

GUATEMALA 2022 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Guatemala is a multiparty constitutional republic. The country last held national and local elections in 2019. Voters elected Alejandro Eduardo Giammattei Falla as president for a four-year term beginning January 2020. International observers considered the presidential election as generally free and fair.

The National Civil Police, which is overseen by the Ministry of Government and headed by a director general appointed by the minister, is responsible for law enforcement. 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 to support the National Civil Police in internal security operations, as permitted by the constitution. Civilian authorities maintained effective control over the security forces. There were reports that members of security forces committed some abuses.

Significant human rights issues included credible reports of: harsh and life-threatening prison conditions; arbitrary arrest and detention; transnational repression against individuals in another country, including threats, harassment, surveillance, coercion, and misuse of international law enforcement tools; serious problems with the independence of the judiciary; serious restrictions on free expression and media, including threats of violence against journalists and unjustified arrests or prosecutions against journalists; serious government corruption; lack of investigation of and accountability for gender-based violence; crimes involving violence or threats of violence targeting members of Indigenous groups; crimes involving violence or threats of violence targeting lesbian, gay, bisexual, transgender, queer, or intersex persons; crimes involving violence or threats of violence targeting persons with disabilities; and significant restrictions on workers' freedom of association, including violence and threats against union leaders.

Impunity, including by high-level officials, continued to be widespread. Corruption, efforts by organized criminal actors to secure impunity, and

undermining of anticorruption institutions and the judiciary by corrupt political actors made it difficult for meaningful investigation and prosecution of crimes, including corruption and human rights abuses, involving public officials.

Section 1. Respect for the Integrity of the Person

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

There were no confirmed reports that the government or its agents committed arbitrary or unlawful killings, but there were killings of activists under suspicious circumstances, and corrupt police were involved with violent criminal organizations responsible for killings (see section 4).

The National Civil Police (PNC) determined three PNC officials (one officer and two investigators) were involved in the criminal organization “Los OAJACA,” which was responsible for drug trafficking, contract killings, kidnappings, extortion, illegal firearms sales, and smuggling. The three officials were all tried and sentenced in July for their involvement in the criminal organization. The investigation revealed that the PNC officials collaborated with Mynor Fabricio Oajaca Quiroa, leader of the criminal group. On July 20, Quiroa was sentenced to 256 years and 10 months in prison for multiple counts of murder.

An international human rights organization alleged that at least four members of rural and Indigenous activist groups were killed or died in disputed circumstances between January and June. Some of the killings appeared to be politically motivated, and all the cases remained under investigation at year’s end. For example, on June 7, in Morales, Izabal, unknown assailants shot and killed Pablo Ramos, a member of the Indigenous activist group the Committee for Rural Development (CODECA), an active participant in a negotiation over land rights in that area. CODECA representatives alleged that members of a family in conflict with CODECA over land rights arranged for the killing.

The government’s prosecution of Jose Mauricio Rodriguez Sanchez continued without resolution. Rodriguez Sanchez, intelligence chief under then President Rios Montt, was accused of genocide against the Maya Ixil community during the

country's 36-year internal armed conflict (1960-96). In February 2021 an appellate court ruled that genocide occurred against the Indigenous Maya Ixil people, but the appellate court chose to uphold the ruling in the 2018 trial that acquitted Rodriguez Sanchez of all crimes of genocide. In March 2021 the Public Ministry appealed that ruling to the Supreme Court, but as of September, a final resolution had not been issued.

The Public Ministry moved forward cases of human rights abuses from the internal armed conflict era. In the genocide case of Luis Enrique Mendoza Garcia, operations commander under then President Rios Montt, Judge Silvia de Leon of High-Risk Court C ordered the case to come to public trial. The Public Ministry continued investigation of another case of genocide of the Maya Ixil community from the last months of former President 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 this case. The prosecution continued against Callejas and Lucas; Noguera died in November 2020. In August 2021 Judge Miguel Angel Galvez of High-Risk Court B decided to bring the case to public trial. Callejas and Lucas, in prison since 2016, were both previously convicted of serious crimes in the Molina Theissen case and were serving 58-year prison sentences.

Judge Galvez left the country in November (see section 5), and the judge now handling the case had not taken further action in the Callejas and Lucas cases as of early December. On November 9, an appeals court granted an injunction against Galvez's resolution that ordered to trial retired colonel Jacobo Esdras Salan Sanchez, accused of war crimes in the forced disappearance and execution of political dissidents. In November High Risk Court Judge Claudette Dominguez granted house arrest to former military officer Toribio Acevedo Ramirez, another accused war criminal arrested in May after years as a fugitive.

b. Disappearance

There were no reports of disappearances during the year by or on behalf of government authorities.

The Public Ministry continued to investigate and prosecute cases of forced

disappearances from the internal armed conflict period, although at times Attorney General Maria Consuelo Porras stalled progress in cases of genocide and disappearances from that period.

The “Diario Militar” case continued against 14 former government and military members who were accused of crimes against humanity, including forced disappearances in 1983 and 1985 during the 30-year internal armed conflict. In May 2021 Judge Miguel Angel Galvez issued 17 arrest warrants for individuals materially involved with, or who directly enforced, disappearances, torture, rape, and extrajudicial executions in the Diario Militar case. On May 6, Galvez ordered the case to be brought to public trial against nine of the individuals. (See section 5 regarding threats made against Galvez.) In November an appeals court granted an injunction against Galvez’s order for one of the nine, retired colonel Jacobo Esdras Salan Sanchez.

The CREOMPAZ case, named after the Regional Center for UN Peacekeeping Training Institute where a mass burial site for disappeared persons was found, continued for former military officers indicted in 2017 on charges of forced disappearance and crimes against humanity during the internal armed conflict. The delay in resolving several appeals and recusal motions filed in 2016 prevented the opening of a full trial. Byron Barrientos and Carlos Garavito remained in custody. Former congressman Edgar Justino Ovalle Maldonado, also charged in the case, remained in hiding after the Supreme Court lifted his immunity from prosecution in 2017.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, and Other Related Abuses

The law prohibits torture and other cruel, inhuman, or degrading treatment or punishment, but there were reported cases of prison officials’ negligence that exposed prisoners to violence and degrading conditions.

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. International human rights

organizations also noted that many official complaints cited unsafe and cramped conditions at Federico Mora National Hospital for Mental Health. Most of these complaints remained unresolved.

There were no confirmed reports of impunity in the military; however, public perception was that impunity within the PNC was widespread. The lack of effective mechanisms to investigate abuses and the lack of enforcement and awareness on disciplinary sanctions remained factors contributing to impunity. The PNC approved a strategy run by a high-level PNC working group to strengthen its institutional reputation with a campaign to combat corruption that both investigates PNC officials and publicizes successful cases of rooting out corrupt officers. As of August, the PNC had arrested 50 percent more officers than in the previous year for receiving benefits, abuse of authority, and theft. The PNC removed dozens of officers for various disciplinary reasons, including bribery allegations.

The PNC utilizes three mechanisms to identify and investigate abuses: an anonymous tip line using a landline telephone number, a tip line to receive complaints using a messaging application, and in-person complaints. The PNC Internal Affairs Division conducts surveillance of PNC officers and follows a disciplinary process with an internal tribunal to decide cases. Internal Affairs wiretaps criminal structures found to be working with corrupt PNC officers, but the unit was not authorized to investigate criminal structures within the PNC. The government's main mechanism to rid the PNC of corruption is to remove PNC officers suspected of these abuses, often without investigation or trial. The PNC has a unit devoted to criminal investigation of human rights violations, funded by donor countries, but the unit lacked political and material support.

Prison and Detention Center Conditions

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

Abusive Physical Conditions: Prison overcrowding was a problem. As of September, according to prison authorities, there were 21,752 male inmates held in

facilities designed to hold 7,045 persons, and 2,764 female inmates in facilities designed to hold 937 persons. There were 518 juvenile inmates in four traditional detention centers and the halfway house, which were designed for a total of 557 inmates. Despite a reduction in overcrowding, there were still 190 inmates in the Centro Juvenil de Privación de Libertad para Varones juvenile detention facility, designed for 155 individuals.

Physical conditions including sanitation facilities, medical care, ventilation, temperature control, and lighting, were often inadequate. Prisoners had difficulty obtaining potable water, complained of inadequate food, and often had to pay for additional food. Illegal drug sales and use were widespread.

Prison officials acknowledged 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 prisons. In May authorities transferred 76 inmates, nearly all of whom were gang members, from three different prisons to the Fraijanes II prison on the outskirts of Guatemala City. Although the leaders of one gang were transported to another facility and separated from one another, the continuation of gang-related and coordinated killings in Fraijanes II suggested gang members were still able to communicate across prisons and organize killings. In September media reported that four prisoners, all of them members of the same prison gang, died of poisoning by pesticide during a routine lunch service in what analysts stated were most likely targeted killings by a rival gang.

Media and nongovernmental organizations (NGOs) reported women inmates faced physical and sexual abuse. Women 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. Lesbian, gay, bisexual, transgender, queer, and intersex (LGBTQI+) rights groups stated that other prisoners often sexually assaulted LGBTQI+ individuals, and there were insufficient facilities to protect LGBTQI+ individuals in custody. NGOs claimed

admittance procedures for LGBTQI+ prisoners were not implemented, noting particular concern regarding procedures for transgender individuals.

Administration: While the law allows prisoners and detainees to submit complaints to judicial authorities without censorship and to request investigation of credible allegations of inhuman conditions, authorities failed to investigate most allegations or to document the results of such investigations. Reports from inmates indicated that complaints were rarely submitted because corrections officials threatened the inmates if the inmates attempted to submit a complaint.

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 the rights and well-being of prisoners, also periodically visited prison facilities.

d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention, but there were credible reports of politically motivated arrests and deliberate 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 found to be 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 in the act of committing a crime. Under the law, 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 PNC Office of Professional Responsibility had received 12 complaints of illegal detention by police, compared with 48 in 2021. Reports indicated police sometimes ignored writs of habeas corpus in cases of illegal detention, particularly during neighborhood antigang operations. The number of illegal, or even legal, detentions was difficult to determine, as many lesser arrests ended with the detainees bribing police to release them, even after being detained.

The detention of seven prosecutors and former prosecutors of the Special Prosecution's Office against Impunity (FECI) and the Anticorruption Prosecutor's Office, and of one defense lawyer who represented one of these prosecutors, targeted prosecutors who investigated high-level cases of government corruption.

As one example, in February and March, the Public Ministry arrested numerous anticorruption prosecutors, several of whom had their arraignment hearings delayed for days or weeks while in pretrial detention and the alleged evidence against them kept under seal. At the same time, information about the handling of their cases was leaked through third-party social media "netcenters" to threaten and intimidate.

Police arrested Virginia Laparra, former chief anticorruption prosecutor in Quetzaltenango, in February for alleged crimes related to her filing an administrative complaint against a judge for leaking confidential information from a case. Laparra was indicted in March and remained in pretrial detention despite appeals and requests to be allowed to await her trial under house arrest. In December Laparra was convicted and sentenced to four years in prison. Domestic human rights and anticorruption activists cited this arrest as an example of the Public Ministry's pattern of harassing anticorruption advocates, and Amnesty International declared Laparra a "prisoner of conscience."

Pretrial Detention: Lengthy pretrial detention was a problem. As of September 13, prison system records indicated 48 percent of prisoners were in pretrial

detention, slightly higher than in 2021. 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 date. Lengthy investigations and frequent procedural motions by both defense and prosecution often led to lengthy pretrial detention, delaying trials for months or years. Former President Otto Perez Molina was in pretrial detention from 2015 due to indictments in corruption cases known as “The Line” and “Co-optation of the State” until his December 2022 conviction. Perez Molina and Former Vice President Roxana Baldetti were convicted and sentenced to 16 years in prison.

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 even after the prisoners completed their full sentences due to the failures of judges to issue the necessary court order or other bureaucratic delays.

e. Denial of Fair Public Trial

The law provides for an independent judiciary. The judicial system generally failed to provide fair or timely trials due to inefficiency, corruption, and intimidation of judges. The Public Ministry, however, rapidly obtained warrants for the arrest of former and current anticorruption prosecutors, just days after receiving legal complaints against them. Some of these complaints were filed by individuals and organizations with a history of threatening justice officials. Judges delayed proceedings so that those same anticorruption prosecutors were held in pretrial detention beyond what the law allows. Civil society representatives cited these actions as evidence of inconsistent application of legal proceedings and political manipulation of the justice system.

Plaintiffs, witnesses, judges, and prosecutors, including judges from the High-Risk Court and prosecutors from the FECCI, continued to report threats, intimidation, and surveillance (see section 5 for examples).

On July 7, congress approved a decree law on Constitutional Court membership, which confirmed the appointment of Hector Hugo Perez Aguilera instead of the

originally elected Gloria Porras, thereby making permanent the removal of Porras, a transparently elected court magistrate. Porras departed the country in April 2021 and remained abroad as of October 2022.

The selection process for the election by congress of 13 Supreme Court and 135 appellate court magistrates continued largely unresolved. The sitting Supreme Court and 269 appellate court judges remained in their positions. In 2019 the Constitutional Court halted the selection process for Supreme Court and appellate court magistrates, ruling that formal evaluation procedures were not followed within the selection committees after a process that suffered widespread manipulation of selection committees by politicians, judicial officials, and other influential citizens.

In February 2020 Public Ministry investigations found that while in prison on corruption charges, Gustavo Alejos, chief of staff under then President Alvaro Colom, accepted at least 20 visits from officials associated with the selection process in his hospital ward in the days before the selection committees provided their lists. The Constitutional Court issued a final ruling in May 2020 requiring removal of candidates associated with Gustavo Alejos and a voice vote for each position in congress, but as of September, congress had not complied with the ruling. The current magistrates were to continue for the third consecutive year in the positions until a new court was elected.

Trial Procedures

The constitution provides for the right to a fair and public trial, and the judiciary generally enforced this right, but at times, criminal defendants were denied the right to a fair, timely, and public trial. International and domestic observers considered the number of judges insufficient. Lack of personnel, training, and evidence hampered Public Ministry prosecutors' ability to bring cases to trial.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Transnational Repression

The Public Ministry reportedly initiated legal proceedings in Guatemala against former high-level officials who were located outside of Guatemala, including former FECCI Head Prosecutor Juan Francisco Sandoval and fellow prosecutors, to harass and repress those former officials.

Threats, Harassment, Surveillance, and Coercion: Former Attorney General Thelma Aldana and her husband, an appellate court magistrate, were under investigation for money laundering in a case that anticorruption organizations characterized as politically motivated. Thelma Aldana left Guatemala in 2019 after authorities issued an arrest warrant for her. Aldana had cooperated and worked closely with the UN-backed International Commission Against Corruption in Guatemala during her term as attorney general in 2014-18.

Friends, family, and associates of Sandoval and Aldana who remained in the country, according to reports, suffered from harassment designed to exert pressure on those individuals (see section 1.f.).

Misuse of International Law Enforcement Tools: The Public Ministry announced in December that they had initiated extradition requests for Sandoval and for Aldana; observers considered that these requests were politically motivated.

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. The judiciary suffered from inefficiencies and a legal system that often permitted spurious complaints. In one such example, the Supreme Court lifted High-Risk Court Judge Pablo Xitimul's immunity from prosecution and suspended him for abuse of authority against a patrol officer who detained Xitimul at a traffic stop after the officer lodged a complaint against him. Xitimul was the judge responsible for ruling on several emblematic cases of military internal armed conflict-era human rights abuses and corruption. Civic judicial integrity associations considered the lifting of his immunity over a minor incident to be politically motivated.

Property Seizure and Restitution

Negotiations between the government and families affected by the construction of the Chixoy hydroelectric dam continued but were characterized by observer NGOs as being conducted in bad faith. As of September, the government had paid approximately 99 percent of the 200 million quetzals (\$26 million) in individual reparations to families affected by the dam. Fifteen cases of reparations remained unresolved. No progress was made in the collective reparations, including fulfillment of government commitments to community projects and educational and development improvements. During the dam's construction from 1975-85, more than 400 individuals died, and thousands were displaced.

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

The law prohibits such actions, and the government sometimes respected these prohibitions, but there were credible reports of harassment of the families of current and former officials (see section 1.e. for examples).

Leaders of a professional association with influence on government candidate commissions (government-run commissions that have the responsibility for selecting candidates for public positions) reported receiving photographs from anonymous individuals, demonstrating to the leaders that they were being surveilled in their homes and while in public. The leaders claimed the goal of this surveillance was to intimidate them into not reporting on corruption associated with government candidate commissions and professional associations.

Section 2. Respect for Civil Liberties

a. Freedom of Expression, Including for Members of the Press and Other Media

The law provides for freedom of expression, including for members of the press and other media, but the government did not always respect this right. Intimidation of journalists increased during the year and resulted in significant self-censorship.

Violence and Harassment: 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 due to the danger that investigative journalism created for them and their families. Many journalists reported being harassed, prosecuted, or having to flee the country after publishing work that was critical of influential citizens. Members of the press reported receiving pressure, threats, and retribution from public officials and criminal organizations regarding the content of their reporting. Online attacks against independent journalists and media outlets continued throughout the year. These included hacking journalists' private social media accounts, publishing stolen or falsified personal information, and conducting apparently coordinated attempts to undermine specific journalists and media.

During the first six months of the year, the Journalists Observatory of the Association of Journalists of Guatemala registered 66 abuses of freedom of expression, including violence and restrictions against journalists. The Unit for the Protection of Human Rights Defenders – Guatemala (UDEFEGUA) registered 51 attacks against journalists and communicators during the same period.

Observers and public complaints noted increased activity by netcenters, which were collections of social media accounts organized to appear as independent individual users but were in fact centrally controlled. Goals of netcenters were to manipulate discussions, spread misinformation, and threaten persons on the internet. Netcenters created fake social media accounts, including on Twitter and Facebook, to criticize and defame journalists, judges, prosecutors, and citizens who report on corruption. Attacks coming from netcenters were crucial in the intimidation of journalists reporting on corruption.

In one example of harassment, an arrest warrant was issued on January 14 against journalist Carlos Choc of the newspaper *Prensa Comunitaria* in Izabal for supposedly instigating violence and physically attacking 13 police officers during a protest against the nickel mine in El Estor, Izabal, in 2021. Choc reported on the alleged use of tear gas by police in that protest. Choc also accused Solway Investment Group, the owners of the mine, of operating illegally, damaging the environment, and violating the rights of Indigenous peoples. On September 13, a judge dropped the charges against Choc.

On July 29, police arrested Jose Ruben Zamora, the president of daily newspaper *El Periodico*, on charges of money laundering, influence peddling, and extortion. Judge Fredy Orellana indicted Zamora on August 9 and remanded him to pretrial detention until his December 8 preliminary trial hearing. The Public Ministry froze *El Periodico*'s bank accounts on August 1. In October the Public Ministry lifted the freeze on some accounts after finding no evidence of wrongdoing by the newspaper, while maintaining the freeze on other accounts. On August 19, the Public Ministry and PNC agents arrested Flora Silva, *El Periodico*'s financial manager, after a six-hour raid on her residence, without notifying her of the charges against her. The Public Ministry later issued a press release alleging that Silva conspired with Zamora to launder money.

According to the Washington Office on Latin America, an NGO with a focus on Latin American corruption and human rights, Mayan journalists were subject to harassment and criminal prosecution in the Indigenous territories of the country. Police raided the houses of Indigenous journalists Carlos Choc, Baudilio Choc, and Juan Bautista Xol after those journalists reported on police repression of Indigenous communities opposed to the presence of mines in their territories.

Censorship or Content Restrictions for Members of the Press and Other Media, Including Online Media: Some companies decreased their media advertising to exert pressure on media against reporting corruption, resulting in media outlets becoming less independent.

Nongovernmental Impact: Organized crime exerted influence over media outlets and reporters by 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, journalists, as well as judges and lawyers on high-profile cases, reported social media attacks, including the hacking of their private social media accounts, publishing of stolen or falsified personal information, publishing

of photographic surveillance of them and family members, and online defamation and hate speech. During the first half of the year, UDEFEGUA stated that online trolls were the most common perpetrators of online abuses against human rights defenders, journalists, judges, and prosecutors. The government took little action to protect the victims of online attacks.

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. In 2021 a law went into effect requiring by February 2 that all NGOs and foundations register with the Ministry of Government's official Registry of Legal Persons or risk dissolution.

Freedom of Association

Some NGOs claimed the government used the law to create large, sudden costs for NGOs, such as by requesting surprise audits. These audits could cost NGOs thousands of dollars in legal and administrative fees.

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at <https://www.state.gov/international-religious-freedom-reports/>.

d. Freedom of Movement and the Right to Leave the Country

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation. The government generally respected these related rights.

In-country Movement: States of siege or prevention placed limits on freedom of movement. Therefore, at certain points for up to 30 days, citizens in the affected areas did not have free movement. For example, on June 8, President Giammattei declared, and congress approved, a state of siege in Ixchiguan y Tajumulco, San Marcos, for 30 days that imposed a curfew from 6 p.m. to 6 a.m., limited large groups of persons from gathering, and suspended some due process rights affecting police detention and interrogation of persons suspected of disturbing the peace. This state of siege was imposed after highly publicized violence between groups of

local inhabitants fighting over territorial claims. The state of siege was lifted after 60 days and the President's Commission for Dialogue, the Ministry of Government, and the Presidential Commission on Human Rights entered talks to end the violence. As of September, the conflict had not been resolved.

e. Protection of Refugees

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

Access to Asylum: The law provides for the granting of asylum or refugee status, and the government established a system for receiving and adjudicating asylum claims to grant refugee status to qualifying individuals. Identification and referral mechanisms for potential asylum seekers are inadequate, and requirements to travel to Guatemala City for parts of the process continued to limit access. There were gaps and shortcomings in the procedures for implementing the legal framework.

Asylum claims are processed by the Department of Refugee Status Determination of the Guatemalan Migration Institute. Recommendations on recognition are formulated by an interministerial process, whose complexity contributed to major delays on final case decisions and an increased backlog.

Access to Basic Services: Documentation for refugees to access government services, including health care, was expensive in some cases and remained time-consuming to complete. 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.

f. Status and Treatment of Internally Displaced Persons

The government does not officially recognize the existence of internally displaced persons (IDPs) within its borders, except for those displaced by climate change and natural disasters. Organizations that monitor and support IDPs stated this lack of recognition stifled efforts to manage and address the movement of persons within

the country displaced due to violence, among other factors, because official statistics did not exist for IDPs. The government indicated a more open posture to discussing the issue, framed as a matter of vulnerable or “at-risk” communities, but critics claimed this definition did not address the full range of causes and effects of the movement of IDPs. Women, youth, and LGBTQI+ individuals, as well as Indigenous populations, remained at heightened risk of displacement.

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 age 18 and older. Members of the armed forces, police, and incarcerated individuals are not eligible to vote.

Elections and Political Participation

Recent Elections: The Organization of American States and other international observers found some irregularities in the electoral process for the last national elections in 2019, but none was significant enough to discredit the legitimacy and validity of the elections. President Giammattei and the elected congressional deputies took office in January 2020 without disturbance. The Public Ministry 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. A substitute judge in High-Risk Court A granted Torres house arrest during her pretrial detention; in August 2021 a three-judge appellate panel granted her permission to participate in political activities with her party while under house arrest. In November High Risk Court judge Claudette Dominguez dismissed the charges against Torres, citing insufficient evidence.

Participation of Women and Members of Minority Groups: No laws limit participation of women or members of minority groups in the political process, and they did, to an extent, participate. Traditional and cultural practices, discrimination, institutional bias, and difficulty traveling to polling places in rural areas limited participation of women and members of Indigenous groups.

Section 4. Corruption and Lack of Transparency in

Government

The law provides criminal penalties for official corruption, but some officials engaged in corrupt practices with impunity. Despite numerous allegations of corruption in all branches of the government, few high-level cases were investigated during the year, and anticorruption efforts within the judiciary stalled. Prominent anticorruption prosecutors were arrested, fired, or removed from significant cases, and corrupt actors threatened independent judges by filing complaints based on spurious charges to strip the judges of immunity to prosecution.

Between February and May, Attorney General Porras and the Public Ministry issued arrest warrants for at least eight sitting and former anticorruption prosecutors for alleged crimes, including abuse of authority, during their time as prosecutors. The prosecutors were held in provisional and pretrial detention for weeks and faced multiple delays in their arraignment hearings. Foreign governments and international organizations denounced the arrests and called for due process and transparency. Since the July 2021 firing of Juan Francisco Sandoval, the former head of the FECI, at least 20 FECI prosecutors were removed, transferred, or resigned due to fear of reprisal. Several have since gone into exile.

Threats against independent judges weakened anticorruption efforts. Judges who presided over high-profile criminal cases faced continued efforts to strip them of their immunity, the loss of which would expose them to potential prosecution and retaliation for their judicial rulings. In March International Woman of Courage award winner and former High-Risk Court Judge Erika Aifan resigned from her post and left the country after facing multiple threats to her immunity from prosecution filed by corrupt actors.

The Presidential Commission Against Corruption served the function of introducing reforms that promote transparency, but it lacked the mandate to investigate or prosecute corruption cases. Civil society representatives criticized the commission for a perceived lack of independence.

Corruption: The UN's International Commission Against Impunity (CICIG)

brought many corruption cases, but many were overturned during the year. For example, CICIG had Blanca Aida Stalling Davila removed from the Supreme Court and brought corruption charges against her in 2017. The case against Stalling stemmed from her alleged attempts to pressure a judge to give a lenient sentence to her son, Otto Molina Stalling, in a 2017 illicit association case. On June 29, Stalling was found not guilty of influence peddling, and the FECCI refused to appeal the not-guilty verdict. This was one of many examples of FECCI director Rafael Curruchiche refusing to appeal decisions that courts made during the year to overturn or dismantle corruption cases originally brought by CICIG. On September 22, the Supreme Court announced that it would reinstall Stalling as a magistrate in the Supreme Court after the not-guilty verdict.

In some areas of law enforcement, impunity from corruption was a significant problem. Within the PNC, impunity was evident in the Port, Airports, and Border Points Division (DIPAFRONT), which investigated crimes involving national borders, such as drug trafficking, smuggling, contraband, and evasion of paying taxes by moving money outside the country.

There were several reports of police officers asking for bribes to transport illegal migrants. Also, persistent allegations of corruption within the PNC, beginning with the PNC academy's hiring procedures, officer promotions, and transfers to favorable positions, affected the credibility of the academy and the PNC overall.

PNC officials reportedly used check points to ask for bribes from citizens to release them from custody; if the citizen had no cash, some police officers took them to an automated teller machine to collect the bribe.

There was impunity of high-level officials from disciplinary or criminal prosecution. In several instances, when PNC or Public Ministry investigators opened a case against high-level officials, the investigators were subsequently removed or transferred.

Five PNC agents were involved in the drug trafficking organization known as "Los Cardamomeros" operating in Alta Verapaz, Guatemala, Chimaltenango, and Escuintla. In September police announced they dismantled the gang in which the PNC agents were operating and arrested the five PNC agents, along with six

civilians, who are all awaiting trial on charges of aggravated robbery and illicit association, among other charges.

On April 27, the Constitutional Court rejected an effort to prosecute Judge Jose Eduardo Cojulun for his alleged connection to a criminal structure in a case known as “Fenix.” Cojulun is accused of obstruction of justice for giving lenient rulings to the alleged leader of a criminal structure that laundered money and stole public funds. The Fenix case implicated dozens of private- and public-sector actors based on a 2019 investigation by CICIG.

Section 5. Governmental Posture Towards 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. Many of these groups, however, were the subject of harassment and threats, and they faced pressure and attacks from political actors.

Retribution against Human Rights Defenders (HRDs): Several NGOs, human rights workers, and trade unionists reported threats, violence, and intimidation. An international human rights organization reported four killings of human rights defenders (see section 1.a.), while UDEFEGUA reported 589 threatening messages and other harassment, including some instances of violence and threats of violence, against human rights defenders from January to June, compared with 551 attacks in the same period in 2021. More than half the attacks they reported were against prosecutors and defense lawyers. NGOs asserted the government did little to investigate the reports or prevent further incidents.

On February 14, police arrested David Maxena on charges of making threats of violence and illegally occupying land. Maxena was a Mayan Poqomchi community organizer and leader in the Verapaz Union of Peasant Organizations (UVOC). He led protests on the displacement of Indigenous peoples and the environmental effects of the Santa Teresa hydroelectric project in Tucuru, Alta Verapaz. According to an international human rights group, the case against Maxena had irregularities such as a long pretrial detention period (seven months as

of September), a lack of initial notification of the charges brought against him, and his transfer to areas of prison that were not used for pretrial prisoners. After Maxena spent seven months in pretrial detention, a judge acquitted Maxena of all charges in October.

NGOs reported the government, political groups, and private entities used threats of legal action as a form of intimidation. According to UDEFEGUA, from January to June there were at least 70 new judicial cases filed against human rights defenders, compared with 26 for the same period in 2021. Members of the Foundation against Terrorism (FCT), an NGO known to target anticorruption and human rights defenders, filed both civil and criminal complaints against human rights NGOs and NGOs that sought to create government accountability for human rights abuses during the internal armed conflict.

High Risk Court Judge Miguel Angel Galvez received an increasing number of threats following his assignment to the landmark internal armed conflict-era human rights abuse case known as *Diario Militar*, which led him to leave the country on November 4 and resign from the court. The case implicated former military members in cases of forced disappearance and torture during the internal armed conflict (see section 1.b.). The alleged attacks on Galvez increased after the arrest of Toribio Acevedo Ramirez, a former military member, for Ramirez's alleged participation in the crimes. The FCT submitted legal complaints against Galvez and attacked Galvez on social media. The Supreme Court investigated one complaint filed by the FCT in May, taking up the complaint against Galvez almost immediately after it was filed, and the Public Ministry has indicated its intention to seek Galvez's extradition from exile (see section 1.e.). According to human rights NGOs, the complaint could potentially strip Galvez of immunity and derail the *Diario Militar* case.

Government Human Rights Bodies: The PDH monitors the human rights set forth in the constitution and reports to congress. NGOs generally considered the PDH to be an effective institution under director Jordan Rodas, although with limitations in rural areas. On August 20, a new director, Jose Alejandro Cordova Herrera, took office.

The Congressional Committee on Human Rights drafts and provides guidance on

legislation regarding human rights. The law requires that all political parties represented in congress 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 Secretariat Against Sexual Violence, Exploitation, and Trafficking in Persons is a government body under the authority of the Office of the Vice President. The secretariat monitors and informs vulnerable populations and government entities on sexual violence, exploitation of children, and trafficking in persons. The secretariat reported congress withheld some of its funds by exercising line-item approval for all its projects.

In 2020 President Giammattei announced the creation of the Presidential Commission for Peace and Human Rights to replace and unify three institutions: the President's Commission on Human Rights, the Secretariat for Peace, and the Secretariat of Agricultural Affairs. The new commission's mandate was to promote human rights policy, represent the country in international human rights forums, enact international recommendations on human rights, and oversee the Chixoy reparations, among other responsibilities. Civil society expressed concern that dissolving the three original institutions would lead to a lack of mechanisms for enacting the recommendations of international forums and for protecting human rights.

The National Reparations Program did not implement full reparation to victims of the internal armed conflict due to regulatory deficiencies that stopped its operations and that had not been resolved since 2020. The program had many requests for reparations in its archives but had paid only half of them. Other types of reparations envisioned in the program's charter, such as changes to the national education curriculum and improvement projects for affected communities, were not implemented in most cases. The governmental agreement that established the continued existence of the National Reparations Program was scheduled to expire in 2023.

Section 6. Discrimination and Societal Abuses

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

Police had minimal training and capacity to investigate sexual crimes or assist survivors of such crimes, and the government did not enforce the law effectively. Rape, other sexual offenses, and gender-based violence remained widespread and serious problems.

The government took steps to combat femicide and gender-based violence. The judiciary operated a 24-hour court in Guatemala City to offer services related to gender-based violence including sexual assault, exploitation, and trafficking of women and children. The judiciary operated specialized courts for gender-based violence 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 survivors, including issuing restraining orders for their immediate protection. The ministry also maintained a national alert system for finding disappeared women.

The Public Ministry maintained a public website titled “the Women’s Observatory,” with statistics regarding crimes against women and children. According to that website, 31 percent of criminal complaints as of October were filed for crimes against women and children, and 44 percent of those complaints resulted in investigation and successful resolution of the complaint.

Gender-based violence, including sexual and domestic violence, remained widespread and serious. The law establishes penalties of five to eight years in prison for gender-based violence, including physical, economic, and psychological violence.

On January 24, a High-Risk Court Tribunal of three judges sentenced five former

militia members to 30 years in prison each for crimes against humanity for involvement in the sexual assaults of 36 Indigenous Achi women in 1981-85 during the internal armed conflict. The court also mandated that the government provide monetary reparations and other conciliatory measures. The National Prosecutor General, the cabinet-level federal government office that acted as the legal representative of the government, filed an appeal to prevent the payout of these reparations, and as of year's end, the appeal was not resolved.

Women with disabilities and members of the LGBTQI+ community with disabilities remained at greater risk of being victims of continued sexual violence. Most persons with disabilities, especially women, did not report situations of violence and abuse because the reporting processes were complex and discriminated against them.

Sexual Harassment: Although several laws refer to sexual harassment, no single law, including laws against sexual violence, addresses sexual harassment directly. The law does not prohibit sexual harassment in the private sector workplace. Human rights organizations reported sexual harassment was widespread.

Reproductive Rights: Forced sterilization was purportedly common for persons with disabilities but reporting on these abuses was rare, according to an international human rights organization that tracks disability rights. There were no official reports during the year of coerced abortion or involuntary sterilization on the part of government authorities.

Cultural, geographic, and linguistic barriers hampered access to reproductive health care, including contraceptives, particularly for Indigenous women in rural areas, where contraceptives were also least likely to be available locally. The prevalence of modern contraceptive use remained low among Indigenous women compared with all other women, and a lack of culturally sensitive reproductive and maternal health-care service providers deterred some Indigenous women from accessing reproductive health-care services.

The government provided medical services through the Ministry of Health for survivors of sexual violence. The services provided victims with access to emergency contraceptives and antiviral medicines to prevent sexually transmitted

diseases and unwanted pregnancy resulting from rape. The ministry also provided some justice services. Many survivors did not seek medical care due to cultural and geographic barriers. Authorities within the justice system commented that on occasion some hospital clinics did not have the required medication in stock to protect rape victims against sexually transmitted diseases or pregnancy.

According to a 2020 report by the Ministry of Health, the maternal mortality rate among Indigenous communities was 156 per 100,000 live births, compared with the national average of 108 per 100,000 live births.

One-half of all the maternal deaths occurred in four departments in the northwest of the country (Huehuetenango, San Marcos, Quiché, and Alta Verapaz), most of them in rural and dispersed areas with high rates of malnutrition, poverty, and concentrated populations of Indigenous persons. From January to May, the Ministry of Health reported that areas with high concentrations of Indigenous peoples had the highest proportion, nearly half, of maternal deaths nationwide. Factors such as the lack of medical services available in their native language for speakers of Indigenous languages and the lack of providers and equipment in remote areas played a role in these deaths.

According to World Bank data in 2020, the fertility rate for adolescents ages 15 to 19 was 64 births per 1,000 women.

A lack of access to menstrual products and the lack of separate boys' and girls' bathrooms in some rural schools continued to negatively affect adolescent girls' access to education in rural areas of the country.

In March the congress approved Decree 22-2022, a law that declares May 19 as the National Day of the Guatemalan Midwife Iyom and Rati't Ak'al in celebration of a prominent Indigenous midwife. The decree also establishes an annual incentive (not a salary) for Indigenous midwives registered with the Ministry of Health. This incentive aims at acknowledging the work of Indigenous midwives and dignifying their work to ensure access to health care for Indigenous women.

Discrimination: The constitution establishes the principle of gender equality, stating that all individuals are equal and have the same rights, and that men and women enjoy the same opportunities and responsibilities. Despite this, women,

and particularly Indigenous women in rural areas, faced discrimination and were less likely to hold management positions. The law establishes equal pay for women and men in government offices by prohibiting differences in pay based on “personal identity,” but the law does not prohibit discrimination based on gender in the private sector. There are laws that restrict women from working in certain sectors, including in jobs deemed morally inappropriate. The law does not prohibit gender discrimination in access to credit. The government did little to enforce gender equality laws effectively.

The law provides for equality between men and women during and after divorce with respect to childcare and financial and housing assistance to the children’s caretakers, who are often women. The PDH reported that fairness between men and women in divorce proceedings had improved in the last 20 years.

Systemic Racial or Ethnic Violence and Discrimination

There are no laws, policies, or state programs that specifically contribute to the reduction of racism, according to international human rights organizations. The constitution provides for protections against discrimination based on race or ethnic group, and the law provides for a penalty of one to three years’ imprisonment and a fine for acts of discrimination. Other efforts to combat discrimination included litigation instructions from the Public Ministry for discrimination crimes.

The government generally did not effectively enforce laws against discrimination.

The executive branch lacked a coordinated approach to address poverty and unemployment concentrated mainly in Indigenous and Afro-descendant communities, although there were some government programs directed at the needs of these populations.

Indigenous Peoples

The government’s National Institute of Statistics estimated Indigenous persons from 24 ethnic groups made up 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, however,

recognize particular Indigenous groups as having a special legal status provided by national law. The law stipulates that the government must consult with Indigenous groups prior to implementing large infrastructure projects in Indigenous territories. Observers indicated the government did not always consult with all affected parties and Indigenous leaders, and activists regularly reported being harassed and threatened for their work.

Indigenous lands were not effectively demarcated, making the legal recognition of titles to the land problematic. Indigenous representatives claimed business and other actors in several 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.

According to the OHCHR, there was a significant increase in attacks and incidents of defamation and intimidation against Indigenous defenders of Indigenous land, territory rights, and natural resources.

One Indigenous community consultation process over the operation of a silver mine in San Rafael, Santa Rosa, between the Ministry of Energy and Mines and the Xinka community continued, with the Xinka Parliament representing their community. On July 20, representatives of the Xinka community, the Xinka Parliament, and the Ministry of Energy and Mines completed the preconsultation phase of court-ordered consultations in San Rafael, Santa Rosa, with a planned end date of February 2023. The Xinka Parliament initially characterized the process as “workable” but reported in December that the process was stalled due to an impasse over government funding of international environmental studies experts.

Discrimination against Indigenous cultures and customs existed in the health-care system. Civil society organizations of Indigenous midwives in rural areas reported that their services were not recognized by government health-care institutions under the Ministry of Public Health.

In December 2021 the Inter-American Court of Human Rights ruled that the

government violated its commitments on Indigenous peoples' rights by shutting down four Indigenous community radio stations. The court ruled that the government should provide several reparation measures. The court ruled that the government had six months to publish the decision in its official government registry, giving it legal effect; however, as of September the government had not done this.

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 Indigenous 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.

Children

Birth Registration: Children derive citizenship by birth within the country or from their parents. Birth registrations were low and discriminated against rural populations where there were few government registry offices or modern health-care facilities. 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 free and compulsory through age 15, access was limited in many rural areas. Education through the secondary level is not obligatory. International observers noted that in rural communities, boys were prioritized for high school education due to the problems of traveling long distances to school and the perceived value of girls 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 has an integrated 24-hour care model providing medical, psychosocial, and legal support to children and adolescent victims of

violence.

Child, Early, and Forced Marriage: The legal age for marriage is 18.

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 defines sexual relations with a minor under age 14 as rape.

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 commercial sexual exploitation of children, including child sex tourism, remained a problem, including in privately run orphanages.

Displaced Children: There were numerous children living on the street or in slums. Criminals and gangs often recruited street children, many of them victims of domestic abuse, for purposes of theft, extortion, commercial sexual exploitation, transporting contraband, and conducting illegal drug activities.

Institutionalized Children: More than 800 children and adolescents lived in shelters operated by the Secretariat for Social Welfare. The government lacked clear policies for children with disabilities in residential institutions, leaving accommodations in these cases up to the individual institutions.

Former secretariat Secretary Carlos Rodas and former Deputy Secretary for Protection and Shelter Services Anahi Keller faced criminal charges for murder, abuse of authority, breach of duty, and abuse against minors following the deaths of 41 girls in the 2017 fire at the Hogar Seguro orphanage, which was under the authority of the secretariat. Both were allowed to await their trial under house arrest. Public arguments in the case were suspended for the sixth time; as of September 23, the new date for public arguments had not been scheduled.

Antisemitism

The Jewish population was approximately 1,500 persons. Jewish community representatives reported no antisemitic incidents as of November.

Trafficking in Persons

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

Acts of Violence, Criminalization, and Other Abuses Based on Sexual Orientation, Gender Identity or Expression, or Sex Characteristics

Criminalization: There are no laws or de facto discrimination against consensual same-sex sexual conduct between adults.

Violence against LGBTQI+ Persons: Violence against LGBTQI+ persons remained a persistent issue. According to an annual report from the Lambda Association, there were 21 killings of LGBTQI+ persons from January to September in which the violence could plausibly be linked to the victims' sexual orientation or gender identity. The Lambda Association also reported that most homicides and general crimes of prejudice against LGBTQI+ persons occurred either in the capital, Guatemala City, or in Izabal.

According to LGBTQI+ activists, gay and transgender individuals often experienced police abuse. LGBTQI+ human rights groups stated, for example, that police regularly engaged in extortion and harassed male and transgender individuals whom they alleged to be sex workers.

Lambda and other LGBTQI+ organizations reported a lack of will on the part of police to fully investigate hate crimes and violence against LGBTQI+ persons.

On July 2, an assailant shot and killed Nancy Suc, an Indigenous transgender woman who was a member of the Transgender Women Sexual Workers Collective of Trebol. The assailant was trying to extort Suc, according to press reports and a criminal complaint that Suc filed days before the attack. Suc's alleged killer was arrested and was awaiting trial, but fellow sex workers continued to be threatened and extorted and claimed Suc's criminal complaint to the Public Ministry reporting the death threats against her was not taken seriously.

Openly gay and HIV-positive congressman Aldo Davila reported that other

members of congress yelled homophobic comments at him when he attempted to speak during sessions of congress and directed homophobic slurs at him in the halls of congress.

Discrimination: The constitution declares all persons equal under the law and prohibits discrimination by state and nonstate actors based on gender, marital status, or political opinion. The law does not prohibit discrimination based on sexual orientation, gender expression, or sex characteristics and does not recognize LGBTQI+ individuals, couples, or their families.

The government does not provide or measure sexual diversity or gender identity statistics in its census and does not break down health, education, and other statistics by sexual diversity or gender identity. Local experts who worked on sexual diversity issues stated the lack of demographic data hampered NGO efforts to analyze and provide effective solutions to problems in the LGBTQI+ community, such as poverty stemming from lack of job opportunities. Those same experts noted positively that in 2021 the Public Ministry started collecting data on the sexual orientation and gender identity of victims of crime who filed police reports.

LGBTQI+ advocates pointed to structural problems, such as gender identity document requirements and general societal discrimination, that created internal displacement, discrimination, sexual exploitation, and child abuse among members of the LGBTQI+ community.

There was general societal discrimination against LGBTQI+ persons in access to education, health care, employment, and housing. The government made minimal efforts to address this discrimination. Local experts on sexual diversity issues said the government did not publish official medical guidance or standards on hormone therapy for gender transition therapies. Hence, these therapies were unregulated in the private sector and posed risks for transgender persons considering physiological transition therapies. There were also no publicly provided gender transition therapies in government medical facilities, so individuals had to pay personally for any of these therapies.

Availability of Legal Gender Recognition: Individuals cannot self-identify

gender for official documents. Their gender assigned at birth and showing on their birth certificate is their gender on their official documents. Government-issued national identification cards that are used to access basic services and education resources do not allow transgender persons to receive identification cards with their chosen names or gender identification. Without identification that reflected the name and gender under which they lived, transgender persons were denied many government services.

Involuntary or Coercive Medical or Psychological Practices Specifically

Targeting LGBTQI+ Individuals: LGBTQI+ activists and investigative journalists reported there was an active network of “conversion therapy” centers, mostly located in the interior of the country in rural areas but organized and funded in conjunction with evangelical churches in the capital. Reports mentioned electroshock therapy for gay men, “corrective” rape for lesbian women, and coerced sex acts for transgender women.

LGBTQI+ groups also claimed lesbian, bisexual, and queer women experienced forced marriages and “corrective” rape intended to cause pregnancy, although these incidents were rarely, if ever, reported to authorities.

Gente Positiva, a HIV-positive advocacy and awareness group, reported that when lesbian women who were victims of “corrective” rape tried to file a legal complaint, the Public Ministry officials receiving the complaint often refused to record the incident if the woman reporting the rape knew the attackers or had drunk alcohol the same day as the rape. Gente Positiva also reported that the government did not recognize “corrective” rape of lesbian women as an aggravated version of sexual assault or a hate crime; the government considers it the same as rape.

Restrictions of Freedom of Expression, Association, or Peaceful Assembly:

There were no confirmed or reported restrictions on those speaking out on LGBTQI+ issues.

Persons with Disabilities

Persons with disabilities were unable to access education, health services, public buildings, and transportation on an equal basis with others. No law requires such

access, nor does the law mandate that persons with disabilities have access to information or communications.

Discrimination against persons with disabilities continued to be a problem, with such persons experiencing discrimination based on their specific disability, gender, age, place of residency, and sexual orientation, among other factors.

Persons with disabilities experienced violence, harassment, intimidation, and abuse, including incidents incited, perpetrated, or condoned by attendants and staff at institutions. Persons with disabilities, especially women and underrepresented groups, experienced high levels of violence and abuse, including sexual assault.

International human rights organizations pointed to the institutionalization of persons with disabilities as a source of harassment and abuse. They stated that because there is no national strategy for deinstitutionalizing children with disabilities from publicly supported residences and facilities, these children would most likely remain institutionalized. Children with disabilities with high support requirements were essentially forced to live in institutions due to the lack of policies or funding that would enable them to live in a family household.

Children with disabilities attended school at all levels at a significantly lower rate than other children; most did not attend school at all. Nongovernmental organizations that advocated for persons with disabilities reported the government violated the right to education for students with disabilities, especially those with intellectual disabilities. Reports indicated that online learning resources made available to students with disabilities were focused on visually and auditorily impaired students and that few solutions were provided for students with other disabilities.

A report by the NGO Women Enabled International described multiple discriminations faced by Indigenous persons with disabilities. Discriminatory cultural norms against persons with disabilities, were intensified against Indigenous women with disabilities, increasing the possibility that they would be separated from their children or be forcibly sterilized.

Observers noted little progress was made in access to voting for persons with disabilities. Voting mechanisms for persons with intellectual disabilities did not

exist. Voting in braille existed, but it did not guarantee secret voting.

Other Societal Violence or Discrimination

On several occasions, vigilante mobs attacked and killed persons suspected of crimes such as rape, kidnapping, theft, or extortion. The NGO Mutual Support Group reported five persons were killed and 62 injured by vigilante groups from January through August. The NGO stated these attacks took place mostly in interior departments of the country with weak law enforcement.

Several international human rights organizations reported the continued problem of extralegal forced removal of local Indigenous groups from land and the lack of proper government involvement to ensure that removals were conducted legally. Removals were sometimes conducted by security guards hired by private landowners and sometimes by groups of other local individuals that wanted to take over land.

One such forced removal occurred in La Pilas, Cahabon, Alta Verapaz, on April 5. A group of dozens of residents attempted to remove approximately 15 families in the community of Las Pilas by threatening them with being shot, beatings, and by burning the shelters they live in. According to a local official of the Human Rights Ombudsman's office, the violence generated by this conflict made police hesitant to respond due to fear for their own safety, as the police were far outnumbered by the assailants. Members of the displaced community stated that as of September the threats against them continued and the conflict over the land had not ended.

There was conflict in the interior of the country between Indigenous evangelical groups and Indigenous adherents of Mayan spiritual groups. This friction resulted in violence in one incident on May 16, in Chichipate, Izabal. Members of the local community government authority illegally detained Mayan spiritual guide Adela Choc Cruz and her adult child, Sandra Tec Choc, and threatened to burn Choc Cruz alive for committing acts of witchcraft against the child of a local evangelical leader. Community members burned Choc Cruz's house and ward off police that attempted to intervene. As of September, the Public Ministry had not brought charges against, nor had the police arrested, those accused of the threats against Choc Cruz.

The law prohibits discrimination based on HIV or AIDS status. Social discrimination and stigma around AIDS and HIV continued to be problematic and contributed to not only the spread of the disease but also mortality rates. Some government authorities required citizens to reveal HIV and AIDS test results to receive certain public benefits, and some employers required similar disclosure to be hired.

Discrimination against LGBTQI+ persons with HIV or AIDS was particularly common and affected access to HIV-prevention programs, especially for transgender individuals.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law provides for the right of workers, except for 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. The law 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 defines essential services more broadly than international standards, thus denying the right to strike to many public workers, such as those working in 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; threats and violence against trade unionists continued. The Ministry of Labor has the authority to sanction employers for violating union and collective bargaining rights, but 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 rights. Procedural hurdles, restrictions on and delays in forming unions, and impunity for employers rejecting or ignoring court orders severely limited freedom of association and collective bargaining. Penalties were less than those for other laws involving denials of civil rights, such as discrimination. Labor courts also failed to compel compliance with reinstatement orders, including payment of back wages, for workers illegally dismissed for engaging in union activities, especially in rural areas.

There was a substantial backlog of cases in the labor courts that caused delays of up to five years. 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. In the labor inspection system and in the labor courts, employers routinely influenced authorities to favor their interests or simply refused to comply. According to the Special Prosecutor's Office for Crimes Against Unionists, 70 percent of complaints in 2020 involved persistent employer refusal to comply with judicial orders. Penalties were rarely successfully applied against violators.

The General Labor Inspectorate reported that it inspected 10 cases of potential violations to the right to form an independent union or collectively bargain. Worker representatives reported no significant improvement in compliance with the law despite the ministry's authority to sanction employers directly. These representatives noted that the inspectorate emphasized the collection of fines,

which went to the labor inspectorate, over remediation of the underlying violations. Lack of information regarding 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. The government reported an increased budget for the unit, but staffing for the unit remained stagnant, and there were no successful prosecutions this year.

As of November, the Trade Union Permanent Commission for Protection, which was supposed to be convened by the Public Ministry to address problems of antiunion violence, held no meetings. This commission had not held regular meetings since 2018.

According to NGOs, the General Inspectorate of Labor failed to ensure that workers who formed new unions were protected from termination. The inspectorate frequently failed to notify the companies of the formation of the union and the prohibition against firing the founders, or the inspectorate failed to do so within the timeframe required by law. The General Directorate of Labor failed to register unions within the prescribed timeframe. Workers and the Ministry of Labor agreed the procedural manual for registering unions needed to be updated and aligned with the current labor laws.

Workers formed a union at Centexsa S.A. hosiery manufacturing and submitted their registration on February 6 to the Ministry of Labor. The General Directorate of Labor identified minor errors, which the union immediately corrected. The General Directorate of Labor found new errors and forced the union to resubmit documentation three times recognizing official registration. On April 7, the General Directorate of Labor certified the union, well beyond the required 20 days after receiving the request.

The Special Prosecutor's Office for Crimes against Judicial Workers and Unionists reported that from January to August, it received 53 complaints of crimes or offenses against trade unionists and labor activists. From January to August, an

NGO registered four death threats and six cases of threats and intimidation against trade unionists and labor activists. One union leader received a death threat over the telephone. Union leaders from an apparel manufacturing company filed a criminal complaint with the Special Prosecutor's Office alleging threats and intimidation charges; the case remained under investigation. In that case, authorities provided protection such as police presence and perimeter patrols in the areas surrounding the factory and residences of the affected trade unionists.

Labor rights defenders noted an increase in mass firings, use of force against collective action, and criminalization of worker protest.

Employers routinely resisted attempts to form unions, delayed or only partially complied with agreements from direct negotiations, and ignored judicial rulings requiring the employer to negotiate with recognized unions. There continued to be credible reports of employers retaliating against workers who tried to exercise their rights. There were numerous complaints about firings or suspensions alleging employer retaliation for union activity, according to an NGO. Authorities failed to enforce labor laws and let complaints of retaliation against union members languish.

For example, at Carnes Procesadas, the company fired 45 union members, and despite 31 orders of reinstatement from the courts, refused to obey any of the orders. The workers remained without employment despite the employer refusing to follow court orders and being found in contempt.

In January a group of workers from an apparel manufacturing company notified global brands for which they manufactured products of their intention to form a union, according to an NGO. Over the next two days, the company fired nine workers who intended to form a union. The workers alerted the brands of their dismissal and were reinstated six days later per the request of the brands. Despite having filed complaints with the General Labor Inspectorate, no inspection was carried out until months later when workers were already reinstated to their work due to the brands' interventions.

b. Prohibition of Forced or Compulsory Labor

The law prohibits and criminalizes 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, mostly in the palm oil industry. Criminal penalties for forced labor range from eight to 18 years' imprisonment and a fine. The government has specialized police and prosecutors who handle cases of human trafficking, including forced labor. Local experts reported some prosecutors lacked adequate training. There were reports of forced child labor in agriculture, production of garments, domestic work, street begging, making corn tortillas, and vending (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

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/>.

d. Discrimination with Respect to Employment and Occupation

The law explicitly prohibits discrimination with respect to employment or occupation based on race, color, sex, ethnicity, pregnancy status, religion, political opinion, national origin or citizenship, age, and disability. The government did not effectively enforce the law and related regulations. Penalties were less severe than those for laws related to civil rights, such as election interference. Penalties were rarely applied against violators.

Discrimination in employment and occupation occurred. No provisions in the labor code provide specific protections to gender identity, HIV or AIDS status, or refugee or stateless status. Anecdotally, wage discrimination based on race and sex occurred often in rural areas. According to data from a national survey, women's wages represented 73 percent of the men's average wage. Of the working-age population, 63 percent were economically active; men's participation in the labor force was 86 percent, contrasting with 43 percent for women.

The law does not prohibit sexual harassment in the private-sector workplace. Human rights organizations reported sexual harassment was widespread (see section 6). Garifuna and Afro-descendent populations reported their inability to

obtain work contracts due to their race, increasing their risk of labor exploitation. Unionized workers from the southern coast complained of discriminatory treatment based on gender expression, specifically related to their physical appearance, their way of dressing, and gestural behavior. These unionized workers indicated that some of these cases had been taken to labor conciliation boards. Most cases were resolved favorably but without specifically acknowledging discrimination based on sexual orientation or gender identity.

e. Acceptable Conditions of Work

Wage and Hour Laws: The law sets national minimum wages for agricultural and nonagricultural work and for work in garment factories. These minimum wages 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. The law prohibits workers from working 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. Time-and-a-half pay is required for overtime work, and the law prohibits excessive compulsory overtime.

The General Labor Inspectorate reported that most inspections were triggered by complaints about benefits and wages. Other factors contributing to the lack of effective enforcement included employer refusal to permit labor inspectors to enter facilities, employer refusal to provide payroll records and other documentation, and inspectors' lack of follow-up inspections in the face of such refusals.

Trade union leaders and human rights groups reported employers required workers to work overtime without receiving 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 most 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 believed themselves 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.

Local unions highlighted and protested violations by employers who failed to pay employer and employee contributions to the national social security system despite deducting employee contributions 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 a reduction of workers' pension benefits.

Many employers of domestic servants routinely paid less than 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.

Occupational Safety and Health: The government set occupational safety and health (OSH) standards that were inadequate and outdated. According to the most recent reports, which were from 2018, the Ministry of Labor reported that occupational accidents were a frequent occurrence in Guatemala City, particularly in the construction and food distribution sectors. In June five workers from a municipal water company were swept away by rainwater while cleaning an absorption well in Guatemala City. Two of the workers died.

The law does not provide for the right of workers to remove themselves from situations that endanger health or safety.

Wage, Hour, and OSH Enforcement: The government did not effectively enforce wage, hour, and OSH laws. Effective enforcement of overtime abuse by employers was undermined by inadequate fines and the reluctance of labor courts to use compulsory measures such as increased fines and referrals to the criminal courts. Penalties for wage, hour, and OSH violations were less than those for analogous crimes such as negligence. Penalties were rarely applied against violators.

Inspectors previously lacked vehicles or fuel to carry out inspections, but the Ministry of Labor obtained additional new vehicles in 2021.

Inspectors have the right to make unannounced inspections. In some cases, inspectors failed to take effective action to gain access to worksites when employers refused to permit access. Inspectors were encouraged to seek police assistance as required. Inspectors have the right to initiate sanctions; any fines collected go to the ministry.

Approximately 43 percent of the labor inspectorate's inspections carried out from January to August were complaint-driven. 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.

Many inspectors performed reviews on paper or administrative duties rather than doing on-site inspections. Although the labor inspectorate hired seven additional inspectors in 2021, the number of inspectors was insufficient to successfully enforce labor law. The ministry had 159 labor inspectors and 22 departmental delegates in August.

The ministry had in-person service windows in Guatemala City to receive labor complaints. During the pandemic, the ministry had closed its offices to the public, and workers were unable to present complaints in person, but in-person service resumed during the year. The ministry also opened a call center.

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 punished, and a law requiring companies with more than 50 employees to provide onsite medical facilities for their workers was not enforced.

Informal Sector: According to National Statistics Institute data, 70.8 percent of the workforce worked in the informal sector and were thus outside the basic protections afforded by labor law. Women comprised most of the informal sector, with some reports noting women comprised 88 percent of the informal sector in rural areas. Types of informal work included street and market vendors,

recyclers and trash pickers, day laborers, and short-term (20 to 30 days) agricultural workers usually hired through recruiters and without a labor contract or direct-hire relationship with the employer.

Informal economy workers were not subject to wage, hour, OSH, or inspection laws. They were not enrolled in Social Security and had no way to accumulate credits for health care or pension.