

# **GUATEMALA 2019 HUMAN RIGHTS REPORT**

## **EXECUTIVE SUMMARY**

Guatemala is a multiparty constitutional republic. In 2016 James Ernesto Morales Cabrera of the National Convergence Front party was sworn into office for a four-year term as president. On August 11, Alejandro Giammattei was elected president for a four-year term set to begin on January 14, 2020. International observers considered the presidential election held in 2019 as generally free and fair.

The National Civil Police (PNC), which is overseen by the Ministry of Government and headed by a director general appointed by the minister, 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. The defense ministry completed its drawdown of 4,500 personnel from street patrols to concentrate its forces on the borders in 2018. Civilian authorities at times did not maintain effective control over the security forces.

Significant human rights issues included: harsh and life-threatening prison conditions; substantial problems with the independence of the judiciary, including malicious litigation and irregularities in the judicial selection process; widespread corruption; trafficking in persons; crimes involving violence or threats thereof targeting lesbian, gay, bisexual, transgender, and intersex (LGBTI) persons, persons with disabilities, and members of other minority groups; and use of forced or compulsory or child labor.

Corruption and inadequate investigations made prosecution difficult. The government was criticized by civil society for refusing to renew the International Commission Against Impunity in Guatemala's (CICIG) mandate, which expired on September 3. Impunity continued to be widespread for ongoing human rights abuses, endemic government corruption, and for mass atrocities committed during the 1960-1996 internal armed conflict.

### **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 reports that the government or its agents committed arbitrary or unlawful killings. As of August 31, the Public Ministry as well as the PNC and its Office of Professional Responsibility, the mechanism for investigating security force abuses, reported two complaints of homicide by police, in contrast with none in 2018.

At least 12 rural and indigenous activists were killed or died under disputed circumstances between January and July, according to the nongovernmental organization (NGO) Unit for the Protection of Human Rights Defenders (UDEFEUGUA). Some of the killings appeared to be politically motivated, and all the cases remained under investigation at year's end (see section 6, Indigenous People). In 2018 a total of 26 activists or human rights defenders were killed.

The case continued of former intelligence chief Jose Mauricio Rodriguez Sanchez regarding the genocide involving the Maya Ixil community during the country's 30-year internal armed conflict (1960-1996). The prosecution appealed the September 2018 ruling of a three-judge panel that found Rodriguez not guilty. On June 16, Luis Enrique Garcia Mendoza, operations commander under Rios Montt, was arrested for allegedly having planned and executed military plans against the Maya Ixil community. On June 25, the prosecution filed a request to remove Judge Claudette Dominguez of High-Risk Court A from the case for alleged conflict of interest. The recusal was granted, and Judge Jimmi Bremer of High-Risk Court C indicted Garcia Mendoza on November 29 on charges of genocide and crimes against humanity.

The Public Ministry presented another case of genocide against the Maya Ixil community from the last months of Romeo Lucas Garcia's government (1978-82). Three high-ranking military officers, Cesar Octavio Noguera Argueta, Manuel Callejas y Callejas, and Benedicto Lucas Garcia, were charged in the case. Manuel Callejas and Benedicto Lucas were both convicted in the Molina Theissen case and are serving 58-year sentences. According to the ministry, this case involved a minimum of 32 massacres, 97 selected killings, 117 deaths due to forced displacement, 37 cases of sexual assault, and 80 cases of forced disappearance. Many victims were children. On November 25, Judge Miguel Angel Galvez ruled there was sufficient evidence to bring the case to trial.

Congress made multiple attempts to advance an amnesty law to grant blanket amnesty to, and release from prison, former military officials and others convicted of war crimes and crimes against humanity during the civil war and also prevent

those accused of war crimes, crimes against humanity, and genocides from being prosecuted.

Negotiations for collective reparations continued in the case of families affected by the Chixoy hydroelectric dam. As of October the government had paid approximately 98 percent of the 200 million quetzals (\$26 million) in individual reparations to families affected by the dam. During the dam's construction from 1975 to 1985, more than 400 individuals died, and thousands were displaced.

### **b. Disappearance**

There were no reports 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. The government did not comply, however, with an order from the High-Risk Chamber to create a national commission on the search for disappeared persons and a national registry of victims.

The case known as CREOMPAZ continued of former military officers indicted in 2017 on charges of forced disappearance and crimes against humanity during the armed conflict. Several appeals and recusal motions filed in 2016 needed to be resolved before a full trial could begin. The prosecution filed a request to remove Judge Dominguez from the case for alleged bias and partiality toward members of the army. On October 4, the First High Risk Appellate Court denied the motion. The same appellate court had granted a similar request on September 12 to remove Dominguez from the Maya Achi sexual violence case for alleged bias.

One of the military officers linked to the CREOMPAZ case was Edgar Justino Ovalle Maldonado, a retired colonel who was elected to Congress with the National Convergence Front party in 2015. Ovalle went into hiding when the Supreme Court lifted his immunity from prosecution in 2017.

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

The law prohibits torture and other cruel, inhuman, or degrading treatment or punishment, but there were reports alleging government workers employed them at the Federico Mora National Hospital for Mental Health (see section 6). The Office of the UN High Commissioner for Human Rights (OHCHR) noted that documentation and reporting mechanisms for torture and other cruel, inhuman, or

degrading treatment or punishment remained weak, thereby hindering a full understanding of the prevalence of the problem.

### **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. Authorities occasionally held pretrial detainees together with convicted prisoners, juveniles with adults, and male with female detainees.

Physical Conditions: Prison overcrowding was a problem. As of October 1, according to prison authorities, there were 25,297 inmates, including 2,806 women, held in facilities designed to hold 6,800 persons. As of October 2, there were 708 juvenile inmates in four traditional detention centers and the halfway house, which were designed for 529 inmates. Another 1,242 inmates were held in three new alternative measures facilities. Despite a reduction in the overcrowding, there were 303 inmates in the Las Gaviotas juvenile detention facility, designed for 155 individuals. Approximately 28 percent of juvenile inmates had not been sentenced and were awaiting trials.

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, inmate possession of firearms and grenades, and the fabrication of weapons. Prisoners conducted criminal activity both inside and outside of prisons. Media reported that transnational criminal gangs and drug trafficking groups controlled major prison centers. According to prison authorities, from January through August 31, at least 26 inmates died of unnatural causes while in prison. On May 7, seven inmates were killed and almost 20 injured in a riot in Pavon prison. On July 5, another riot at the prison left one dead and three injured.

Media and NGOs reported female inmates faced continuing physical and sexual abuse. Female inmates reported unnecessary body searches and verbal abuse by prison guards. Children younger than age four could live in prison with their

mothers, but the penitentiary system provided inadequate food for young children, and many suffered from illness. LGBTI rights groups stated that other prisoners often sexually assaulted LGBTI individuals and there were insufficient facilities to protect LGBTI individuals in custody. NGOs claimed admittance procedures for LGBTI prisoners were not implemented, noting particular concern regarding procedures for transgender individuals.

Administration: 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.

Independent Monitoring: The government permitted visits by local and international human rights groups, the Organization of American States, public defenders, and religious groups. The Office of the Human Rights Ombudsman (PDH) and the National Office for the Prevention of Torture, both independent government bodies responsible for ensuring that the rights and wellbeing of prisoners are respected, also periodically visited prison facilities.

Improvements: The Secretariat of Social Welfare significantly reformed the four juvenile detention centers. Reform to the juvenile justice system resulted in more sentences to alternative measures such as work programs and fewer detainees, which eased prison overcrowding. The secretariat divided the juvenile prisons to ensure minors were held in separate wings from adults.

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

The law prohibits 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. There was no compensation for those ruled unlawfully detained.

#### **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. After arraigning suspects,

the prosecutor generally has three months to complete the investigation if the defendant is in pretrial detention, and six months to complete the investigation if the defendant is granted house arrest. The law prohibits the execution of 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: As of August 31, the Office of Professional Responsibility had received 26 complaints of illegal detention by police. Reports indicated police ignored writs of habeas corpus in cases of illegal detention, particularly during neighborhood antigang operations.

Pretrial Detention: As of October 1, prison system records indicated 48 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 pretrial 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. Observers noted the slow pace of investigations and lack of judicial resources hampered efforts to reduce pretrial detention and illegal incarceration. Authorities did not release some prisoners after they completed their full sentences due to the failure of judges to issue the necessary court order or other bureaucratic delays.

A culture of indifference to detainee rights put the welfare of detainees at risk. On August 22, Ronald Estuardo Fuentes Cabrera was held in confinement while awaiting trial for personal injury charges after a car accident. Fuentes died from internal thoracic injury hours before his scheduled trial and without having received a medical exam, while his wife and the passenger of the other vehicle were taken for medical care.

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

The constitution and the law provide for an independent judiciary. The judicial system generally failed to provide fair or timely trials due to inefficiency, corruption, 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 70 complaints of threats or aggression against workers in the judicial branch, compared with 157 from January to August 2018.

On September 16, the Constitutional Court halted the postulation process for selecting the 13 Supreme Court and 135 appellate court magistrates. The court provisionally ruled that certain necessary procedures were not followed, including the omission of a performance evaluation for judges and magistrates. As of December the court had not issued its final ruling on the injunction. The existing postulation process permits widespread manipulation of the postulation committees by politicians, judicial operators, and other influential citizens, resulting in a judiciary that lacked full independence.

### **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 "abbreviated processing," similar to plea bargaining, for minor offenses with short-term prison sentences 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 speak only 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.

The judiciary added 19 judges during the year, including a judge dedicated to relieving court backlogs. International and domestic observers considered the number of judges insufficient.

### **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 and a legal system that often permits 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.

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

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

The law provides for freedom of expression, including for the press, and the government generally respected this right. The intimidation of and violence against journalists resulted in significant self-censorship, however.

Freedom of Expression: On March 21, a court dismissed a case in which President Morales filed a criminal complaint against social activist Roberto Rimola. Morales accused Rimola of defamation and insult after Rimola verbally insulted him. The court ruled that insulting leaders of the three branches of government could not be considered a crime due to limitations to freedom of expression. Morales appealed the court decision and attended a May 29 hearing in court. As of October 1, the case remained open, and a lower court declared the case must be judged specifically under the freedom of expression act, normally reserved for cases involving journalists.

Press and Media, Including Online Media: Independent media were active and expressed a wide variety of views. Nonetheless, 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. Public security forces continued imposing more stringent

identification checks on journalists covering government events and activities, a practice initiated in August 2018.

On May 9, presidential candidate Sandra Torres filed a criminal complaint against the daily newspaper *elPeriodico* after it published several editorials against her. Torres based her lawsuit on the law against femicide and violence against women for attempted violation of her physical and psychological integrity. On May 13, she tried to rescind the lawsuit, but the femicide law does not permit withdrawal of cases, and consequently the Public Ministry must conclude an investigation.

Violence and Harassment: Members of the press reported receiving pressure, threats, and retribution from public officials regarding the content of their reporting. Online attacks against independent journalists and media outlets continued throughout the year. These included hacking of journalists' private accounts, publishing stolen or falsified personal information, and apparent coordinated attempts to undermine specific journalists and the press. On May 20, a blog page appeared against Henry Bin, journalist for the radio and weekend television program *ConCriterio*, and several other independent journalists, alleging Bin was gay and engaged in pedophilia and child pornography. Several attacks against journalists in April and May included videos alleging various forms of corruption and immorality by journalists Juan Luis Font, Claudia Mendez, and Pedro Trujillo.

Members of the press continued to report threats and violence from public officials and criminal organizations, which impaired the practice of free and open journalism. The government failed to establish a journalist protection program, a voluntary commitment the country accepted in 2012 during the Universal Periodic Review of the UN Human Rights Council. According to the Public Ministry, 51 complaints were filed for attacks or threats against journalists; none were killed by the end of August, compared with two killings in 2018.

On June 4, Judge Miguel Angel Galvez of High-Risk Court B found sufficient cause to bring to trial the case of Julio Antonio Juarez Ramirez, accused of ordering the killing of journalist Danilo Efrain Zapon Lopez in 2015 in Mazatenango, Suchitepequez Department.

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

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 that the government monitored private online communications without appropriate legal authority.

Human rights defenders, as well as judges and lawyers on high-profile cases, reported social media attacks, including the hacking of their private accounts, publishing of stolen or falsified personal information, publishing of photographic surveillance of them and family members, and online defamation and hate speech. The government took little action to protect these individuals.

### **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, with a few exceptions. On September 4, in response to the killing of three soldiers in the municipality of El Estor, Izabal Department, President Morales declared a state of siege in 22 municipalities across five departments. Congress ratified the measure, which limited the freedom of peaceful assembly, freedom of association, and the right to protest for more than one million citizens living in the area under siege. The president and congress renewed the state of siege for a second 30-day period ending on November 4.

### **Freedom of Peaceful Assembly**

The law provides for freedom of assembly, and the government generally respected this right, except during the declared state of siege noted above.

### **Freedom of Association**

The law provides for freedom of association, and the government generally respected this right, except during the declared state of siege noted above. 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 <https://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. The state of siege in Izabal and parts of four other departments temporarily limited rights to freedom of movement (see section 2.b.).

### **e. Internally Displaced Persons**

The Office of the UN High Commissioner for Refugees (UNHCR) expressed concern regarding violence against internally displaced persons (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 and natural disasters. The Inter-American Commission on Human Rights characterized as IDPs 400 farmers the government evicted from the Maya Biosphere Reserve in 2017. Media and civil society groups reported the evictees did not receive adequate government assistance and continued to struggle with poverty and landlessness.

### **f. Protection of Refugees**

Access to Asylum: The laws provides for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. UNHCR reported that identification and referral mechanisms for potential asylum seekers were inadequate. Migration authorities lacked adequate training concerning the rules for establishing refugee status. The government and UNHCR signed a memorandum of understanding, published on September 4, to significantly strengthen the asylum and protection system and increase capacity to process asylum seekers.

Access to Basic Services: UNHCR reported access to education for refugees was difficult due to the country's onerous requirements for access to formal education, including documentation from the country of origin.

### **g. Stateless Persons**

Not applicable.

## **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 August, Alejandro Giammattei of the VAMOS for a Different Guatemala party defeated National Unity of Hope candidate Sandra Torres in a second round of voting and was to be sworn in as president in January 2020. The Organization of American States and other international observers found some irregularities in the electoral process, but none were significant enough to discredit the legitimacy and validity of the elections. During the presidential campaign, however, two of the top candidates in the polls were disqualified from being placed on the ballot. Zury Rios, daughter of former president Efraín Ríos Montt, and Thelma Aldana, former attorney general, both claimed the rulings against them were politically motivated. The Attorney General's Office continued to investigate allegations of illicit campaign financing in the 2015 elections, including a case against Sandra Torres and the National Unity of Hope party.

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.

There was one woman serving in the 13-member cabinet, 30 in the 158-member Congress, and 10 among the 340 municipal mayors. While the indigenous population constituted an estimated 43 percent of the population, according to the

2018 government census, indigenous representation in national government was minimal. There was one indigenous member on the Constitutional Court and one on the Supreme Court. There were approximately 18 indigenous members of Congress, of whom two were women. Indigenous individuals composed a larger share of elected local government officials, filling approximately one-third (113 of 333) of the 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, with support from CICIG, investigated and prosecuted on charges including money laundering, illegal political party financing, and bribery.

Corruption: On July 16, the Public Ministry brought charges against more than 50 persons, including 10 members of Congress, for receiving kickbacks from construction and medical supply procurement and for awarding public jobs by irregular means. Those charged included a former presidential candidate and a former minister of health. Charges included the acceptance of bribes for hospital construction after the 2012 earthquake in the western region, the acceptance of bribes in the purchase of unnecessary medical equipment, and the creation of phantom positions at the Ministry of Health. The case continued in the pretrial stage, and some of the accused remained at large.

In the Odebrecht case, involving bribes allegedly paid to former presidential candidate Manuel Baldizon and former communications minister Alejandro Sinibaldi, on July 23, High Risk Court A sentenced three persons close to Baldizon and Sinibaldi to six years in prison for money laundering, and two of them to an additional eight years for illicit association. Baldizon continued to be detained in the United States on an international arrest warrant on separate money laundering and conspiracy charges. Sinibaldi remained a fugitive and was implicated in another case of bribery and influence peddling linked to former president Otto Perez Molina's administration.

The government was criticized by civil society for refusing to renew CICIG's mandate, which expired on September 3. Despite the government's request for CICIG to transfer capacity to the Public Ministry by the end its mandate, many in civil society believed the Public Ministry did not yet have the capacity to investigate corruption cases on its own and the decision to terminate CICIG's

mandate was made for political reasons. At the end of CICIG's mandate, it had a public approval rating of approximately 70 percent.

Financial Disclosure: Public officials who earn more than 8,000 quetzals (\$1,040) 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 reported threats, violence, and intimidation. UDEFEGUA reported 12 killings of human rights defenders from January through July. The NGO also reported 361 attacks against human rights defenders in the same period, compared with 392 attacks in all of 2018. According to human rights NGOs, many of the attacks were related to land disputes and exploitation of natural resources and involved mainly indigenous communities. 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. According to UDEFEGUA, from January to July, there were 28 retaliatory judicial cases filed against human rights defenders. On March 22, the president of the Supreme Court, Nester Mauricio Vasquez Pimental, filed a criminal case against Claudia Samayoa, president of UDEFEGUA, and Jose Manuel Martinez, member of the civil society group Justicia Ya (Justice Now), for alleged theft, deviation of correspondence, and trafficking of influence. UDEFEGUA and other civil society groups stated this case occurred after Samayoa and Martinez's participation in a complaint before Guatemala City's criminal, drug trafficking, and environment court against 11 Supreme Court justices on January 17.

The United Nations or Other International Bodies: The government had refused to renew the visas of the CICIG commissioner and investigators since early 2018,

making it difficult for CICIG to resume normal functions. CICIG's mandate expired on September 3, and CICIG cases were transferred to the Special Prosecutor's Office Against Impunity in the Public Ministry. Subsequently, Guatemalan former CICIG employees complained about being subject to systemic harassment and spurious lawsuits for simply having performed their duties for CICIG.

Government Human Rights Bodies: The PDH monitors the human rights set forth in the constitution and reports to Congress. The PDH opposed several congressional bills during the year, including an amnesty bill for human rights violators during the armed conflict period. On October 2, several congressional deputies submitted a petition to the Congressional Committee on Human Rights calling for the ombudsman to be removed from his position. While the PDH attempted to operate independently and issued public reports and recommendations as in past years, Congress applied significant political pressure, including threats to withhold the PDH's funding. NGOs generally considered the PDH to be an effective institution with limitations in rural areas due to lack of resources.

The Congressional Committee on Human Rights drafts and provides guidance on legislation regarding human rights. The law requires all political parties represented in Congress to have a representative on the committee. Some NGOs did not consider the committee to be an effective forum for human rights promotion and protection.

The President's Commission on Human Rights (COPREDEH) formulates and promotes human rights policy. COPREDEH also led coordination of police protection for human rights and labor activists. COPREDEH generally benefited from the administration's cooperation and operated without political or party interference. Some NGOs claimed COPREDEH was not an effective interlocutor on human rights issues.

For the first time in its post-civil war history, the government failed to participate in the meeting on human rights convened by the Inter-American Commission on Human Rights in September. During this meeting the PDH and civil society organizations discussed challenges related to human rights. On behalf of the government, COPREDEH issued a letter claiming the commission's meeting constituted a challenge to the country's sovereignty.

## **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 continued to operate 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. The Public Ministry maintained a 24-hour victim service center to provide medical, psychosocial, and legal support to victims, including restraining orders for their immediate protection. The ministry also maintained a national alert system for finding disappeared women. Sexual violence remained widespread despite these advances. The ministry reported that 6,231 women were victims of aggravated rape from January to August, compared with 549 cases filed during the same period in 2018.

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. The NGO Mutual Support Group reported that from January to August, 477 women were killed. Despite a generally decreasing homicide rate for men since 2010, the rate of femicide remained essentially the same.

Violence against women, including sexual and domestic violence, remained widespread and serious. The law establishes penalties of five to eight years for physical, economic, and psychological violence committed against women due to their gender. The Public Ministry recorded 40,993 instances of violence against women from January to August. The ministry noted that the judicial system convicted 1,149 perpetrators of violence against women. In December 2018 the bodies of former congressional deputy Joaquin Humberto Bracamonte Marquez and his wife Zulma Vyanka Subillaga Dubon, former secretary against sexual violence, exploitation, and human trafficking, were found in their missing vehicle. The Public Ministry investigation, concluded in June, determined Bracamonte had murdered his wife before committing suicide.

In May 2018 authorities arrested seven former members of the civil defense patrols and charged them with sexual violence against 36 Maya Achi women in Rabinal, between 1981 and 1985. On June 21, Judge Claudette Dominguez ruled there was insufficient evidence to send the defendants to trial and ordered them released. The prosecution filed recusal motions against Judge Dominguez, and in September the First High Risk Appellate Court granted the recusal motion and transferred the case to Judge Miguel Angel Galvez; however, the case remained mired in a series of unresolved appeals.

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 or involuntary sterilization.

Discrimination: Although the law establishes the principle of gender equality and criminalizes discrimination, women, and particularly indigenous 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. Boys were prioritized for high school education in rural communities due to the need to travel long distances and girls' perceived value in the home.

Child Abuse: Child abuse remained a serious problem. A unit under the Office of the Special Prosecutor for Crimes against Children and Adolescents handled child abuse cases. The Public Ministry opened an integrated 24-hour care model providing medical, psychosocial, and legal support to children and adolescent victims of violence. The ministry reported 7,089 reports of minor abuse of all

types, approximately 2,000 fewer than in 2018. The ministry reported 54 convictions for child abuse from January through August, compared with 82 during the same period in 2018.

NGOs supporting at-risk youth reported adolescents detained by police were subject to abusive treatment, including physical assaults.

Early and Forced Marriage: The legal age for marriage is 18. There were reports of early and forced marriages in some rural indigenous communities and in the Lev Tahor religious community. A 2017 decree prohibits underage marriage. The National Registry of Persons reported no attempted registration of underage marriage since enactment of the decree.

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 the PNC conducted several raids against alleged online child pornography networks. The Regional Unit against Trafficking in Persons, responsible for eight departments in the Western Highlands and launched in 2018, was expanding the government's investigative capacity against child pornography offenders. The commercial sexual exploitation of children, including child sex tourism, remained a problem, including in privately run orphanages.

Displaced Children: Criminals and gangs often recruited street children, many of them victims of domestic abuse, for purposes of stealing, extortion, prostitution, transporting contraband, and conducting illegal drug activities.

Institutionalized Children: More than 500 children and adolescents lived in shelters run by the Secretariat for Social Welfare (SBS). During the year the Secretariat against Sexual Violence, Exploitation, and Trafficking in Persons transferred control of three shelters to the SBS, as mandated by the government.

Overcrowding was common in shelters, and government funding for orphanages remained limited. Local and international human rights organizations, including Disability Rights International, raised concerns that child abuse was rampant. A

2018 investigative report claimed children with disabilities were consistently mistreated and neglected, including by being locked in cages.

On August 22, a judge denied house arrest for former SBS secretary Carlos Rodas and former deputy secretary for protection and shelter Anahi Keller, and they remained in prison. The two, former shelter director Santos Torres, and four others were charged with murder, abuse of authority, breach of duty, and abuse against minors in relation to the deaths of 41 girls in a 2017 fire at the Hogar Seguro orphanage. As of November the public trial, which was the final stage of the criminal proceeding, had not begun. The government did not make significant structural changes to the national shelter system.

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 <https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/for-providers/legal-reports-and-data/reported-cases.html>.

### **Anti-Semitism**

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

### **Trafficking in Persons**

See the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

### **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, and there was no reliable data on the prevalence of disabilities in the school-age population.

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 and human rights organizations 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 24 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.

Multiple local NGOs raised concerns over the killings of at least six indigenous leaders from January through September. According to NGO assessments, at least three of the victims may have been targeted because of their political involvement and advocacy for indigenous rights. On July 5, Isidro Perez and Melesio Ramirez were killed near Livingston by an armed group alleged to be connected to a former government minister. The Committee for Rural Development (CODECA) and indigenous leaders reported that Perez and Ramirez were killed during a CODECA protest and targeted due to their indigenous land rights activism. On September 14, Maya Achi Ancestral Authority representative Paulina Cruz Ruiz was killed in Baja Verapaz by unidentified gunmen in front of her house. Ruiz was active in organizing the March for Dignity in 2018 and had assisted the Maya Achi Ancestral Authorities to bring legal actions against mining projects in the area.

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 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, as Congress had not approved a legislative proposal to guide the implementation of prior consultation, as required by International Labor Organization (ILO) Convention 169. In 2018 the Constitutional Court ordered the Ministry of Energy and Mines to hold ILO Convention 169-compliant consultations with Xinka populations and upheld the suspension of the operating license of the San Rafael Mine until after conclusion of the consultations. As of October the government and Xinka authorities were negotiating who would represent the Xinka community in the consultations.

In July the Constitutional Court ordered the provisional closure of the Fenix nickel mine in Izabal Department, near the border with Honduras, until the Ministry of Energy and Mines conducted ILO 169-compliant consultations with local communities. The Russian conglomerate Solway, which bought the mine in 2014, was accused of violence against indigenous activists and illegal extraction of undeclared materials. The OHCHR reported the mine continued operations despite the court order to suspend activities. The OHCHR also reported the mine began operations in the Barrio Nuevo area despite a lack of consultations with local communities during the September state of siege declared by the government.

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. Government agencies dedicated to supporting indigenous rights lacked political support. These factors contributed to disproportionate poverty and malnutrition among most indigenous populations.

Indigenous lands lacked effective demarcation, making the legal recognition of titles to the land problematic. Indigenous rights advocates asserted that security authorities lacked familiarity with indigenous norms and practices, which engendered misunderstandings. In February the government established the “Road to Prosperity,” a program to facilitate and implement an inclusive, participatory, and transparent dialogue between government officials and indigenous peoples to analyze and identify local needs and gaps in government services and to improve the quality and coverage of public services and projects.

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

The law does not extend specific antidiscrimination protections to LGBTI individuals based on their sexual orientation, gender identity or expression, or sex characteristics. Efforts to pass laws against such discrimination, including a gender identity law, encountered severe opposition among legislators.

LGBTI human rights groups stated police officers regularly engaged in extortion and harassed male and transgender individuals whom they alleged to be sex workers. There was general societal discrimination against LGBTI persons in access to education, health care, employment, and housing. The government made minimal efforts to address this discrimination. Aldo Davila, elected in June and the first openly gay member of Congress, reported receiving constant death threats during and after the elections due to his sexual orientation, activism, and heightened public image. Several attacks targeted journalists for supposed membership in the LGBTI community. PNC officials visited one local LGBTI NGO's office in August and stayed outside for hours, which the group claimed was an attempt to intimidate LGBTI victims of violence who were seeking shelter in the office.

According to LGBTI activists, gay and transgender individuals often experienced police abuse. The local NGO National Network for Sexual Diversity and HIV and the Lambda Association reported that as of October, a total of 20 LGBTI persons had been killed, including several transgender individuals the NGOs believed were targeted due to their sexual orientation. Several were killed in their homes or at LGBTI spaces in Guatemala City. 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 includes HIV/AIDS status among the categories prohibited from discrimination. Societal discrimination against persons with HIV/AIDS remained a problem, however, despite efforts by the Ministry of Health to address it. Forms of discrimination included being required by some 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 services at some public hospitals and clinics, and had their right to confidentiality violated by disclosure of their status. Discrimination against LGBTI persons with HIV/AIDS was particularly common

and affected access to HIV-prevention programs, especially for transgender individuals.

### **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 three persons were lynched and 22 injured in attempted lynchings by vigilante groups from January through June.

## **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, conduct legal strikes, and bargain collectively. The law, however, places some restrictions on these rights. For example, legal recognition of an industrywide union requires that the membership constitute a majority of the workers in an industry and restricts union leadership to citizens. Ministries and businesses are required to negotiate only with the largest union, as determined by annual membership. 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. Workers are not restricted to membership in one union or one industry.

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. Once a strike occurs, companies are required to close during negotiations. Strikes were extremely rare, but work stoppages were common.

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. Labor courts also failed to compel compliance with reinstatement orders, including payment of back wages, for workers illegally dismissed for engaging in union activities. 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. Inspectors were encouraged to seek police assistance as required. Inspections were generally not comprehensive, and if complaint driven, focused on investigating the alleged violation, rather than attempting to maximize limited resources to determine compliance beyond the individual complaint. Penalties for labor law violations were inadequate and rarely enforced.

A 2017 decree restored sanction authority to the Ministry of Labor, but the decree did not go into effect until January 2018. Business groups complained the shortened time frame to investigate and verify compliance with Ministry of Labor remediation orders resulted in more cases being referred to the labor courts without an opportunity to conciliate. Worker representatives reported no significant improvement in compliance with the law as a result of the new sanction authority, noting that the inspectorate emphasized collection of fines, which now go to the labor inspectorate, over remediation of the underlying violations. The ministry's labor inspectorate indicated it had collected 1,864,800 quetzals (\$240,000) from fines imposed in 2018, and approximately 3,044,000 quetzals (\$395,000) from January 1 to November 15, 2019. Lack of information about the law's implementation made it difficult to assess its impact on improving labor law enforcement.

The 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, but successful prosecutions remained a challenge. The unit reported approximately 2,000 referrals of

noncompliance with labor court orders, most of which involved mass dismissals in the public sector and remained under investigation.

On September 20, the government submitted its first report to the ILO Governing Body, as required in the ILO's November 2018 decision to close a 2012 complaint alleging the country had failed to meet its commitments under Convention 87 on Freedom of Association. Under the terms of the decision, a National Tripartite Commission on Labor Relations and Freedom of Association, which was formed in 2017 to monitor and facilitate implementation of the 2013 ILO roadmap and its 2015 indicators, would report annually to the Governing Body and publicly on progress implementing the ILO roadmap until 2020. The decision also called on the government and its social partners to develop and adopt a consensus legislative proposal that would address the long-standing ILO recommendations on freedom of association, collective bargaining, and the right to strike. Unions submitted their report to the Governing Body on implementation of the roadmap on September 30.

The reports demonstrated a lack of progress in all nine elements of the roadmap. After being inactive from November 2018 through April, the National Tripartite Commission met five times from May to September but failed to achieve concrete progress on the roadmap. For example, a lack of consensus remained between employers and workers on legislation seeking to address ILO recommendations, particularly to allow for industry-wide unions. Three subcommissions established under the National Commission were equally ineffective--on legislation and labor policy, on mediation and dispute settlement, and on implementation of the roadmap.

In August the National Tripartite Commission approved a technical assistance program proposed by the ILO with three objectives and a number of outcomes. The first objective was to strengthen the capacity in negotiations of the commission and its subcommissions. The second objective was to develop consensus legislative proposals to address the long-standing ILO recommendations. The third objective was to strengthen the capacity of institutions responsible for freedom of association to prevent, investigate, prosecute, process, and execute administrative and judicial decisions, as well as to improve access to information by civil society so they could take actions to defend and promote their labor rights.

The Ministry of Government convened the Interagency Committee to Analyze Attacks Against Human Rights Defenders, including trade unionists, on a regular basis. NGO participants complained the ministry imposed restrictions on civil

society participation in the committee and reduced working-level officials' authorities to respond to attacks.

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. In February 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; expedited union registrations; and a national media campaign to raise awareness of the rights to freedom of association and collective bargaining.

Violence and threats against trade unionists and labor activists remained serious problems, with one killing of a trade unionist, two violent attacks, and 19 documented threats reported during the year. 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. The Public Ministry reported that by August 31, it had received 487 complaints of crimes or offenses against trade unionists and labor activists and issued 20 convictions, including those related to cases opened in previous years. In February the ILO noted with regret continued impunity in cases of violence against trade union leaders and members.

Procedural hurdles, union formation restrictions and delays, 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 period. 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 attempts to form unions, 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. 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. Reports persisted of men and women subjected to forced labor in agriculture and domestic service. Penalties were inadequate to deter violations and rarely enforced. Criminal penalties for forced labor range from eight to 18 years' imprisonment. The government had specialized police and prosecutors handle cases of human trafficking, including forced labor, although local experts reported some prosecutors lacked adequate training. There were also reports of forced child labor (see section 7.c.).

Also see the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

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

The law does not prohibit all of the worst forms of child labor. The Ministry of Labor issued Ministerial Agreement 260-2019 in June to provide effective implementation of ILO 138 Convention on Minimum Age for Work, which raises the minimum age for employment to 15 years. The law bars employment of minors younger than age 15, although it allows the ministry to authorize children younger than 15 to work in exceptional cases. The ministry's inspectorate reported it did not authorize any exceptions during the year. The law prohibits persons younger than 18 from working in places that serve alcoholic beverages, in unhealthy or dangerous conditions, at night, or beyond the number of hours permitted. The legal workday for persons younger than 14 is six hours; for persons 14 to 17, the legal workday is seven hours. Despite this ministerial agreement, child labor was prevalent in the agricultural sector, in dangerous conditions, and with parents' knowledge and consent.

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 were not sufficient to deter violations. The government did not effectively enforce the law, 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 younger than 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 and sex trafficking. Traffickers exploit Guatemalan children in forced begging and street vending, particularly within Guatemala City and along the border with Mexico. Criminal organizations, including gangs, exploited girls in sex trafficking and coerced young males in urban areas to sell or transport drugs or commit extortion.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/findings> and the Department of Labor's *List of Goods Produced by Child Labor or Forced Labor* at <https://www.dol.gov/agencies/ilab/reports/child-labor/list-of-goods>.

#### **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. Penalties for violations were not sufficient to deter violations.

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.

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 working days after one year's work. Daily and weekly maximum hour limits do not apply to domestic workers. Workers in the formal sector receive the standard pay for a day's work for official annual holidays. Time-and-a-half pay is required for overtime work, and the law prohibits excessive compulsory overtime.

The 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 did not employ a sufficient number of labor inspectors to deter violations, and many of them performed reviews on paper or administrative duties rather than clearly defined inspection duties.

Labor inspectors reported uncovering numerous instances of overtime abuse, 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. Due to inefficient and lengthy court proceedings, the resolution of labor court cases was often delayed, in many instances for several years. Employers failing to provide a safe workplace were rarely sanctioned, and a law 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. 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.

On June 3, the Ministry of Labor issued regulations implementing ILO Convention 175 on Part-Time Work, ratified in 2017. In October the Constitutional Court temporarily suspended key provisions of the regulations. While the business community was in favor of these regulations as a tool to generate employment, workers expressed concern the regulations would further reduce minimum wage, overtime pay, and employment benefits such as social security. They also expressed concern that employers would forcefully convert full-time workers to part time.

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.

Many employers of domestic servants routinely paid below minimum wage, failed to register their employees with the Guatemalan Institute of Social Security, and demanded 16-hour days for six or more days a week for live-in staff.