

# GUATEMALA 2017 HUMAN RIGHTS REPORT

*Note: This report was updated 07/23/18; see Appendix G: Errata for more information.*

## EXECUTIVE SUMMARY

Guatemala is a multiparty constitutional republic. In January 2016 Jimmy Morales of the National Convergence Front party was sworn into office for a four-year term as president. International observers considered the presidential election held in 2015 as generally free and fair.

Civilian authorities at times did not maintain effective control over the security forces.

The most significant human rights issues included: harsh and life-threatening prison conditions; arbitrary arrest and detention; corruption and intimidation of judges; threats against journalists, including by criminal organizations and corrupt public officials, resulting in significant self-censorship; widespread government corruption; violence against persons with disabilities in public care; cases of killing of women because of their gender, which authorities were prosecuting; police violence against lesbian, gay, bisexual, transgender, and intersex individuals; trafficking in persons; children engaged in the worst forms of child labor; and violence and threats against trade unionists and labor activists.

Corruption and inadequate investigation made prosecution difficult, and impunity continued to be widespread. Parts of the government collaborated with the UN-backed International Commission against Impunity in Guatemala (CICIG) to strengthen the rule of law and prosecute officials who committed abuses. On August 27, however, President Jimmy Morales declared CICIG commissioner Ivan Velasquez persona non grata, negatively affecting domestic and international confidence in the administration's commitment to anti-impunity and anticorruption efforts. The Constitutional Court blocked the expulsion order, and Commissioner Velasquez remained in his position.

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

#### **a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings**

There were no reports that the government or its agents committed arbitrary or unlawful killings. As of August 31, the National Civil Police (PNC) and its Office of Professional Responsibility (ORP), the mechanism for investigating security force abuses, reported no complaints of homicide.

On August 16, Mara Salvatrucha criminal gang members entered one of the largest public hospitals and killed five civilian bystanders and two prison guards. The assailants freed a fellow gang member who was being treated at the hospital. The PNC arrested five suspects and the Public Ministry linked four to the case, which was under investigation at year's end.

The case regarding the 2015 killing of Hector Donaldo Contreras Sanchez was in the intermediary pretrial phase at year's end. In 2016 authorities arrested 13 members of the San Juan Sacatepequez military brigade for the alleged extrajudicial killing.

In January 2016 the Public Ministry arrested 14 high-ranking former military officers on charges of human rights violations for hundreds of extrajudicial killings during the 1960-96 internal armed conflict. The charges were based on the discovery of mass graves in Coban, Alta Verapa, at the Regional Training Command for Peacekeeping Operations (CREOMPAZ), formerly the Military Zone 2 base during the conflict. Known as the CREOMPAZ case, it was assigned to a special high-risk court created in 2009 with competence to hear cases that posed a serious risk to the security of judges, the prosecutor, the defense, or any other individual involved in the case. In 2016 the court found sufficient evidence to send eight individuals to trial, but the Public Ministry appealed the exclusion of a number of charges in the proceedings. At year's end the trial was pending resolution of the various appeals by the Public Ministry, joint complainants in the case, and defense lawyers. In March the Supreme Court ruled to remove the immunity of Congressman Edgar Ovalle, one of the suspects in the case. Ovalle disappeared before authorities were able to arrest him and remained a fugitive at year's end.

On October 13, two separate trials began against former head of state Efraim Rios Montt and former intelligence chief Jose Mauricio Rodriguez Sanchez in the case of genocide involving the Maya Ixil community. In 2013 Rios Montt was found guilty of genocide and crimes against humanity during his presidency (1982-83) and sentenced to 80 years in prison. The Constitutional Court later overturned the conviction on procedural grounds and returned the case to be retried. In 2015 a high-risk court determined Rios Montt was mentally unfit for public trial but

ordered the trial be held behind closed doors and with a guardian present. It also ruled any verdict could be used only to determine reparations to the victims and that Rios Montt could not be sentenced to prison. In May the Center for Human Rights Legal Action filed a complaint against former constitutional court magistrates for breach of legal duty after obtaining videos of their deliberations during the decision to annul Rios Montt's genocide sentence. At year's end the Public Ministry had not moved the case forward for an initial hearing.

In 2016 a high-risk court dismissed a motion in the 1982 Dos Erres massacre case by the defense team to suspend criminal prosecution for genocide and crimes against humanity. The defense argued that Rios Montt was mentally unfit to stand trial. The case remained in the intermediary pretrial phase, and a date for the next hearing had not been set by year's end.

As of August the government had paid approximately 23.9 million quetzales (\$3.26 million) in individual reparations to families affected by the Chixoy hydroelectric dam. The government also appropriated 121.3 million quetzales (\$16.5 million) for collective reparations, which government authorities believed could be delayed until early 2018 due to the fact the proposed community projects were undergoing feasibility studies. During the dam's construction from 1975 to 1985, more than 400 individuals died and thousands were displaced. As part of a 2014 reparations agreement, the government agreed to pay 1.15 billion quetzales (\$156 million) over 15 years in individual and community reparations.

## **b. Disappearance**

There were no reports during the year of disappearances by or on behalf of government authorities. The government took actions to investigate and prosecute cases of forced disappearances from the internal armed conflict period. In 2016, four high-ranking retired army officers were arrested for the 1981 forced disappearance of minor Marco Antonio Molina Theissen. The Attorney General's Office presented additional charges against retired army general Benedicto Lucas Garcia, who was also charged in the CREOMPAZ mass graves case. In July the final phase of the preliminary hearings concluded. The trial date for the case was set for March 2018.

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

Although the constitution and law prohibit torture and other cruel, inhuman, or degrading treatment or punishment, there were credible reports of abuse and other mistreatment by PNC members.

On September 18, trial proceedings began for PNC agents Carlos Baten Perez, Rogelio Perez Hernandez, Nancy Evelia Rodriguez Alai, and Cesar Augusto Funes Morales for the torture and illegal detention of four suspects in 2015 in the Villa Nueva suburb of Guatemala City.

### **Prison and Detention Center Conditions**

Prison conditions were harsh and potentially life threatening, with multiple instances of inmates killing other inmates. Sexual assault, inadequate sanitation and medical care, and gross overcrowding placed prisoners at significant risk.

Physical Conditions: Prison overcrowding was a problem. As of August 25, according to the prison system registry, there were 22,660 inmates, including 2,240 women, held in facilities designed to hold 6,800 persons. Physical conditions including sanitation and bathing facilities, dental and medical care, ventilation, temperature control, and lighting were wholly inadequate. Prisoners had difficulty obtaining potable water, complained of inadequate food, and often had to pay for additional sustenance. Illegal drug sales and use was widespread. Prison officials reported safety and control problems, including escape attempts, gang fights, inability to control the flow of contraband goods into prisons, and the fabrication of weapons. Prisoners conducted criminal activity both inside and outside of prisons. From January through August 25, at least 13 inmates died of unnatural causes while in prison.

Media reported that transnational criminal gangs and drug trafficking groups controlled major prison centers. In 2016 prisoner Byron Lima Oliva, a former army captain charged with the murder of human rights defender Bishop Juan Jose Gerardi, was killed along with 13 others in the Pavon prison. On August 2, the PNC arrested six suspects. On November 23, a judge indicted 17 individuals arrested in the case. At year's end the Public Ministry, with CICIG support, moved the case forward to preliminary hearings.

Conditions for male and female prisoners were generally comparable throughout the country. Media and nongovernmental organizations (NGOs) reported female and juvenile inmates faced continuing physical and sexual abuse. Female inmates reported unnecessary body searches and verbal abuse by prison guards. Children

under age four 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, transgender, and intersex (LGBTI) rights groups stated that other prisoners often sexually assaulted LGBTI individuals and that there were insufficient facilities to protect LGBTI individuals in custody. The Ministry of Government approved initial admittance procedures for LGBTI prisoners in 2015. NGOs claimed, however, the protocols were not being implemented and noted particular concern regarding admittance procedures for transgender individuals. Frequent leadership turnover in the prison system exacerbated these problems. Occasionally authorities held pretrial detainees together with convicted prisoners, juveniles with adults, and male with female detainees.

Media reported similar conditions of abuse and overcrowding at the four juvenile detention centers administered separately by the Secretariat of Social Welfare. Crowding led to nonviolent juvenile offenders being held with violent adult offenders. On July 3 and July 24, riots occurred at the Las Gaviotas juvenile detention facility, resulting in injuries to dozens of prisoners. The riots were sparked by the killing of two inmates. The facility received citations in 2016 for housing 460 inmates in a facility designed for 250 and for dangerous and inhuman conditions.

Administration: The government's Office of the Human Rights Ombudsman (PDH) and the National Office for the Prevention of Torture (NOPT), both independent entities, are responsible for prisoner rights, receiving complaints, and conducting oversight of the prison system. The PDH and NOPT may submit recommendations to the prison system based on complaints. No independent agency or unit, however, has a mandate to change or implement policy or to act on behalf of prisoners and detainees. Congress delayed the election of NOPT rapporteurs by more than six months, while the PDH and civil society reported former rapporteurs were inactive and ineffective in their oversight mandate.

While the law requires authorities to permit prisoners and detainees to submit complaints to judicial authorities without censorship and request investigation of credible allegations of inhuman conditions, authorities failed to investigate most allegations of inhuman conditions and treatment or to document the results of such investigations in a publicly accessible manner.

Independent Monitoring: The government permitted visits by local and international human rights groups, the Organization of American States, public

defenders, and religious groups. The PDH and the NOPT also periodically visited prison facilities. The PDH reported it was sometimes difficult to gain access to the juvenile detention centers administered by the Secretariat of Social Welfare.

Improvements: During the year authorities implemented a correctional model to address corruption and overcrowding as well as the lack of personnel, equipment, and infrastructure in the penitentiary system. The model provided opportunities for the rehabilitation, education, and social reintegration of inmates and improved recruitment, selection, and training of staff. In March the first model correction center opened; it housed 63 female inmates by year's end.

#### **d. Arbitrary Arrest or Detention**

The constitution and law prohibit arbitrary arrest and detention, but there were credible reports of extrajudicial arrests, illegal detentions, and denial of timely access to a magistrate and hearing as required by law. Suspects are entitled to challenge in court the legal basis or arbitrary nature of their detention. If successful, their release usually took several days. There was no compensation for those ruled unlawfully detained.

#### **Role of the Police and Security Apparatus**

The PNC, which is overseen by the Ministry of Government and headed by a director general appointed by the ministry, is responsible for law enforcement and maintenance of order in the country. The Ministry of National Defense oversees the military, which focuses primarily on operations in defense of the country, but the government also used the army in internal security and policing as permitted by the constitution.

Civilian authorities in some instances failed to maintain effective control over the PNC, and the government lacked effective mechanisms to investigate and punish abuse and corruption. At times the PNC struggled to deploy its resources effectively across the country.

There were reports of impunity involving security forces. In cases involving police forces, the ORP is responsible for internal investigations and the Public Ministry is responsible for external investigations. Authorities arrested approximately 210 police officials from January through September, compared with 376 in all of 2016. A police reform commission, established by a previous administration, has a legal mandate to make necessary changes to reform police forces. The

commission's infrastructure unit provided design support for the establishment of model police precincts throughout the country.

The ORP reported that from January through August, there were 17 complaints of police extortion and 290 for abuse of authority, compared with 747 and 206, respectively, in all of 2016, according to the Public Ministry's Strategic Planning Office. The PNC routinely transferred officers suspected of wrongdoing rather than investigating them.

Critics accused police of indiscriminate and illegal detentions when conducting antigang operations in some high-crime neighborhoods. For example, security officials allegedly arrested and imprisoned suspected gang members without warrants or on fabricated drug charges. The local press also reported police involvement in kidnappings for ransom.

In September, Guilber Josue Barrios, a soldier who allegedly drugged and raped a 14-year-old student at a civil military institute administered by the Ministry of Defense in March 2016, was captured in Mexico. On October 9, he was indicted.

The ORP conducted internal investigations of misconduct by police officers. During the first eight months of the year, the ORP reported receiving 1,222 complaints alleging misconduct by police.

All new PNC and soldiers receive some training in human rights and professional ethics. During the year the Ministry of Defense increased its Human Rights Directorate personnel from eight to 13 staff members and incorporated a gender integration unit.

### **Arrest Procedures and Treatment of Detainees**

The law requires presentation of a court-issued warrant to a suspect prior to arrest unless police apprehend a suspect while 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. Authorities did not regularly respect this right and did not promptly inform some detainees of the charges against them. After arraigning suspects, the prosecutor generally has three months to complete the investigation if the defendant is in pre-trial detentions, and six months to complete the investigation if the defendant is granted house arrest. The law prohibits the execution of search warrants between 6 p.m. and 6 a.m. unless the government has declared a state of siege. Judges may order house arrest for some suspects. 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 permissible for pretrial detainees.

Arbitrary Arrest: There were no reliable data on the number of arbitrary detentions. Most accounts, however, indicated that police ignored writs of habeas corpus in cases of illegal detention, particularly during neighborhood antigang operations.

Pretrial Detention: As of August 25, prison system records indicated 50.6 percent of prisoners were in pretrial detention. The law establishes a one-year maximum for pretrial detention, regardless of the stage of the criminal proceeding, but the court has the legal authority to extend pre-trial detention without limits as necessary. Authorities regularly held detainees past their legal trial or release dates. Lengthy investigations and frequent procedural motions by both defense and prosecution often led to lengthy pretrial detentions, delaying trials for months or years. Authorities did not release some prisoners after completing their full sentences due to the failure of judges to issue the necessary court order or other bureaucratic delays.

#### **e. Denial of Fair Public Trial**

The constitution and the law provide for an independent judiciary. The judicial system failed to provide fair or timely trials due to inefficiency, corruption, insufficient personnel, and intimidation of judges, prosecutors, and witnesses.

Judges, prosecutors, plaintiffs, and witnesses continued to report threats, intimidation, and surveillance, most often from drug trafficking organizations. By the end of August, the special prosecutor for crimes against judicial workers received 129 complaints of threats or aggression against workers in the judicial branch, compared with 192 through September 2016.

The CICIG assisted the Ministry of Government and Public Ministry with the investigation of cases including allegations of extrajudicial executions, extortion, trafficking in persons, improper adoptions, corruption, and drug trafficking.

The Supreme Court continued to pursue the suspension of judges and conduct criminal investigations of improprieties or irregularities in cases under its jurisdiction. From January through October 6, the Judicial Disciplinary Board

investigated 573 complaints against judges of wrongdoing, held hearings on 105 complaints, and applied sanctions in 20 cases. During the same period, the Judicial Disciplinary Unit investigated 1,167 complaints of wrongdoing against technicians and judiciary administrative staff, held hearings on 519 complaints, and applied sanctions in 360 cases, including disciplinary suspension without pay (277 cases) and recommending dismissal (34 cases).

### **Trial Procedures**

The constitution provides for the right to a fair and public trial, the presumption of innocence, the defendant's right to be present at trial, and the right to legal counsel in a timely manner. The law requires the government to provide attorneys for defendants facing criminal charges if the defendant cannot find or afford an attorney. Defendants and their attorneys may confront adverse witnesses and present their own witnesses and evidence. The law provides for plea bargaining and the right of appeal. Three-judge panels render verdicts. The law provides for oral trials and mandates free language interpretation for those needing it; however, interpreters were not always available. Officials conduct trials in Spanish, the official language, although many citizens only speak one of the 23 officially recognized indigenous languages.

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.

### **Political Prisoners and Detainees**

There were no reports of political prisoners or detainees.

### **Civil Judicial Procedures and Remedies**

Individuals and organizations have access to administrative and judicial remedies to submit 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 inefficiencies, excessive workload, and a legal system that often permits time-consuming but spurious complaints.

### **f. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence**

The constitution and the law prohibit such actions, and the government generally respected these prohibitions. In September 2016 President Jimmy Morales dismissed Jorge Lopez, the secretary of administrative and security matters of the president, and his deputy, Cesar Sagastume, for alleged illegal surveillance. At year's end the case was under investigation by the Public Ministry. Media sources reported that former presidential advisor and member of congress Herbert Melgar's name also appeared in the criminal complaint filed with the Public Ministry. Melgar was not charged, however, and continued to serve in congress.

## **Section 2. Respect for Civil Liberties, Including:**

### **a. Freedom of Expression, Including of the Press**

The constitution and law provide for freedom of expression, including of the press, and the government generally respected these rights. The intimidation of journalists resulted in significant self-censorship, however.

Press and Media Freedom: There were no legal restrictions on the editorial independence of the media. Reporters covering organized crime, including its links to corrupt public officials, acknowledged practicing self-censorship, recognizing the danger investigative journalism posed to them and their families. Independent media were active and expressed a wide variety of views.

Violence and Harassment: Members of the press continued to report violence and impunity impaired the practice of free and open journalism. Members of the press reported numerous threats by public officials, and criminal organizations increased journalists' sense of vulnerability.

According to the Public Ministry, 40 complaints were filed for attacks or threats against journalists, and three journalists were killed from January through the middle of September, compared with 87 complaints and eight killings in all of 2016.

The investigation remained open at year's end regarding the 2016 killing of radio journalist Alvaro Alfredo Aceituno Lopez.

On November 7, the Supreme Court lifted the parliamentary immunity of congressman Julio Antonio Juarez Ramirez based on allegations from the Public Ministry and CICIG that he ordered the killing of journalist Danilo Efrain Zapon Lopez in 2015 in Mazatenango, Suchitepequez. Journalist Federico Benjamin

Salazar Geronimo was also killed in the attack and reporter Marvin Tunches was injured. On October 12, Sergio Waldemar Cardona Reyes and German Morataya were convicted and sentenced to 30 and two years in prison, respectively, for their involvement in the Lopez killing.

The Public Ministry employed a unit dedicated to the investigation of threats and attacks against journalists. The NGO Center for Reporting in Guatemala noted that the unit had few resources.

Civil society organizations reported that sexual harassment of female journalists was widespread but rarely reported.

Censorship or Content Restrictions: Members of the press reported receiving pressure, threats, and retribution from various public officials regarding the content of their reporting. Some owners and members of media also accused the government of following a discriminatory advertising policy that penalized or rewarded print and broadcast media based on whether the government perceived the news or commentary as supportive or critical.

The online newsmagazine *Nomada* reported threats against individual reporters and magazine leadership. Editors used armored vehicles due to fear of attack. After reporting on undisclosed bonuses given by the Ministry of Defense to President Morales, *Nomada's* website was targeted in a denial-of-service attack for several days. *Nomada* published the story on its Facebook account until service was restored. *Nomada* had experienced similar attacks previously.

Nongovernmental Impact: Organized crime exerted influence over media outlets and reporters, frequently threatening individuals for reporting on criminal activities.

### **Internet Freedom**

The government did not restrict or disrupt access to the internet or censor online content, and there were no credible reports the government monitored private online communications without appropriate legal authority.

According to the International Telecommunication Union, 35 percent of the population used the internet in 2016.

### **Academic Freedom and Cultural Events**

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

### **b. Freedoms of Peaceful Assembly and Association**

The constitution provides for the freedoms of peaceful assembly and association, and the government generally respected these rights.

#### **Freedom of Association**

The law provides for freedom of association, and the government generally respected this right. There were reports, however, of significant barriers to organizing in the labor sector (see section 7.a.).

### **c. Freedom of Religion**

See the Department of State's *International Religious Freedom Report* at [www.state.gov/religiousfreedomreport/](http://www.state.gov/religiousfreedomreport/).

### **d. Freedom of Movement**

The constitution and the law provide for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights. An immigration law passed in September 2016 overhauled the country's migration system and defined the term "refugee" as well as listing refugees' rights in accordance with international instruments. The preparation of regulations to implement the law, including on the refugee application process and refugee rights, was underway at year's end.

The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to refugees, returning refugees, asylum seekers, stateless persons, or other persons of concern.

### **Internally Displaced Persons (IDPs)**

The country does not have laws in place to protect internally displaced persons in line with the UN Guiding Principles on Internal Displacement. UNHCR expressed concern regarding violence against IDPs and strengthened its efforts to monitor the problem and provide assistance to the displaced. The country does not officially

recognize the existence of IDPs within its borders, with the exception of those displaced by climate change. In June the government evicted an estimated 400 farmers for illegally settling within the Maya Biosphere Reserve. The Inter-American Commission on Human Rights (IACHR) characterized the evictees as IDPs. Media and civil society reported that the evictees did not receive government assistance in a timely manner.

### **Protection of Refugees**

Access to Asylum: The laws provide for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. The country approved 39 refugee applications from January through September. The number of asylum applications from El Salvador increased between 2016 and 2017. UNHCR, however, reported that identification and referral mechanisms for potential asylum seekers were inadequate. Both migration and police authorities lacked awareness of the rules for establishing refugee status.

UNHCR reported that access to education for refugees was challenging due to the country's sometimes onerous requirements for access to formal education, including documentation from the country of origin.

### **Section 3. Freedom to Participate in the Political Process**

The constitution provides citizens the ability to choose their government in free and fair periodic elections held by secret ballot and based on nearly universal and equal suffrage for those ages 18 and older. Members of the armed forces, police, and incarcerated individuals are not eligible to vote.

### **Elections and Political Participation**

Recent Elections: In 2015 Jimmy Morales of the National Convergence Front (FCN) party defeated National Unity of Hope candidate Sandra Torres in a second round of voting and was sworn in as president in January 2016. An Organization of American States international election observation mission characterized the elections as generally free and fair. The Attorney General's Office continued to investigate allegations of illicit campaign financing in the 2015 elections and petitioned for immunity reviews against three parties' secretaries general, including Morales. In July the Supreme Electoral Tribunal imposed a fine of 441,000 quetzales (\$60,000) on the FCN for campaign finance irregularities.

Participation of Women and Minorities: No laws limit participation of women or members of minorities in the political process, and they did participate. Traditional and cultural practices, in addition to discrimination and institutional bias, however, limited the political participation of women and members of indigenous groups.

While the indigenous population constituted 44 percent of the population, according to the latest 2002 government census, indigenous representation in national government was minimal. There was one indigenous female member of the cabinet, one on the Constitutional Court, and one on the Supreme Court. There were approximately 20 indigenous members of Congress. Indigenous individuals comprised a larger share of elected local government officials, filling 113 of the 333 mayoral seats elected in 2015.

#### **Section 4. Corruption and Lack of Transparency in Government**

The law provides criminal penalties for official corruption, but officials frequently engaged in corrupt practices with impunity. There were numerous reports of government corruption during the year, many of which the Public Ministry and CICIG investigated and prosecuted on charges including money laundering, illegal political party financing, and bribery.

Corruption: On July 17, the CICIG and Public Ministry brought charges against Julio Ligorria, former ambassador to the United States, and Alejandro Sinibaldi, former communications minister, in connection with a wide-reaching corruption investigation of jailed former president Otto Perez Molina. According to the investigators, Ligorria and Sinibaldi organized a network of construction companies to funnel two million dollars from a telecommunications company to support the election campaigns of Perez Molina's Patriotic Party. Sinibaldi was linked with several additional cases of bribery and influence trafficking during the Perez Molina administration. Spanish authorities arrested Ligorria in Madrid in September. Sinibaldi remained a fugitive.

On February 2, at the request of the Public Ministry and CICIG, congress revoked the immunity of Supreme Court Justice Blanca Aida Stalling Davila. On February 8, she was arrested on influence peddling charges for pressuring the judge overseeing a criminal case against her son. Since May 2016, three Supreme Court justices were removed from office to face criminal charges.

Financial Disclosure: Public officials who earn more than 8,000 quetzales (\$1,090) per month or who manage public funds are subject to financial disclosure laws overseen and enforced by the Comptroller General's Office. The financial disclosures were available to the public upon request. Administrative and criminal sanctions apply for inadequate or falsified disclosures of assets.

### **Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Abuses 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 often cooperative and responsive to their views.

A number of NGOs, human rights workers, and trade unionists, however, reported threats, violence, and intimidation. Local human rights NGO Unit for the Protection of Human Rights Defenders (UDEFEGUA) reported 49 killings of human rights defenders from January through August, compared with 14 killings in all of 2016 (Note: The 41 girls who perished in the Hogar Seguro government shelter fire were included in the 2017 figure). The NGO also reported 282 attacks against human rights defenders from January through August, compared with 263 attacks in all of 2016. According to various human rights NGOs, many of the attacks related to land disputes and exploitation of natural resources. NGOs asserted the government did little to investigate the reports or prevent further incidents.

NGOs also reported the government, fringe groups, and private entities used threats of legal action as a form of intimidation. UDEFEGUA reported 126 cases of criminalization of human rights defenders from January through August. On February 4, authorities arrested land rights defender Abelino Chub Caal on charges of aggravated usurpation, arson, coercion, illicit association, and belonging to multiple illicit armed groups. In June a local court ruled that Chub Caal must remain in detention, despite the prosecutor's request to suspend the criminal case for 12 months and release Chub Caal in the absence of evidence against him.

Lack of resources prevented the Office of the Special Prosecutor for Human Rights from investigating the majority of complaints in a timely manner. Other cases languished in the court system.

Government Human Rights Bodies: The Office of the Human Rights Ombudsman (PDH) monitors the human rights set forth in the constitution and reports to Congress. The ombudsman operated with government cooperation and issued public reports and recommendations, including an annual report to congress on the fulfillment of its mandate. The office lacked adequate resources.

The President's Commission on Human Rights (COPREDEH) has responsibility to formulate and promote the government's human rights policy. COPREDEH also led coordination of police protection for various human rights and labor activists. COPREDEH generally benefited from the administration's cooperation and operated without political or party interference. Resources for the commission were not adequate for compliance with IACHR recommendations and reparation rulings. The COPREDEH budget steadily decreased during the past five years from 43.7 million quetzales (\$5.94 million) in 2013 to 31.2 million quetzals (\$4.24 million) during the year.

The lack of PDH and COPREDEH resources significantly limited their ability to operate outside of Guatemala City and engage effectively with marginalized communities, particularly on land conflict issues.

The Congressional Committee on Human Rights drafts and provides advice on legislation regarding human rights. The law requires all political parties represented in Congress to have a representative on the committee. NGOs did not consider the committee to be an effective public forum for promoting and protecting human rights during the year.

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

### **Women**

Rape and Domestic Violence: The law criminalizes rape of men or women, including spousal rape, and sets penalties between five and 50 years in prison. Police had minimal training or capacity to investigate sexual crimes or assist survivors of such crimes, and the government did not enforce the law effectively.

Rape and other sexual offenses remained serious problems. The government took steps to combat femicide and violence against women. The judiciary maintained a 24-hour court in Guatemala City to offer services related to violence directed toward women, including sexual assault, exploitation, and trafficking of women and children. The judiciary also operated specialized courts for violence against

women throughout the country, but not in every department. On November 22, the Public Ministry established a special prosecutor for femicide.

The law establishes penalties for femicide of 25 to 50 years in prison without the possibility of reducing the sentence; however, femicide remained a significant problem.

Violence against women, including sexual and domestic violence, remained serious problems. The law establishes penalties of five to eight years for physical, economic, and psychological violence committed against women because of their gender. The PNC often failed to respond to requests for assistance related to domestic violence.

Sexual Harassment: No single law, including laws against sexual violence, deals directly with sexual harassment, although several laws refer to it. Human rights organizations reported sexual harassment was widespread.

Coercion in Population Control: There were no reports of coerced abortion, involuntary sterilization, or other coercive population control methods. Estimates on maternal mortality and contraceptive prevalence are available at: [www.who.int/reproductivehealth/publications/monitoring/maternal-mortality-2015/en/](http://www.who.int/reproductivehealth/publications/monitoring/maternal-mortality-2015/en/).

Discrimination: Although the law establishes the principle of gender equality and criminalizes discrimination, women faced discrimination and were less likely to hold management positions.

## **Children**

Birth Registration: Children derive citizenship by birth within the country's territory or from their parents. UNICEF described low birth registration as a "serious problem," and UNHCR reported problems in registering births were especially acute in indigenous communities due to inadequate government registration and documentation systems. Lack of registration restricted children's access to some public services and created conditions that could lead to statelessness.

Education: While primary education is compulsory through age 14, access was limited in many rural areas; education through the secondary level is not obligatory.

Child Abuse: Child abuse remained a serious problem. A unit under the Special Prosecutor for Crimes against Children and Adolescents handled child abuse cases. The Public Ministry reported 2,571 reports of minor abuse of all types and 16 convictions from January through August.

As of September, 520 children and adolescents lived in shelters run by the Secretariat for Social Welfare (SBS). Overcrowding was common in shelters.

On several occasions in 2016, groups of adolescent girls escaped from Hogar Seguro shelter, alleging abuse and mistreatment. On March 7, approximately 60 adolescent girls escaped and, according to media reports, some were apprehended and returned to Hogar Seguro. They were locked in a room and guarded by police. On March 8, one of the girls started a fire inside the room in protest, resulting in the deaths of 41 girls and severe burns to 14 others.

At year's end seven persons had been charged in relation to the deaths of the 41 girls, including former SBS secretary Carlos Rodas, former deputy secretary for protection and shelter Anahi Keller, and former shelter director Santos Torres. On April 7, they were charged with murder, abuse of authority, breach of duty, abuse against minors, and serious injury. On April 28, the SBS announced the closure of the shelter and plans to renovate it into a facility to house juvenile offenders.

For additional information, see Appendix C.

Early and Forced Marriage: The legal age for marriage is 18. There were reports of early and forced marriages in some rural indigenous communities. UNICEF reported 30 percent of women ages 20 to 24 years were first married or in union by age 18 (7 percent of them by age 15) between 2008 and 2014.

Sexual Exploitation of Children: The law provides sentences ranging from 13 to 24 years in prison, depending on the victim's age, for engaging in sex with a minor. The minimum age of consensual sex is 18.

The law prohibits child pornography and establishes penalties of six to 10 years in prison for producing, promoting, and selling child pornography and two to four years' imprisonment for possessing it. The Public Ministry and PNC conducted several raids against alleged online child pornography networks. The commercial sexual exploitation of children, including child sex tourism, remained a problem.

Displaced Children: Criminals and gangs often recruited street children, many of them victims of domestic abuse, for purposes of stealing, transporting contraband, prostitution, and conducting illegal drug activities. The NGO Mutual Support Group reported 683 minors suffered violent deaths nationwide from January through August. NGOs dealing with gangs and other youth reported youth detained by police were subject to abusive treatment, including physical assaults.

The SBS, responsible for the care of both returned migrant children and unaccompanied foreign migrant children, reported seven cases of sexual abuse of children under its care during the year.

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State's *Annual Report on International Parental Child Abduction* at [travel.state.gov/content/childabduction/en/legal/compliance.html](http://travel.state.gov/content/childabduction/en/legal/compliance.html).

### **Anti-Semitism**

The Jewish population numbered approximately 1,500 persons. There were no reports of anti-Semitic acts.

In April a court found the former mayor of San Juan La Laguna, Antonio Adolfo Perez y Perez, guilty of forcing out a community of ultraorthodox Jews in 2014 and sentenced him to one year in prison.

### **Trafficking in Persons**

See the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip/rls/tiprpt/](http://www.state.gov/j/tip/rls/tiprpt/).

### **Persons with Disabilities**

The constitution contains no specific prohibitions against discrimination based on physical, sensory, intellectual, and mental disabilities. The law, however, mandates equal access to public facilities and provides some other legal protections. In many cases, however, the law was not enforced. The law does not mandate that persons with disabilities have access to information or communications.

The National Council for Persons with Disabilities reported few 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. Most schools and universities did not have facilities accessible to persons with disabilities.

The Federico Mora National Hospital for Mental Health, the only public health-care provider for persons with mental illness, lacked basic supplies, equipment, hygienic living conditions, and adequate professional staff. Media reported mistreatment of residents, including physical, psychological, and sexual violence by other residents, guards, and hospital staff, especially with respect to women and children with disabilities. Multiple legal actions were pending against the hospital.

### **Indigenous People**

The government's National Institute of Statistics estimated indigenous persons from 22 ethnic groups comprised 44 percent of the population. The law provides for equal rights for indigenous persons and obliges the government to recognize, respect, and promote the lifestyles, customs, traditions, social organizations, and manner of dress of indigenous persons. The government does not recognize particular indigenous groups as having a special legal status provided by national law.

Indigenous representatives claimed actors in a number of regional development projects failed to consult meaningfully with local communities. In some cases indigenous communities were not regularly or adequately consulted or able to participate in decisions affecting the exploitation of resources in their communities, including energy, minerals, timber, rivers, or other natural resources. They also lacked effective mechanisms for dialogue with the state to resolve conflicts. During the year courts suspended the operating licenses of several hydroelectric and mining projects for not complying with requirements for consultations with indigenous communities prior to project implementation as required by International Labor Organization (ILO) Convention 169, recognizing the convention's requirement that the government must play a role in the process. Previously, businesses carried out consultations independently without government oversight.

Indigenous communities were underrepresented in national politics and remained largely outside the political, economic, social, and cultural mainstream. This was

mainly due to limited educational opportunities (contrary to law), limited communication regarding their rights, and pervasive discrimination. These factors contributed to disproportionate poverty among most indigenous populations.

Indigenous lands lacked effective demarcation, making the legal recognition of titles to the land problematic. Indigenous rights advocates asserted that pervasive ignorance by security authorities of indigenous norms and practices engendered misunderstandings. PNC and indigenous leaders in the village of Salacuim, Alta Verapaz, worked together to establish a model police precinct to better serve the 100 percent indigenous community, prevent and reduce violence, and establish rule of law.

### **Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity**

The country's antidiscrimination laws do not apply to LGBTI individuals. LGBTI rights groups stated that police officers regularly engaged in extortion and harassed male and transgender individuals they believed to be sex workers. There was general societal discrimination against LGBTI persons in access to education, health care, employment, and housing. The government undertook minimal efforts to address this discrimination. Sandra Moran, the first openly lesbian member of Congress, was harassed and intimidated based on her sexual orientation. Online campaigns calling for her removal from congress based solely on her orientation were constant and increased in September after her vote to remove immunity from President Morales.

According to LGBTI rights groups, gay and transgender individuals often experienced police abuse.

LGBTI groups claimed women experienced specific forms of discrimination such as forced marriages and forced pregnancies through "corrective rape," although these incidents were rarely, if ever, reported to authorities. In addition transgender individuals faced severe discrimination.

### **HIV and AIDS Social Stigma**

The law does not expressly include HIV/AIDS status among the categories prohibited from discrimination. There was societal discrimination against persons with HIV/AIDS. Forms of discrimination included being required by government authorities to reveal HIV/AIDS test results to receive certain public benefits or

from employers in order to be hired. In addition HIV/AIDS patients experienced discrimination from medical personnel when receiving treatment in public hospitals and had their right to confidentiality violated by disclosure of their status. Discrimination against LGBTI persons with HIV/AIDS was common and affected their access to HIV-prevention programs.

### **Other Societal Violence or Discrimination**

Several times vigilante mobs attacked and killed those suspected of crimes such as rape, kidnapping, theft, or extortion. The NGO Mutual Support Group reported nine persons were killed in public lynchings and 38 were injured through May.

## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective Bargaining**

The law provides for the right of workers, with the exception of security force members, to form and join trade unions of their choice, conduct legal strikes, and bargain collectively. The law, however, places some restrictions on these rights. For example, legal recognition of an industrywide union requires the membership constitute a majority of the workers in an industry and restricts union leadership to citizens. The law prohibits antiunion discrimination and employer interference in union activities and requires employers to reinstate workers dismissed for organizing union activities. A strike must have the support of the majority 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 the production, transportation, and distribution of energy. Public employees may address grievances by means of conciliation for collective disputes and arbitration directly through the labor courts. For sectors considered essential, arbitration is compulsory if there is no agreement after 30 days of conciliation.

The law prohibits employer retaliation against workers engaged in legal strikes. If authorities do not recognize a strike as legal, employers may suspend or terminate workers for absence without leave. A factory or business owner is not obligated to

negotiate a collective bargaining agreement unless at least 25 percent of workers in the factory or business are union members and request negotiations.

The government did not effectively enforce the law. Government institutions, such as the Ministry of Labor and the labor courts, did not effectively investigate, prosecute, or punish employers who violated freedom of association and collective bargaining laws or reinstate workers illegally dismissed for engaging in union activities. In addition the Public Ministry was ineffective in responding to labor court referrals for criminal prosecution in cases where employers refused to comply with labor court orders. Inspectors often lacked vehicles or fuel to carry out inspections, and in some cases they failed to take effective action to gain access to worksites in response to employers' refusal to permit labor inspectors access to facilities, including failing to seek police assistance as required. Penalties for labor law violations range from two to 18 minimum monthly salaries (\$665 to \$6,000), but the penalties were inadequate and rarely enforced.

The Labor Ministry lacked the capability to impose fines or otherwise sanction employers for labor law violations discovered during inspections until June, when sanction authority was restored via the passage of law 07-2017. Until that point, the Labor Ministry had to refer the cases to the labor court. Employers frequently refused to respect court decisions favorable to workers and were rarely sanctioned for doing so. Reinstatement proceedings were frequently prolonged due to appeals and employers' widespread use of tactics such as reincorporation as a different entity. For example, courts faced difficulties in providing notification of their orders when employers listed incorrect addresses or refused access to the court official delivering notification. The length of time to process cases for the reinstatement of workers and other labor law violations was excessive, often taking two to four years and sometimes longer.

The Special Prosecutor's Unit for Crimes against Unionists within the Office of the Special Prosecutor for Human Rights in the Public Ministry was responsible for investigating attacks and threats against union members as well as for noncompliance with judicial orders in labor cases. Staffing for the unit increased from 12 in 2016 to 19. According to Public Ministry statistics, the unit won two convictions in cases involving violence against union members. The CICIG highlighted several factors that negatively affected investigations, including a lack of methodological planning and continuity among prosecutors, delays in conducting the criminal investigation, and witnesses' fear of making declarations. In cases of noncompliance with labor court orders, the government reported that,

of 2,312 cases referred (including a backlog from previous years), only four resulted in convictions, with the vast majority of cases still under investigation.

The Ministry of Government operated a personal protection program that included some trade unionists. The ministry reported two union members received personal security protection measures during the year, and 28 received perimeter security measures. In October 2016 the ministry revised a 2014 Protocol for the Implementation of Immediate and Preventive Security Measures for Human Rights Activists, with input from the trade unions, but union confederations indicated the protocol had not been applied, and there was minimal progress toward ensuring the protection of threatened trade union officials and members. The unions and the ILO called for increased personal security for union leaders and members, ensuring the beneficiaries of such protection did not have to bear any costs related to their protection. Local unions and the ILO urged authorities to more effectively investigate the killings of 87 trade unionists since 2004, including consideration of antiunion motives. This included more effective application of General Instruction No. 1-2015, adopted in 2015 to improve the effectiveness of such investigations.

In 2013 the government and the unions signed a Memorandum of Understanding and developed a roadmap to implement it. An ILO special representative monitored the roadmap, which includes indicators on increased compliance with reinstatement orders, increased prosecution of perpetrators of violence against trade unionists, reforms to national legislation to conform to Convention 87, and unimpeded registration of trade unions. The instruments were developed for each indicator to avoid the establishment of an ILO Commission of Inquiry based on a complaint filed in 2012 that stated the government had not complied with ILO Convention 87 on Freedom of Association. In 2015, in part due to the lack of progress in implementing the roadmap, there was tripartite agreement between the government, unions, and employers to develop a set of key indicators to measure progress on the roadmap. During the year the government took some steps to implement the roadmap. In November the government submitted two legislative proposals related to the ILO roadmap to Congress (i.e., legislation to restore sanction authority to the Ministry of Labor and legislation to address long-standing ILO recommendations related to freedom of association and the right to strike). The Public Ministry increased the personnel for the Special Prosecutor's Unit for Crimes against Unionists, and the Ministry of Government convened the Interagency Committee to Analyze Attacks Against Human Rights Defenders (INSTANCIA), including trade unionists on a regular basis.

Despite these efforts, the country did not demonstrate measurable progress in the effective enforcement of its labor laws, particularly those related to freedom of association and collective bargaining. The ILO noted the need for additional urgent action in several areas related to the roadmap, including investigation and prosecution of perpetrators of trade union violence; the adoption of protection measures for union officials; passage of legislative reforms to remove obstacles to freedom of association and the right to strike; and raising awareness of the rights to freedom of association and collective bargaining, particularly in the apparel and textile industries. The ILO also called for greater compliance with reinstatement orders in cases of antiunion dismissals. During its most recent session in November, based in large part on the submission of the above-referenced legislative initiatives, the ILO Governing Body deferred a decision on establishing a commission of inquiry until March 2018.

Violence and threats against trade unionists and labor activists remained serious problems, with three killings of trade unionists and two violent attacks with a firearm reported in 2016. Authorities did not thoroughly investigate most acts of violence and threats, and by often discarding trade union activity as a motive from the outset of the investigation, allowed these acts to go unprosecuted. Several labor leaders reported death threats and other acts of intimidation.

Procedural hurdles, union formation restrictions, and impunity for employers refusing to receive or ignoring court orders limited freedom of association and collective bargaining. Government statistics on attempted union registrations indicated most registrations were initially rejected, and when they were issued, it was done outside the legally established timeframes. In addition credentials of union leaders were regularly rejected and delayed. As a result union members were left without additional protections against antiunion retaliation.

Employers routinely resisted union formation attempts, delayed or only partially complied with agreements resulting from direct negotiations, and ignored judicial rulings requiring the employer to negotiate with recognized unions. 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 the Public Ministry alleging employer retaliation for union activity. Common practices included termination and harassment of workers who attempted to form unions, creation of illegal company-supported unions to counter legally established unions, blacklisting of union organizers, and threats of factory closures. If workers joined a union or refused to disaffiliate, employers threatened not to renew their contracts or offer subcontracted workers permanent employment.

There were reports that management or its agents harassed and threatened workers who did not accept employer dismissals or refused to forfeit their right to reinstatement. According to government statistics, employers failed to comply with 62 percent of labor courts' reinstatement orders issued in 2014-16, and in 18 percent of cases, the labor court could not carry out the reinstatement, at times due to incorrect addresses. In some cases employers did not reinstate workers to their prior positions and often failed to pay the back wages owed to them, as well as court-ordered fines. Local unions reported businesses used fraudulent bankruptcies, ownership substitution, and reincorporation of companies to circumvent legal obligations to recognize newly formed or established unions, despite legal restrictions on such practices.

### **b. Prohibition of Forced or Compulsory Labor**

The law prohibits all forms of forced or compulsory labor. The government failed to enforce the law effectively in some cases. Reports persisted of men and women subjected to forced labor in agriculture and domestic service. Penalties ranging from two to 18 minimum monthly salaries (\$665 to \$6,000) were inadequate and rarely enforced. Criminal penalties for forced labor range from eight to 18 years' imprisonment. The government lacked sufficient resources (e.g., labor inspectors, vehicles, equipment) to conduct effective and regular inspection or to pursue remediation for forced labor cases. The government had specialized police and prosecutors handle cases of human trafficking, including forced labor, although local experts reported some prosecutors lacked adequate training. In July the Public Ministry arrested two sisters who forced six children to beg in the streets for money. The case remained pending at year's end. There were also other reports of forced child labor (see section 7.c.).

Also see the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip/rls/tiprpt/](http://www.state.gov/j/tip/rls/tiprpt/).

### **c. Prohibition of Child Labor and Minimum Age for Employment**

The law bars employment of minors below age 14, although it allows the Ministry of Labor to authorize children below 14 to work in exceptional cases. The ministry's inspectorate reported it did not authorize any exceptions during the year. The law prohibits persons under age 18 from working in places that serve alcoholic beverages, in unhealthy or dangerous conditions, at night, or overtime. The legal

workday for persons under age than 14 is six hours; for persons ages 14 to 17, the legal workday is seven hours.

The Ministry of Labor's Child Worker Protection Unit is responsible for enforcing restrictions on child labor and educating minors, their parents, and employers on the rights of minors. Penalties are not sufficient to deter violations. The government did not effectively enforce these laws, a situation exacerbated by the weakness of the labor inspection and labor court systems. The government devoted insufficient resources to prevention programs.

Child labor was a widespread problem. The NGO Conrad Project Association of the Cross estimated the workforce included approximately one million children ages five to 17. Most child labor occurred in rural indigenous areas of extreme poverty. The informal and agricultural sectors regularly employed children below 14, usually in small family enterprises, including in the production of broccoli, coffee, corn, fireworks, gravel, and sugar. Indigenous children also worked in street sales and as shoe shiners and bricklayer assistants.

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 *Findings on the Worst Forms of Child Labor* at [www.dol.gov/ilab/reports/child-labor/findings/](http://www.dol.gov/ilab/reports/child-labor/findings/).

#### **d. Discrimination with Respect to Employment and Occupation**

The law explicitly prohibits discrimination with respect to employment or occupation based on race, color, sex, religion, political opinion, national origin or citizenship, age, and disability. The government did not effectively enforce the law and related regulations.

Discrimination in employment and occupation occurred. Anecdotally, wage discrimination based on race and sex occurred often in rural areas.

#### **e. Acceptable Conditions of Work**

The law sets national minimum wages for agricultural and nonagricultural work and for work in garment factories. The minimum wage for agricultural and

nonagricultural work and for work in export-sector-regime factories did not meet the minimum food budget for a family of five. Minimum wage earners are due a mandatory monthly bonus of 250 quetzales (\$34), and salaried workers receive two mandatory yearly bonuses (a Christmas bonus and a “14th month” bonus), each equivalent to one month’s salary.

The legal workweek is 48 hours with at least one paid 24-hour rest period. Workers are not to work more than 12 hours a day. The law provides for 12 paid annual holidays and paid vacation of 15 days after one year’s work. Daily and weekly maximum hours 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 government sets occupational health and safety standards that were inadequate, not current for all industries, and poorly enforced. The law does not provide for the right of workers to remove themselves from situations that endangered health or safety without jeopardy to their employment.

The Ministry of Labor conducted inspections to monitor compliance with minimum wage law provisions but often lacked the necessary vehicles or fuel to enable inspectors to enforce the law, especially in the agricultural and informal sectors. The ministry employed a sufficient number of labor inspectors to deter violations, although many of them performed conciliation or administrative duties rather than clearly defined inspection duties.

Labor inspectors reported uncovering numerous instances of overtime abuses, but effective enforcement was undermined due to inadequate fines and labor courts’ reluctance to use compulsory measures, such as increased fines and referrals to the criminal courts, to obtain compliance. Other factors contributing to the lack of effective enforcement included labor court inefficiencies, employer refusal to permit labor inspectors to enter facilities or provide access to payroll records and other documentation, and inspectors’ lack of follow-up inspections in the face of such refusals. Labor inspectors were not authorized to sanction employers but had to refer alleged violations to the labor courts. Due to inefficient and lengthy court proceedings, the resolution of cases was often delayed, in many instances for several years. Employers failing to provide a safe workplace were rarely sanctioned, and 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 reported employers required workers to work overtime without legally mandated premium pay. Management often manipulated employer-provided transportation to worksites 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 agricultural and informal sectors was widespread. Advocacy groups estimated the vast majority of workers in rural areas who engaged in daylong employment did not receive the wages, benefits, or social security allocations required by law. Many employers in the agricultural sector reportedly conditioned payment of the minimum daily wage on excessive production quotas that workers generally were unable to meet. In order to meet the quota, workers felt compelled to work extra hours, sometimes bringing family members, including children, to help with the work. Because of having to work beyond the maximum allowed hours per day, workers received less than the minimum wage for the day and did not receive the required overtime pay. According to ILO statistics, 74 percent of the workforce worked in the informal sector and outside the basic protections afforded by law.

Local unions highlighted and protested 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 export and agricultural industries, resulted in limiting or denying employees' access to the public health system and reducing or underpaying workers' pension benefits during their retirement years.