Laríos Ochaíta that the failure to create any genuine protection program had compelled the Court to create its own security unit, to offer protection to threatened judges and prosecutors.

AI is also extremely disturbed that Guatemala's small and fledging Public Defenders Office has apparently closed, or at least temporarily ceased operations, due to lack of funds to pay the lawyers it had employed to defend indigent defendants. Acute shortcomings in the prison system have also been tied to budgetary deficits and inadequate resources.

The phenomenon of lynchings in Guatemala has also been pointed to as another important social indicator of the lack of faith of its citizenry in the government's ability to provide an adequate and credible justice system. Statistics from MINUGUA report that between 1996 and the end of 2002, there were 482 reported cases of lynchings, resulting in 943 victims, of which 240 were deaths. Of these cases, there have been only 24 convictions.

Some of these incidents undoubtedly reflect the frustration of ordinary citizens at their government's failure to ensure that individuals and communities are protected from common crime. In other cases, however, such incidents have allegedly been orchestrated by state officials, in their own interests. In either case, lynchings are clear indicators of the authorities' failure to uphold the rule of law.

Escalation in new abuses

In such a context, it is perhaps not surprising that new abuses continue to be reported on an almost daily basis, directed in large part against human rights defenders, '*operadores de justicia*' and others who dare to confront the prevailing impunity.

AI's historical analysis demonstrates that almost without exception, virtually every major human rights organization has suffered serious abuses in the past several years. These incidents range from raids on their offices during which important records on human rights cases were taken, monitoring of their communications and interference in their electronic data storage, to direct threats and attacks on their staff, including rape, torture and extrajudicial executions. This wave of violations against human rights defenders reflects similar patterns to those during Guatemala's armed conflict.

A particularly worrying series of incidents began to occur in March 2003, beginning only days after the signing of the document on 13 March to establish the CICIACS commission. Since that time, there has been increased harassment of human rights defenders, including a raid on the house of Mario Polanco, the Director of the human rights organization the *Grupo de Apoyo Mutuo* (GAM), Mutual Support Group, one of the main organizations involved in the CICIACS initiative, on 7 April. On 5 April, several days prior to the raid in which the unknown attackers asked for Polanco by name and then stole documents critical to GAM's work, Diego Xon Salazar, a Mayan priest and one of the founders of GAM, was killed near his home in Chichicastenango, department of El Quiché. Xon Salazar had been receiving death threats in the weeks leading up to the killing. Other serious incidents directed at the human rights movement occurred between the end of March and the beginning of April, in what AI fears is a systematic effort to intimidate human rights defenders in the wake of the signing of the CICIACS document.

As well as human rights defenders, members of the legal community involved in the struggle against impunity have also been heavily targeted. According to a recent report from the Mack Foundation, one of Guatemala's most respected human rights institutions, between January 2002 and February 2003, the total number of judges and magistrates threatened was 103. Most recently, on 10 April in Santa Cruz, Río Hondo, department of Zacapa, there was an attempt on the life of Manuel de Jesús Barquín Durán, the *Fiscal Especial*, Special Prosecutor, appointed to work on three of the most serious cases of human rights violations and corruption reportedly involving local state officials in the department of Izabal.

Social cleansing, where those considered "undesirable" such as street children, prostitutes and transvestites are eliminated without any effort made by the official police forces to identify their killers (and where such forces themselves have been accused of responsibility for the violations) has been pointed to as yet another indicator of the failure of the rule of law in Guatemala.

The Re-emergence of the Patrullas de Autodefensa Civil (PAC)

Since the middle of 2002, there has been an alarming escalation in co-ordinated actions by former members of the obligatory civilian militias, the *Patrullas de Auto-Defensa Civil* (PAC), the Civil Defence Patrols, which were formed at military behest and operated under military control during the conflict. The PAC were responsible for many of the human rights violations perpetrated during the conflict. Since June 2002, former civil patrollers have re-mobilised demanding compensation for their forced participation in the PAC during the internal armed conflict.⁴

These mobilisations have included mass demonstrations and blocking roads. However, in some parts of the countryside, for example the northwestern highland departments of Huehuetenango, El Quiché and Sololá, former civil patrollers have directly threatened human rights organizations and members of the PDH. Former patrollers publicly blamed human rights defenders and members of the PDH for the fact that they were not at the time receiving their payments, and threatened to burn down their offices if such payments were not made. It is in these areas that the incidence of human rights violations perpetrated during the conflict, which included massacres and mass rapes carried out with the participation of PAC members, was highest.

The proposed recompense of former PAC members for their service during the conflict raises concerns, with regard both to the impunity that (former) civil patrollers have enjoyed for the abuses they committed during the internal armed conflict and to the new abuses in rural Guatemala that are occurring as a result of their re-emergence.

Moreover, compensation for all victims of the internal armed conflict was a key recommendation of the CEH – which was formed under the terms of the 1996 Peace Accords. The establishment of a national reparations programme for victims of the human rights violations perpetrated during the conflict is long overdue and has now been preceded by payments to former civil patrollers. This development is seen by many as potentially rewarding some of the perpetrators of the atrocities that characterised Guatemala's civil conflict, and clearly sends a message that is contrary to the spirit of national reconciliation that the Peace Accords embodied. AI continues to urge the Guatemalan government to establish, through consultation with victims of past human rights abuses, a National Reparations Program that takes forward the initial steps consolidated in Governmental Accord 235-2003, signed on 9 April 2003.

⁴ In the second week of April 2003, the government signed Governmental Accord 228-2003, in which it established a payment of Q. 5,241.60 in three instalments to each individual civil patroller (\$ 1 USD = Q. 7.8; 14/04/03). The first payment is scheduled for the end of April 2003, whilst the remaining payments are to be made at the discretion of the government *in situ* in 2004.

Guatemala's acute Land problem

While in Guatemala in March, AI followed up its long-term work with the peasant movement by once more speaking directly with many trade unionists and peasant organizations, who have been staging public protests as their living and working conditions deteriorate. The efforts of such sectors to protect their livelihoods and so feed themselves and their families have singled them out for repression; many have been subjected to threats and attacks. AI has urged the Guatemalan government to guarantee the security of all those working on land rights issues and to ensure that land conflicts are resolved rapidly and equitably. The culture of violence and impunity needs to be addressed in order to ensure that discrimination and social, political and cultural marginalisation, do not impede rural socio-economic development.

In the last two years, there has been an escalation in violence and harassment against land activists, in both rural and urban Guatemala, which has been particularly intensified since the beginning of 2003. Attacks against rural land activists, for example against members of communities involved in land conflicts, in some cases with the alleged collusion of local security forces, have continued unabated since the Peace Accords were signed, and were a clearly visible pattern of human rights violations prior to them. Most recently, on 5 April, Jorge Gómez, member of the Lanquín community, in the municipality of Morales, department of Izabal, was shot and killed. The perpetrator of the incident remains at large. However, in recent months we have seen the re-emergence of direct threats and attacks against the leadership of national peasant (campesino) organizations, reflecting patterns of violations that were prevalent during Guatemala's armed conflict. Since February 2003, Daniel Pascual, Juan Tiney and Rafael Chanchavac Cux, all national campesino leaders, have been subject to incidents ranging from death threats and robberies in which key documents were stolen, to attacks. Of utmost concern was the reported kidnapping on 4 April of Daniel Chanchavac Zet, the son of Rafael Chanchavac, whose whereabouts remain unknown.

Many of these incidents are related to the crisis which AI's delegation observed in rural Guatemala. The government has failed to deliver an integrated rural development policy, including facilitating access to land and other resources for campesinos, the vast majority of them indigenous, via programs intended to ensure justice and the speedy resolution of conflicts, as called for in the Peace Accords. This has led land-hungry, poverty-stricken campesinos to take desperate measures to acquire or regain lands illegally taken from them, for example by occupying lands. As a result, there is increased intimidation and attacks against them by landowners and their private security forces and others, including drug cartels. The two government agencies, *El Fondo de Tierras* (FONTIERRA), the Land Fund, and *La Dependencia Gubernamental para la Solución de los Conflictos de Tierra* (CONTIERRA), the Governmental Office for the Solution of Land Conflicts, established in the Peace Accords to facilitate campesino access to land via the free market economy and mediate land disputes respectively, have not, for a variety of reasons, made any significant impact upon the escalating rural crisis. The historical problems of acute land shortage, dire rural poverty and

socio-economic and political marginalization for campesinos are now being compounded by almost unprecedented levels of rural poverty and the increasing unemployment caused by the coffee crisis.

This situation illustrates quite clearly that as both MINUGUA and the UN's Special Rapporteur on the Rights of Indigenous Peoples, Rodolfo Stavenhagen (during his visit to Guatemala in October 2002), have recently pointed out, the root causes which led to Guatemala's bloody and costly conflict, including discrimination and marginalization of the country's indigenous peoples, have not been addressed. Moreover, the ongoing wave of violence against campesinos and the generalized impunity for those that perpetrate it, which both takes advantage of and escalates the historical socio-economic and political marginalization of campesinos, is leading to a crisis in the rule of law in rural Guatemala. Implementation of the Peace Accords and the generation of an integrated rural development policy that facilitates access to land for campesinos, is key to generating sustainable economic growth and development and contributing to national reconciliation.

The role of the Army

Another central commitment of the Peace Accords was the demilitarization of the country and the redefining of the role of the army in a democratic society. In this regard, AI is deeply concerned that a key promise of the Peace Accords, the undertaking to abolish the notorious EMP, involved in many high profile human rights abuses over the years, has still not been implemented.

While there was, during 2002, a limited reduction in the numbers of personnel serving in the EMP,⁵ the government simultaneously increased this agency's budget. Monies were transferred, for example, from the Peace Secretariat (established to oversee implementation of the Peace Accords) and from the Ministries of Agriculture, Livestock and Nutrition and of Energy and Mines. AI finds it particularly unconscionable that the Ministry responsible for nutrition is losing funds to the EMP⁶ at a time when, as previously mentioned, the country is suffering from a crisis in the countryside brought on by falling coffee prices, drought, widespread hunger, and in many areas, famine.⁷

⁵ The government has claimed that cuts in the numbers of persons employed by the EMP already constitute evidence of its genuine commitment to finally bringing an end to the operations of this notorious unit. However, the fall in figures pointed to by the authorities appears, in large measure, to be explained by the transfer or termination of contracts of many in the EMP who played non-intelligence roles, as for example, administrative and domestic staff and those who guarded or tended the gardens of the former National Palace.

⁶ According to the Guatemalan human rights group, *Grupo de Apoyo Mútuo* (GAM), Mutual Support Group, the EMP budget was doubled in the course of 2002, while the army in general received a 7.8% increase in its budget.

⁷ The AI delegation was informed by a range of actors that indicators of famine existed in almost one third of Guatemala's rural municipalities.

Critically, while AI continues to urge the Guatemalan government to comply with the Peace Accords, which stipulated that the military budget remain at 0.66% of Gross Domestic Product (GDP), it is crucial that monies are not sidelined from other Ministries. Such a policy might strengthen the state's capacity to ensure that the national budget is able to support a fiscal policy that clearly demarcates provisions for other social issues and sectors.

The government has now promised that the EMP will be abolished as of 31 October 2003. For AI, it is crucial that the Consultative Group press for facts and figures and a timetable as to exactly when and how the EMP will be phased out. Most importantly however, AI considers that a mere name change and "re-cycling" of the members of the EMP is not sufficient guarantee that its illegal activities and sinister modes of operation will actually cease. Neither will this ensure that those of its members responsible for past abuses will ever answer for their crimes. AI is urging the Consultative Group to ensure that alongside the promised phasing out of the EMP, it presses the Guatemalan government to apprise it of specific measures to be taken to ensure that those EMP members responsible for its illegal operations are brought to justice, and that any new agency which takes its place is subject to genuine over-sight and monitoring by appropriate civilian agencies.

In this regard, AI believes that a positive indicator of the government's intention to move in this direction would be the passage and implementation of two laws currently under consideration in Guatemala. These are the *Ley de Acceso a la Información y Hábeas Data* (Law of Information and Habeas Data) and the *Ley de Secretos Oficiales* (Law of Access to Official Secrets). Guatemala currently has no law that specifies what should be considered a State Secret or a matter of national security; which authorities are authorized to regulate classified and non-classified information; and which are the mechanisms and procedures which should be utilised to adjudicate when prosecutions are obstructed on the basis of national security. The absence of such measures has impeded genuine human rights enquiries and has provided a shield of alleged national security concerns behind which agencies such as the EMP have sheltered, to prevent human rights investigations from identifying members of state security agencies responsible for human rights abuses.

AI has been further concerned that, contrary to the stipulations of the Peace Accords, the military has continued to participate in joint policing operations with the *Policía Nacional Civil* (PNC), National Civil Police in so-called as *Fuerzas Combinadas*, Combined Forces. There have been indications that the military has sometimes conducted such patrols independently and even gone so far as to order district police chiefs to submit written reports of their activities to local military commanders. Recently, of serious concern were reports by MINUGUA that on 6 March in an anti-narcotics operation in the department of Zacapa, carried out jointly by the army, the *Ministerio Público* (MP), Public Prosecutors' Office, the *Servicio de Análisis e Información Antinarcótico* (SAIA), Antinarcotics Analysis and Information Department, and supposed agents of the PNC, three suspects were detained and interrogated illegally and tortured by the military.

AI continues to call for the implementation of the Peace Accords, particularly for the establishment and implementation of a legal framework that sets out the reformed functions of the Guatemalan military. Furthermore, human rights must be upheld and international standards adhered to in any operations carried out by the security forces.

AI's conclusions on the Human Rights Situation in Guatemala

On 26 April 1998, the brutal murder of Bishop Juan Gerardi gave an irrefutable indication of the obstacles that Guatemalans struggling for truth, justice and the end to impunity faced. Now, five years after the death of Bishop Gerardi, and almost seven years since the signing of the Peace Accords in December 1996, the ongoing political violence in Guatemala is once again escalating and patterns of human rights violations that characterised the armed conflict are returning. This document has outlined how these developments are rooted in the policies of the present Guatemalan government, the *Frente Republicano Guatemalteco* (FRG), Guatemalan Republican Front, under President Alfonso Portillo, and in its consistent failure to implement the Peace Accords and the recommendations of the Commission for Historical Clarification.

Over the years, the international community has made concerted efforts to pressure the Guatemalan government to improve the human rights situation, confront discrimination and exclusion and consolidate the rule of law through a broad range of initiatives, including institutional strengthening and poverty alleviation. However, seven years after the end of what is recognized as one of the bloodiest and most brutal conflicts in the hemisphere, the human rights situation in Guatemala is once more of grave cause for concern.

In this context, the responsibility of the international community, and the task of the Consultative Group are critical, if the efforts made to date are not to be overshadowed by the darkening shroud of political violence. Sustained implementation of the Peace Accords and the recommendations of the CEH, an end to the culture of impunity and poverty alleviation all represent the framework through which the rule of law can be reconstituted. Only in this way, will Guatemalans be able to assert their fundamental rights and human rights defenders, land activists, members of the legal community and journalists be able to carry out their legitimate work without fear of violent reprisals.

The Peace Accords

AI is urging the members of the Consultative Group to take into account the evidence presented in this document that clearly points to the consistent failure of the Guatemalan government to implement the Peace Accords. The Consultative Group should challenge any statements by the Guatemalan government as to its purported efforts to implement the Peace Accords, improve the human rights situation and combat impunity in Guatemala, areas in which the Consultative Group called for substantial improvements at its last meeting in February 2002. In this regard, a clear and measurable timetable for the implementation of the

Peace Accords, that includes the establishment of adequate mechanisms to monitor this process, must be formulated and progress constantly scrutinized. A clear priority here must be military reform, civilian security and demilitarization, including the dismantling of the EMP and of those military bases that no longer come within the reformed mandate of the military institution.

The establishment of a similar process is urged with regard to the implementation of the recommendations of the Commission for Historical Clarification. The formation and implementation of a National Reparations Program within a legal framework must be seen as a priority for the Guatemalan government, particularly if it is to demonstrate its will to give reparations to *all* victims of human rights abuses carried out during the armed conflict, in accordance with international law.

Combating the Culture of Impunity

The creation of the *Comisión para la Investigación de Cuerpos Illegales y Aparatos Clandestinos de Seguridad* (CICIACS), Commission to Investigate Illegal Armed Groups and Clandestine Security Apparatus, represents an important potential tool to assist in combating the prevailing impunity in Guatemala. However, it is crucial that CICIACS strengthen existing institutions and judicial instruments, while the capacity and effectiveness of such institutions are themselves improved. AI urges that the Guatemalan government establish the Commission with the full support of the international community and insists upon the importance of the Commission's independence. AI would caution the Consultative Group that the Governmental Accord supporting the eventual formation of such a Commission should not be interpreted by the international community as sufficient proof that progress has already been made in that specific objective, nor in human rights protection in general. Rather, each distinct step in the creation of CICIACS should be subject to continual scrutiny by the Consultative Group. Moreover, the Consultative Group should facilitate and monitor the development of such a Commission, assess the eventual outcomes and results of the investigation and support the necessary follow-up initiatives. It is crucial for the *Ministerio Público*, Public Ministry, to play a key role in such initiatives, if the Commission is to realize its legitimate function and existing institutions are to be strengthened.

Furthermore, AI urges the Consultative Group to pressure the Guatemalan government to ensure that the MP, including the Special Prosecutors' Offices and the Witness Protection Program, receive sufficient financial support for it to carry out its functions effectively. Any such commitment should be subject to continual oversight, if the clear aim of strengthening the justice system and ending impunity is to be achieved.

Poverty Alleviation

The nexus between the inequitable distribution of land, impunity, rural poverty and land conflicts is a key contributory factor to the increasing wave of human rights violations directed towards *campesinos*, in many cases carried out with the collusion of local security forces. AI urges the Consultative Group to pressure the Guatemalan government to focus on

the importance of formulating an integrated rural development policy that facilitates access to land for campesinos and institutes mechanisms to resolve land disputes equitably and rapidly. In this regard, the failure of FONTIERRA and CONTIERRA to impact effectively upon the escalating crisis in the Guatemalan countryside has meant that yet another promise encapsulated in the Peace Accords has been left unmet. A critical element of this policy should be the implementation of the land census (*catastro*⁸) and of effective follow-up measures.

In conclusion, Amnesty International recognises that there have been limited areas of progress in Guatemala's protracted and, at times, violent peace process. However, it would be unconscionable for the international community in general, and the Consultative Group in particular, to ignore or underplay the many signals that suggest there has been insufficient progress in the areas of human rights protection and the struggle against impunity. Significantly, the Consultative Group itself insisted on improvements in these areas if the Guatemalan government was to satisfy the standards it called for at its February 2002 meeting.

AI would like to make clear that it is not calling on the international community to abandon its cooperation programs in Guatemala; these programs are needed more than ever if the human rights situation is to improve and impunity be surmounted. However, it does call on donor countries and institutions to ensure that their contributions are focused upon programs which further the aims of the Peace Accords and the CEH and support initiatives such as CICIACS, particularly as regards combating impunity and protecting human rights.

Progress in human rights protection and ending impunity is key to the restitution of the rule of law in Guatemala and to resolving the crisis in governability that the country is suffering almost seven years after its armed conflict came to an end. Commitments by the Guatemalan government, once attained, must be subjected to close scrutiny by the international community and strict compliance assured, if they are to go beyond being more than written agreements. In this way, truth and justice for Guatemalans may come to mean more than empty words and peace may come to represent the genuine and long-term absence of conflict.

⁸ The *catastro* is in effect a land registration census that has the aim of establishing the legal basis of land ownership claims throughout Guatemala.