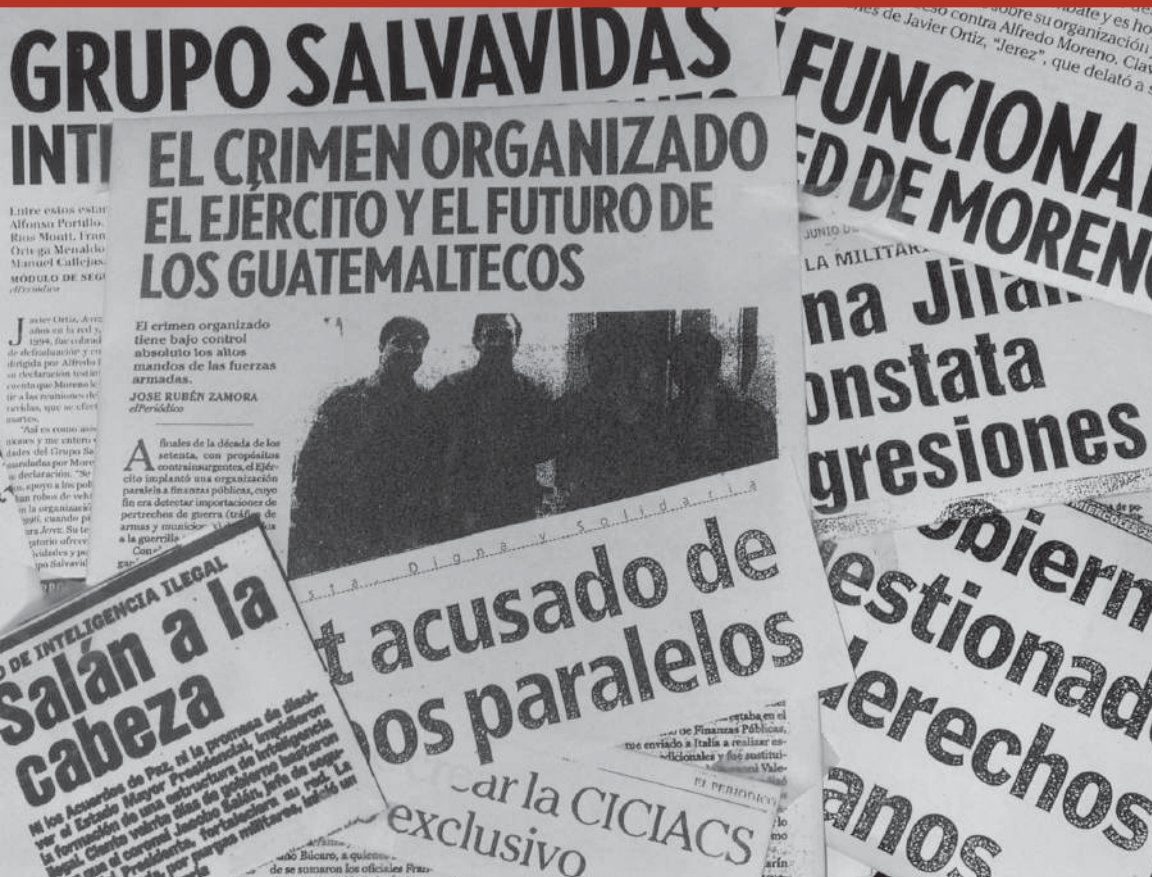


HIDDEN POWERS

in post-conflict Guatemala

ILLEGAL ARMED GROUPS AND THE FORCES BEHIND THEM



By Susan C. Peacock and Adriana Beltrán ▶

WOLA 

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Table of Contents

Executive Summary	1
Introduction	3
What are <i>Hidden Powers</i> ?	5
Attacks on Civil Society Actors in 2002-2003	9
Antecedents of the <i>Hidden Powers</i>	13
General (ret.) Luis Francisco Ortega Menaldo	16
General (ret.) Otto Pérez Molina	19
Colonel (ret.) Juan Guillermo Oliva Carrera	23
Brigadier General (ret.) Luis Felipe Miranda Trejo	26
The Moreno Network and Salvavidas: A Case Study	29
<i>Hidden Powers</i> Consolidate Political Power	33
General Ríos Montt: <i>Exerting Power</i> <i>in the Courts and on the Streets</i>	34
Colonel (ret.) Jacobo Esdras Salán Sánchez	37
Colonel (ret.) Napoleón Rojas Méndez	39
The Revolving Door: <i>Turn-over During</i> <i>the Portillo Administration</i>	40
AVEMILGUA	46
Guatemalan Perspectives on <i>Hidden Powers</i>	51
“True Guatemalans”?	56
International Concern about <i>Hidden Powers</i>	59
Francisco Alvarado MacDonald	64
Creation of an International Commission to Investigate Clandestine Groups	69
Conclusions & Recommendations to Policy-makers	75
Abbreviations	95



The parish house in Nebaj, Quiché was set on fire by arsonists early on February 21, 2002. Baptismal and marriage records, original documents from the Recovery of Historical Memory (REHMI) investigation and information about exhumations of mass graves in the area were destroyed.

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Executive Summary

Illegal armed groups – small bands of heavily armed men who commit or threaten to commit violent criminal acts – are a feature of post-conflict Guatemala. The human rights situation has deteriorated in the last two years, and many of the politically motivated crimes and human rights violations have been attributed to these groups. This report examines the nature and the impact of illegal armed groups in Guatemala, and the forces behind them. It describes how the groups – commonly referred to as clandestine groups – are an unresolved legacy of Guatemala’s 36-year internal armed conflict. The report argues that the clandestine groups do not act on their own, but at the behest of members of an inter-connected set of powerful Guatemalans. The individuals and groups that make up this secretive, amorphous network are known as the *hidden powers*. They oversee and profit from a variety of illegal activities that they carry out with little fear of arrest or prosecution. These illegal activities often involve the improper exercise of influence in the state – skimming at customs, bribery and kickbacks, for example – and include connections to drug trafficking and other forms of organized crime. Along with their influence in the state bureaucracy, the *hidden powers* have relationships with most of the political parties and actors in Guatemala. They exercised that influence during the Portillo administration, and may well seek to exercise it in the next administration. The *hidden powers* protect themselves from prosecution through their political connections, through corruption, and when necessary through intimidation and violence. Their activities undermine the justice system and perpetuate a climate of citizen insecurity, which in turn creates fertile ground for the further spread of corruption, drug trafficking and organized crime. The result is a self-perpetuating, downward spiral of violence that jeopardizes the rule of law and the functioning of democracy in Guatemala.

Numerous local and international human rights organizations have denounced the existence of the clandestine groups and called for government action to dismantle them. Guatemalan civil society and the international community have publicly echoed their

concerns and demands. This report concludes with recommendations on how to address the problem of clandestine groups and the *hidden powers* behind them. The recent UN proposal to establish an international commission to examine the clandestine groups, their links to the state, and their responsibility for attacks against human rights defenders represents a valuable opportunity in the effort to consolidate the rule of law in Guatemala. Both illegal armed groups and their sponsors must be investigated, identified and prosecuted if the peace process is to move forward and democracy is to be consolidated in Guatemala. Ridding the country of clandestine groups and *hidden powers* must be a top priority for the president, for the government of Guatemala, and for civil society.

Introduction

2002 was the single most violent year to date in post-conflict Guatemala, and the downward trend has continued throughout 2003. Hundreds of cases of crimes against civil society organizations and their leaders – ranging from intimidation to assassinations – were reported in 2002, and abuses continue to be reported as this publication goes to press in December of 2003.¹ Escalating threats and attacks undermine the implementation of the historic 1996 Peace Accords that marked the end of Guatemala’s bloody 36-year internal armed conflict. The rapid and dramatic deterioration in the human rights situation while the peace process is underway constitutes a crisis that warrants international scrutiny and decisive action.

The abuses are clearly targeted. While many appear on the surface to be acts of common crime, the number and patterns of the cases point to a systematic targeting of civil society actors and others involved in “anti-impunity initiatives” – both those who seek justice for past abuses (human rights groups, forensic experts, judges, lawyers, and witnesses) and those who denounce present-day corruption by state agents. Those who fight for economic and social rights, particularly land rights, and for an end to discrimination against indigenous people, are also singled out for attacks. (A number of these abuses are detailed in a chronology below.)

The perpetrators of these abuses have not been brought to justice. Local and international observers believe that the perpetrators of the abuses are members of illegal armed groups – colloquially called “clandestine groups” – that act at the behest of *hidden powers* in the country.



Two sisters watch as the remains of their mother and four siblings are exhumed in the Quiché department. Their relatives were shot by soldiers in August 1982.

(c) JONATHAN MOLLER

What are *Hidden Powers*?

The term *hidden powers* refers to an informal, amorphous network of powerful individuals in Guatemala who use their positions and contacts in the public and private sectors both to enrich themselves from illegal activities and to protect themselves from prosecution for the crimes they commit. It describes an unorthodox situation where legal authorities of the state still have formal power, but, *de facto*, members of the informal network hold much of the real power in the country. Although its power is hidden, the network's influence is sufficient to tie the hands of those who threaten its perceived interests, including state actors. According to the Myrna Mack Foundation (*Fundación Myrna Mack*, FMM), a prominent Guatemalan non-governmental organization that focuses on justice reform, the *hidden powers* are “illegal forces that have existed for entire decades and have always exercised real power in a parallel fashion, at times more forcefully and at times less, in the shadow of formal state power.”²

Some of the individuals who comprise Guatemala's *hidden powers* are private citizens, including retired military and government officials. Others are current government officials (civilian and military) who work within the structures of the state. The latter exercise formal power while at the same time participating in a hidden power structure. The FMM identifies the members of *hidden powers* as “civilians and military officers who are or were part of state structures, officials of various ranks, businesspeople and people from various sectors of national society in general.”³ The *hidden powers* are not a single, monolithic group. They are a network, whose individual members sometimes compete, and play out personal rivalries. Nonetheless, their relationships with each other, and their overlapping webs of influence in government and society, make them a powerful and hidden set of structures.

Peruvian author Jaime Robles Montayo argues that *hidden powers* do not set up structures parallel to that of the state, but rather embed themselves within the existing structure and operate in the shadows.

He posits that key individuals – former military officers, current justice sector officials, politicians, businessmen and common criminals – each act within their own spheres of influence (both inside and outside of government) in order to achieve agreed on and pre-determined goals. Robles concludes that, by acting in concert, this relatively small constellation of individuals wields so much power that the justice system can no longer effectively control and punish their illegal activities.⁴

Illegal activities of the *hidden powers*

In Guatemala, the *hidden powers* specialize in connections that allow them to carry out crimes involving state resources – skimming and bribery at customs, corruption in the awarding of lucrative contracts, bribery and kickbacks. At the same time they manipulate the justice system in order to protect themselves from prosecution. *Hidden powers* often link to, or involve themselves in organized crime and drug trafficking, but the significant numbers of former military among their ranks, and their extensive dealings within state structures, distinguish them from traditional mafias.

Amnesty International's February 2002 report, entitled "Guatemala's Lethal Legacy: Past Impunity and Renewed Human Rights Violations," labels Guatemala a "Corporate Mafia State," defined as an "'unholy alliance' between traditional sectors of the oligarchy, some 'new entrepreneurs,' police and military, and common criminals." The report describes how *hidden powers* collude to control lucrative, illegal activities, "including drugs and arms trafficking, money laundering, car theft rings, the adoption racket, kidnapping for ransom, illegal logging and other proscribed use of state protected lands" and "conspire to ensure monopoly control of legal industries such as the oil industry."⁵

In addition to reaping huge profits, the *hidden powers* in Guatemala use their connections, with political actors and with the military and police, to intimidate, or even eliminate, those who get in their way, know too much, offer competition, or try to investigate their activities. Many victims are targeted because they threaten the powers' financial interests. Others are targeted because they seek to investigate and prosecute current or retired government and military officials for human rights abuses committed during the war.

Clandestine groups

Illegal armed groups that operate clandestinely and do the bidding of the *hidden powers* are called “clandestine groups” in popular parlance in Guatemala. The clandestine groups are small groups of men, often members of specialized military units or police forces, who carry out acts of violence and intimidation. They serve as the foot soldiers for organized crime. Often concealed behind the veil of common crime, the clandestine groups are believed responsible for perpetrating vicious attacks against human rights workers and others. The membership of clandestine groups is amorphous and is allegedly drawn from active and retired military personnel and police, employees of private security companies, common criminals and gang members. Analysts cite the detailed information used by clandestine groups to pursue their victims, the level of sophistication and coordination of their actions, and the impunity they enjoy as indicators of links to public security forces and military intelligence.⁶

The leaders of the clandestine groups are believed to be former military officials – some retired and others dishonorably discharged from service – who occupied prominent positions during the internal armed conflict. They use clandestine groups to continue to exert power and influence in the country. They are single-minded in their determination to prevent justice for past abuses and to oppose military and intelligence reform. It is not surprising, therefore, that the pattern of attacks, harassment and threats by clandestine groups is reminiscent of the counter-insurgency efforts of the Guatemalan army.

The *hidden powers* in Guatemala use their connections to intimidate, and even eliminate, those who get in their way, know too much, offer competition, or try to investigate their activities.

In its thirteenth human rights report covering the period from July 2001 through June 2002, the United Nations Verification Mission in Guatemala (*Misión de Verificación de las Naciones Unidas en*

Guatemala, MINUGUA) observed that clandestine structures and illegal groups that were involved in counter-insurgency activities during the internal armed conflict had undergone a transformation in post-conflict Guatemala. According to MINUGUA, commitments included in the Peace Accords to put in place mechanisms to control such groups – improvements in police and judicial investigative capacities, strengthened civilian intelligence and congressional oversight – have not been fulfilled. To the contrary, the report found that:

Shielded by impunity, these structures have regrouped and are pursuing illegal business interests and political influence. With the State no longer committing human rights abuses as a matter of policy, these groups' relations to the Government apparatus are diffuse, although they still hold some key positions and maintain informal links to police, justice officials and military intelligence.⁷

In October 2002, then Assistant Secretary of State for Western Hemisphere Affairs Ambassador Otto J. Reich testified before a U.S. congressional committee about the threats to democratic stability in Guatemala. He noted that the overall human rights situation in Guatemala had deteriorated and that

there were increased signs of the participation of clandestine groups in illegal activities linked to employees of the Public Ministry, military intelligence, justice system, and police. These groups appear to act with relative autonomy, and while there was no evidence that they were a part of government policy, they did operate with impunity.⁸

The serious allegation that some state agents help cover up illegal activity and ensure impunity for the perpetrators, or are actual accomplices in crimes committed by *hidden powers*, warrants the concern not only of Guatemalans, but also of the international community.

ATTACKS ON CIVIL SOCIETY ACTORS IN 2002-2003⁹

In 2002 and 2003 there were hundreds of reports of attacks against human rights defenders as well as clergy, trade union activists, indigenous and peasant leaders, journalists, and forensic anthropologists involved in investigations of massacres. The following chronology illustrates the range of these attacks.

2002 ►

- 5 February:** Arnulfo Agustín Guzmán, Director of *Radio Sonora*, suffered death threats and a kidnapping attempt by a group of four armed men.
- 20 February:** The office of the Coordination of Mayan Peoples of Guatemala (COPMAGUA) was burglarized.
- 17 March:** Burglars broke in to the San Marcos Catholic Diocese's administrative center, stole approximately US\$25,000, and searched computer files in the office. The next day local Bishop Álvaro Ramazzini, a public supporter of land rights and salary increases for peasant farmers, received threatening anonymous calls.
- 20 March:** Armed men ransacked the offices of the Association for the Advancement of Social Sciences (AVANCSO).
- 29 April:** Guillermo Ovalle de León, an accountant at the Rigoberta Menchú Foundation, was murdered in a restaurant near his office. Minutes later, the Foundation received an anonymous phone call with a funeral march playing in the background.
- 7 May:** After repeated death threats against the Guatemalan Forensic Anthropology Foundation (FAFG), its president, Freddy Peccerelli, left the country.
- 31 May:** The Peasant Unity Committee (CUC) reported death threats issued by the Guatemalan military against a group of peasant families occupying the San Basilio plantation in the municipality of Río Bravo, Suchitepéquez.
- 20 June:** The Human Rights Office of the Archdiocese of Guatemala (ODHAG) reported that six Catholic clergy had received death threats.
- 22 June:** Edgar Gustavo Casteres Guevara and Ervin Manuel Monroy Guevara, members of the Cerritos Community Association in Morales, Izabal, were kidnapped. Their bodies were found the next day.
- 7 July:** *Siglo Veintiuno* columnist Adrian Zapata received a threatening call at his home from a man who claimed to be linked to organized crime, saying that Zapata was on a list of people to be kidnapped, but that they would rather kill him.

- 21 July:** A break-in occurred at the headquarters of the National Coordinating Office for Human Rights in Guatemala (CONADEHGUA), which shares office space with four other human rights organizations.
- 23 August:** Two weeks prior to the start of the trial of three military officers charged in the killing of renowned anthropologist Myrna Mack, and despite protective measures ordered by the Inter-American Court of Human Rights and a National Civilian Police (PNC) detail assigned to guard him, Myrna Mack Foundation (FMM) lawyer Roberto Romero received several telephone death threats and unknown men fired shots against his home.
- 6 September:** CONAVIGUA activist Manuel García de la Cruz left his home in the community of Chuchuca in the northwestern highlands of Guatemala and traveled in the direction of the town of Joyabaj to buy corn. He never returned. His tortured body was later found decapitated, with his ears, nose and eyes cut out.
- 27 September:** Egon Hidalgo Salvador, of the Guatemalan Episcopal Conference (CEG) staff, received an anonymous call warning him to “stop spreading the rubbish of the church and the migrants’ organization, [otherwise] you will disappear.” Several days later his office received an anonymous call saying that he had 72 hours to leave his job or he could be killed.
- 9 October:** Mayan lawyer and activist Antonio Pop Caal was kidnapped. On December 17, his body was found in a ditch near the Cobán airport.
- 15 October:** Abelio Caal, leader of the Verapaz Union of Peasant Organizations (UVOC), received an anonymous death threat that specifically mentioned activities organized jointly by UVOC and the National Coordinator of Peasant Organizations (CNOC).
- 17 October:** After publicly denouncing corruption and mismanagement of funds in San Marcos, Carlos Mejía, a representative of the Guatemalan National Revolutionary Unity (URNG) and a leader of the State Workers and Popular Sectors Union (UTESP), received an anonymous threat.
- 3 November:** Two men pulled up in a car and shot Erasmo Sánchez Lapop dead at the New Cabrican plantation that had been bought and settled by 125 K’iche families in Cabrican, Mazatenango. Sánchez and twelve other organizers from the Committee for Peasant Development (CODECA) were leading a fight for communal land rights and against illegal encroachment by outsiders.
- 11 December:** Six armed unidentified men broke into the home of Egidia Bámaca Velásquez, sister of disappeared guerrilla leader, Efraín Bámaca, in the department of San Marcos, and beat her in the presence of her family.

2003 ►

- 1 February:** Pedro Méndez Gutiérrez, member of the Montufar Association for Integral Development (ASDIM), was assassinated by six heavily armed men in front of his wife and four of his children.
- 2 February:** Iduvina Hernández, Director of the Association for the Study and Promotion of Security in a Democracy (SEDEM), received a series of anonymous threatening telephone calls.
- 3 March:** Héctor Amilcar Mollinedo Caceros, administrator of the legal department of the Center for Legal Action on Human Rights (CALDH), was followed by an unknown individual.
- 5 March:** The brother of Moisés Fuentes, leader of the National Teacher's Assembly of Guatemala, was murdered in the department of Mazatenango and his body was found in an abandoned house with his hands and feet tied.
- 20 March:** Daniel Pascual, a national leader for CUC and CNOC, was robbed at gunpoint by unidentified men. Since that time he has received telephone death threats.
- 3 April:** Diego Xon Salazar, Mayan priest and member of the Mutual Support Group (GAM), was kidnapped by unknown assailants in the department of Quiché. His body was found two days later perforated with bullet wounds. He had received death threats from local former members of the Civil Self-Defense Patrols.
- 4 April:** Daniel Chanchavac Zet, son of land activist Rafael Chanchavac Cux, was reportedly kidnapped near his home in San Felipe in the department of Retalhuleu. Cux is a leader of the National Indigenous and Peasant Coordination (CONIC) and CNOC. He had been receiving anonymous telephone threats since February 2003.
- 7 April:** The home of Mario Polanco, Director of GAM, and Ninth Montenegro, congressional deputy of the New Nation Alliance and founder of the GAM, was burglarized.
- 4 May:** Santiago Soto, member of the CUC, was killed by unknown individuals as he traveled from Arapao Nuevo to Cebol in the municipality of Morales.
- 30 May:** Pablo Rax Cub, director of the news show *La Noticia*, received a telephone call from an unidentified individual, who told him to stop conducting his investigations. Rax's program had denounced the misuse of municipal funds and the discovery of ten secret runways, allegedly used for drug trafficking.

- 24 June:** Twelve armed individuals broke into the home of José Rubén Zamora, president of the editorial board for *El Periódico*, and attacked him and his family.
- 25 June:** Mario Fernández Juárez Ávila, legal advisor to the Archbishop's Human Rights Office in San Marcos, was assaulted by a group of heavily armed men. After torturing him, they demanded he turn over important documentation on past court cases.
- 29 June:** Carmen Judith Morán Cruz, regional reporter for the Center for Informational Reports of Guatemala (CERIGUA), received two anonymous phone calls threatening that her family would suffer the consequences if she did not quit her job.
- 24 July:** Juan Aquino, director of *Punto Informativo* aired by *Radio Novedad*, received a threatening phone call demanding that he stop reporting on the Guatemalan Republican Front (FRG) mobilization. Norma Maldonado, environmental activist, had her home raided by three armed men.
- 25 July:** At least five journalists – Rosario Calderón, Raúl Morales, Yuri López, Nery de la Cruz, and Amalia Hernández – of *Radio Sonora* were attacked in Guatemala City by mobs of hooded individuals demanding the registration of Gen. Efraín Ríos Montt as a presidential candidate.
- 8 August:** Nobel Peace Prize laureate Rigoberta Menchú was followed to work by a pick-up truck that unsuccessfully tried to crash into her.
- 10 August:** Francisco Menchú, security guard at the Rigoberta Menchú Foundation and relative of the laureate, was apprehended, forced into a taxi at gunpoint and repeatedly beaten. That same night he received two anonymous phone calls.
- 11 August:** Leaders of the Civic Front for Democracy received a letter sent to specific civic organizations threatening Rigoberta Menchú, Dionisio Gutiérrez, Nineth Montenegro, Álvaro Colom, Conchita Mazariegos, José Rubén Zamora, José Eduardo Zaco, Juan Luis Font, Arnulfo Agustín Guzmán and Roberto Castañeda.
- 27 September:** Eusebio Macario, founding member of the Council of Ethnic Communities “We Are All Equal” (CERJ), was shot at eight times by unknown assailants near his home in Chichicastenango.
- 26 October:** *Prensa Libre* journalists Fredy López, Emerson Díaz, Mario Linares and Alberto Ramírez were taken hostage by former members of the Civil Self-Defense Patrols in La Libertad, Huehuetenango.
-

Antecedents of the *Hidden Powers*

Clandestine groups and the *hidden power* structures behind them are not a new phenomenon in Guatemala. Illegal armed bodies, paramilitary forces and clandestine security apparatuses were an integral part of counter-insurgency efforts in the country and committed egregious human rights violations during the internal armed conflict. They are predecessors of today's clandestine groups.

The dismantling of such groups was negotiated at the peace talks that brought a formal end to the conflict. The issue is addressed as part of the Peace Accords signed in 1994 between the Guatemalan government and the armed opposition, grouped together as the Guatemalan National Revolutionary Unity (*Unidad Revolucionaria Nacional Guatemalteca*, URNG). The fourth “Commitment” of the Comprehensive Agreement on Human Rights states in part:

*In order to maintain unlimited respect for human rights, there must be no illegal security forces or any clandestine security machinery. The Government of Guatemala recognizes that it has the obligation to combat any manifestation thereof.*¹⁰

Over the course of almost four decades of war, a web of relationships developed between the security forces, both legal and illegal, and other sectors within Guatemalan society. The Historical Clarification Commission (*Comisión de Esclarecimiento Histórico*, CEH) established under terms of the Peace Accords, studied human rights violations that took place during this period. The CEH report, entitled *Guatemala: Memory of Silence*, was published in 1999. Its conclusions highlight “the persistence and significance of the participation of the political parties and economic forces in the initiation, development and continuation of the violence.”¹¹ The report names “economically powerful people at either the national or local level, large landowners often acting jointly with agents of the State and powerful businesspeople in close collaboration with security forces” as those responsible for most of the acts of violence associated with the armed conflict.¹²

The CEH report also examines the role of the justice system during the internal armed conflict. The CEH found that:

The country's judicial system, due either to induced or deliberate ineffectiveness, failed to guarantee the application of the law, tolerating, and even facilitating, violence ... Impunity permeated the country to such an extent that it took control of the very structure of the State, and became both a means and an end. As a means, it sheltered and protected the repressive acts of the State, as well as those acts committed by individuals who shared similar objectives; whilst as an end, it was a consequence of the methods used to repress and eliminate political and social opponents.¹³

Much of the configuration of *hidden powers* and their clandestine groups in post-conflict Guatemala can be traced back to personal relationships, patterns of interaction, and structures of authority that developed during the war and continue to operate. *Hidden powers* and clandestine groups also rely heavily on the continued ineffectiveness of the judiciary to assure impunity for past and current crimes. Many of the powerful Guatemalans who comprise the *hidden powers* are astutely adapting 'tried-and-true' methods from their counter-insurgency past to new circumstances, in their unrelenting quest for illicit personal enrichment. Military analyst Bernardo Arévalo de León summarized this transformation succinctly, noting that, "Actors and tendencies still exist and operate that correspond more to the authoritarian past than to the democratic future of the country."¹⁴

Credible sources link the metamorphosis of present day *hidden powers* to four groups of men, sometimes inter-related, that actively participated in the counter-insurgency strategies of the Guatemalan armed forces – *La Cofradía*, *El Sindicato*, the Presidential General Staff (*Estado Mayor Presidencial*, EMP) and the leadership of the Civil Self-Defense Patrols (*Patrullas de Auto-Defensa Civil*, PACs).

La Cofradía

"*La Cofradía*" or "The Brotherhood" is a clique of current and retired military intelligence officers and a kind of internal army fraternity. It

is comprised of various members of the military intelligence community who were “associated with common crime and administrative corruption in the period of [military dictator] Lucas Garcia” from July 1978 until March 1982.¹⁵ *La Cofradía* is said to be led by two retired generals, Manuel Callejas y Callejas,¹⁶ the former head of the Customs agency, and Luis Francisco Ortega Menaldo (See Box on pp. 16-17).¹⁷

During the war, members of *La Cofradía* were part of a group of military hardliners who were referred to as *los estratégicos* (the strategic ones). They espoused a national security strategy that “framed the conflict as a total (100 percent) polarization of the population – you’re either with us or against us.”¹⁸ Civilians were not perceived as neutrals in the conflict, but as potential opponents. Officers that were part of *La Cofradía* adhered to the so-called “Taiwan school” of thought, implementing repressive systems of social control and using intelligence information to commit brutal acts of violence.

Today, members of *La Cofradía* are bound together by what they did during the war. The “Recovery of Historical Memory” Project (*Recuperación de Memoria Histórica*, REHMI) report by the Human Rights Office of the Archdiocese of Guatemala noted that “the complicity born of government intelligence work appeared to be the strongest tie among members of *La Cofradía*.”¹⁹ The report does not see *La Cofradía* as a formal organization, but as a set of relationships. According to the report, *La Cofradía*

*[has] to do with groups united by changing fidelities that emerged over the course of a career in which the competition and loyalty between men from the same graduating class intermingled and changed according to opportunities of the moment.*²⁰

New members are welcomed into *La Cofradía* with a special ceremony. As part of their initiation, members receive a gold medallion with their name, class promotion, and a magic lamp – the symbol of *La Cofradía* – engraved on it. The medallion is placed at the bottom of a glass of whisky. As in other promotion ceremonies within the Guatemalan armed forces, new members of *La Cofradía* must drink the glass of whisky in order to retrieve the medallion.²¹

GENERAL (RET.) LUIS FRANCISCO ORTEGA MENALDO

(c) PRENSA LIBRE GUATEMALA



In the late 70s and early 80s, Luis Francisco Ortega Menaldo worked in military intelligence out of an office in the Public Finance Ministry. He later served as sub-director, then director, of army intelligence. From 1991 to 1993, he was head of the Presidential General Staff (EMP). He reportedly was one of the most prominent supporters of President Serrano Elias' unsuccessful effort to seize unconstitutional powers in an "auto-golpe" (self-imposed coup) in May 1993.²²

Ortega Menaldo was one of the chief architects of a powerful and sophisticated clandestine apparatus that grew out of the Public Finance Ministry. In the late 70s, the Guatemalan army established an office in that Ministry to detect the traffic of weapons destined for leftist armed groups.²³ Ortega Menaldo was one of the key players in that office during the Lucas García administration (1978-1982).²⁴ Ortega Menaldo and other members of the *hidden powers* allegedly used the network of contacts they had developed there to expand their reach into other state institutions and to carry out their own contraband operations, drug trafficking, and other illicit activities.

During Ortega Menaldo's tenure as head of army intelligence, the U.S. Drug Enforcement Agency (DEA) coordinated its operations with military intelligence.²⁵ This gave him access to valuable information about interdiction and eradication efforts. Ortega Menaldo allegedly recruited some of his closest confidants – including Col. Esdras Salán Sánchez, Gen. Robin Macloni Morán Muñoz,²⁶ Col. Napoleón Rojas Méndez, and Lt. Col. Rolando Díaz Barrios – and used the information that he obtained to expand and assure impunity for the drug trafficking activities in which he and his cronies were involved.²⁷

In this same period, the DEA and the CIA financed new equipment and enhanced military intelligence's technological ability to monitor and intercept telephone communications. To this day, Ortega Menaldo and others involved in clandestine groups allegedly use this equipment, until recently operated by the EMP, to conduct illegal espionage against their opponents.²⁸

In 1996, under President Arzú, Gen. Ortega Menaldo agreed to retire because of his involvement in a major contraband ring headed by Alfredo Moreno Molina.

With the electoral victory of Alfonso Portillo, Ortega Menaldo recouped his stature as a power broker. Although he did not hold an official government position, Ortega Menaldo was presumed to have been one of the President Portillo's top advisors.

Ortega Menaldo is rumored to have exercised more decision-making power during the Portillo government than the Minister of Defense. Prominent civil society leader Helen Mack tells the story of attending a breakfast at the U.S. Embassy to which then-Minister of Defense General Eduardo Arévalo Lacs was also invited. In her presence an assistant handed Arévalo Lacs a cell phone with a "post-it" note stuck to it indicating that the call was from Ortega Menaldo. The Minister answered the call immediately, and she overheard him saying "*Sí, mi comandante*" ("Yes, my commander").²⁹

In March 2002, the United States revoked Ortega Menaldo's visa under a section of the Immigration and Nationality Act that authorizes action against people known to have allowed or conspired in drug trafficking.³⁰ At the time President Portillo described Ortega Menaldo as a friend.³¹ In an interview published by *El Periódico* a few days after his visa was revoked, Ortega Menaldo pledged that he was "totally clean," and cited as proof his work with the CIA to combat drug trafficking. Ortega Menaldo acknowledged that he was one of Portillo's closest advisors, but said that his relationship did not allow him to unfairly influence the President's decisions. "On my honor, there are no 'dark forces' behind the President," he swore.³² According to a senior U.S. official, however, the United States has identified Ortega Menaldo as the leader of the largest and most powerful of the five drug mafias in Guatemala.³³

Seven months later, Attorney General Carlos de León Argueta announced that Ortega Menaldo would be one of five high-ranking retired military officers to be investigated for their involvement in organized crime. Shortly after that announcement, Ortega Menaldo stated that he was "surprised at the wickedness with which people are acting and the misinformation that exists, because I am not involved with any network or any type of trafficking."³⁴

El Sindicato

A different network of internal allegiances emerged among the men who were part of “Promotion 73” from the Military Academy (*Escuela Politécnica*) in 1969. This group came to be known as “*El Sindicato*” or “The Union.” The loyalties that developed among these classmates exemplify the “*tanda*” phenomenon – the horizontal alliance that develops across a class of military academy graduates and persists throughout their careers.³⁵

The level of cohesiveness and collegiality that endures to this day among *El Sindicato* members is an anomaly in the Guatemala armed forces. A declassified U.S. Defense Intelligence Agency cable observes that “frequently there are class family picnics, dances, outings, birthday celebrations, etc., wherein all class members are reunited”.³⁶ The persistence of the *tanda* in this particular class is attributable in large part to the leadership of General Otto Pérez Molina (see Box on pp. 19-20) Considered a “reformer” within the Guatemalan armed forces, during his stint as head of the Army Intelligence Directorate (D-2) from 1992 to 1993, Pérez Molina systematically tapped his classmates for posts in the Directorate of Operations (D-3). General Roberto Letona Hora is another prominent *Sindicato* member who was implicated in the Moreno contraband network.

In contrast to *La Cofradía*, officers belonging to *El Sindicato* advocated a strategy of “stabilization” and “pacification and reconciliation” during the war, rather than an all-out victory over “subversion.” They were influenced by the theories of low intensity conflict and development put forth by the U.S. Army. They bonded around what they perceived to be their “non-participation” in the most repressive aspects of security-related intelligence work.

El Sindicato members and other “reformists” within the Guatemalan army were referred to as *institutionalist* counterinsurgents. They adhered to a strategy of 30/70 thinking:

One that focused 70 percent of its effect on recovering war refugees through development projects (‘Beans’) while using 30 percent of the

effort for repressive measures ('Bullets') against those the army viewed as 'lost.'³⁷

General Héctor Alejandro Gramajo,³⁸ who served as Defense Minister from January 1987 to May 1990, once described this strategy more crassly, stating: "You needn't kill everyone to complete the job.... We instituted Civil Affairs, which provides development for seventy percent of the population, while we kill thirty percent."³⁹

GENERAL (RET.) OTTO PÉREZ MOLINA

A 1973 graduate of the military academy (*Escuela Politécnica*), Otto Pérez Molina is said to be one of the prominent leaders of *El Sindicato*. From 1992 to 1993, Pérez Molina served as head of the Army Intelligence Directorate (D-2). In 1993, he led the group of military officers who opposed then-President Elías Serrano's *auto-golpe* (self-imposed coup). In the aftermath, he replaced Francisco Ortega Menaldo as head of the Presidential General Staff (EMP). This sequence of events sparked an intense rivalry between the two men that continues to this day.



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Pérez Molina has played a complicated role in Guatemala. Appointed Inspector General of the Army (*Inspector General del Ejército*) in 1996, Pérez Molina was the Guatemalan military's representative at the negotiations of the Peace Accords between the guerrillas and the government. Two years later Pérez Molina went to Washington, DC to head the Guatemalan delegation before the Inter-American Defense Board. He was forced into retirement at the beginning of the Portillo administration.

Pérez Molina has been implicated in a number of human rights violations. According to the Human Rights Office of the Archdiocese of Guatemala (ODHAG), there is evidence that links the EMP with the 1994 assassination of Judge Edgar Ramiro Elías Ogaldez.⁴⁰ Pérez Molina was head of the EMP at that time.

He has also been implicated in the murder of guerrilla leader Efraín Bámaca. According to press accounts, a detailed document delivered to the U.S. Embassy in 1996 revealed that Bámaca's fate was weighed by military leadership. The document stated that it was Pérez Molina, then head of the EMP, who ordered two of his officers "to make Bámaca disappear."⁴¹

Pérez Molina's role as a leader of the network of current and retired military officers known as the *El Sindicato* has put him in the company of men, such as Gen. Roberto Letona Hora, who have been accused of corruption.

Pérez Molina fiercely criticized the Portillo administration for undue political influence of ex-military officers connected to military intelligence.⁴² For a period he wrote a weekly column called *Ac'xumbal* in *Prensa Libre*.

On February 24, 2001, Pérez Molina announced the formation of a new political party – the Patriot Party (*Partido Patriota*, PP).⁴³ In March 2002, Pérez Molina and his political allies, including the presidential candidate of the National Unity of Hope (*Unidad Nueva Esperanza*, UNE) Álvaro Colom, led a march of about three thousand demonstrators through the capital to demand the resignation of President Portillo and Vice President Francisco Reyes López because of their alleged funneling of state resources into bank accounts in Panama.⁴⁴ Weeks later, President Portillo accused Pérez Molina of having participated in at least three plots to oust him from power.

In 2003, the Patriot Party banded together with the Reform Movement (*Movimiento Reformador*, MR) and the National Solidarity Party (*Partido de Solidaridad Nacional*, PSN) to form the Great National Alliance (*Gran Alianza Nacional*, GANA) coalition. On November 9, 2003, Pérez Molina was elected a deputy to the Guatemalan Congress for GANA.⁴⁵

The EMP

Throughout the internal armed conflict the Guatemalan military maintained a unit with both analytical and operational intelligence functions within the Office of the President. Later called the Presidential General Staff, or the EMP from its initials in Spanish, the unit served a dual function. It was established to provide protection, logistical support and advice to the president, but at the same time served as a center for military intelligence and covert activities.

When General Efraín Ríos Montt seized power from Lucas García in 1982, this center was named the General Archive and Support Services (*Archivo General y Servicios de Apoyo*), or “*el Archivo*.”⁴⁶ Later its name changed to the Department of Presidential Security (*Departamento de Seguridad Presidencial*, DSP).⁴⁷ Under all these names, the EMP has carried out the same core set of activities. The 1990 ‘Framework Law’ of the army formally established the EMP as part of the Guatemalan armed forces.

Since 1986, when governance of the country was assumed by civilians, the EMP has served as a vehicle for the military to maintain access to and a high level of influence on the president.

Declassified U.S. government documents reveal that the EMP carried out intelligence and counter-insurgency operations in coordination with the Army’s Intelligence Directorate (*Dirección de Inteligencia Militar*, D-2) and other state security bodies. The EMP engaged in electronic espionage as well as telecommunications and image control.⁴⁸ It maintained a network of informants and carried out operations against “internal enemies” and “suspected subversives.” Political crimes committed as a part of these operations were often disguised as common crimes.

A U.S. Defense Intelligence Agency cable from 1992 indicates that *el Archivo* was “staffed only with active duty military personnel, most of them with lengthy experience in the intelligence field.” It explains that “[t]he operations section has a surveillance capability ...and through its own network of informants, collects intelligence related information.” The “analytical section” was divided into “cells” with specialists in “political parties, economics, religion, workers and students.” According to the cable, *el Archivo* “maintains a complete database on Guatemalans and foreigners living in Guatemala.”⁴⁹

The EMP is implicated in multiple serious human rights violations, including kidnapping, forced disappearance and extra-judicial execution. An internal intelligence document, the ‘Death Squad Dossier’ (*Diario Militar*), made public in 1999, contains evidence of some of these abuses and of their systematic nature. The 54-page document, smuggled out of the army’s intelligence files, lists 183 individuals who disappeared in an 18-month period between August

1983 and March 1985. Each entry is accompanied by a photo and a coded reference to their execution.⁵⁰

The EMP had such a notorious human rights record that, in the Peace Accords, the 1996 *Agreement on the Strengthening of Civilian Power and the Role of the Armed Forces in a Democratic Society* includes a commitment to abolish it and to separately replace both of its functions. The Agreement states that the Guatemalan president is to organize an appropriate entity “to guarantee the security of the President, Vice President and their families and provide logistical support for the activities carried out by the Presidency of the Republic.”⁵¹ Alfonso Portillo, president from 1999 through the end of 2003, complied formally with this provision by creating the Secretariat for Administrative Matters and Security (*Secretaría de Asuntos Administrativos y de Seguridad, SAAS*).

The Agreement also mandates that

a Strategic Analysis Secretariat reporting directly to the Office of the President of the Republic shall be established to inform and advise the Guatemalan President, with a view to anticipating, preventing and resolving situations posing any type of danger or threat to the democratic State,

and specifies that it is to be “purely civilian.”⁵² A Secretariat of Strategic Analysis (*Secretaría de Análisis Estratégico, SAE*) already existed and was legalized in Article 13 of a new Law of the Executive Branch (*Ley del Organismo Ejecutivo*) passed in 1997. The SAE has functioned since that time.

Notwithstanding the functioning of the SAAS and the SAE, President Portillo postponed the dismantling of the EMP. In fact, its budget tripled in recent years, rising from 39 million quetzals in 1999 to 130 million quetzals in 2002.⁵³ More worrisome still, there is credible evidence that its personnel have continued to commit abuses. In one of Guatemala’s highest profile cases, two former EMP members were convicted of the extra-judicial execution of Bishop Juan José Gerardi in 1998, two days after he released the REMHI report. EMP members were present at the bloody crime scene even before the police arrived and allegedly tampered with evidence.⁵⁴

COLONEL (RET.) JUAN GUILLERMO OLIVA CARRERA

Shortly after graduating from the military academy (*Escuela Politécnica*) in 1975, Guillermo Oliva Carrera was appointed squad commander of the Quetzaltenango Brigade. Two years later, he served as squad commander of the Military Zone in the Petén. Later that same year, Oliva Carrera became an instructor at the School of the Kaibiles (*Escuela Kaibil*), where elite counter-insurgency forces of the army were trained. In the early 80s, he served as a military intelligence officer in different locations. In 1986, he became an assistant at the Military High Command (*Estado Mayor de la Defensa*), and in 1987 he joined the Army Intelligence Directorate (D-2). From 1988 to 1991, he was appointed sub-director of the *Archivo*, the intelligence division of the EMP. The following year he returned to the D-2. In 1996, Oliva Carrera was dismissed from the army for his involvement in Alfredo Moreno's contraband operations.



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Oliva Carrera was indicted in 2002 and put on trial along with two other high-level military officers for masterminding the 1990 assassination of anthropologist Myrna Mack. In October 2002, he was acquitted after a three-judge panel found insufficient evidence of his direct involvement in the crime. His acquittal was upheld by an appeals court in May 2003.

In April 2002, the sister of the slain anthropologist, civil society leader Helen Mack, obtained a document from an anonymous source that alleged possible links between Oliva Carrera and clandestine groups. In a private meeting Mack gave President Portillo the document and urged him to investigate the allegations and to bring those responsible for crimes to justice, including, possibly, Oliva Carrera. President Portillo subsequently made this information public in a radio interview. Following the interview, Oliva Carrera brought a criminal defamation suit against Mack. Four months later, an appeals court annulled the suit on the grounds that there was no basis for the criminal complaint.

In December 2002, in a speech marking the sixth anniversary of the signing of the Peace Accords, President Portillo announced the demobilization of 162 members of the EMP and committed to further reductions and eventual dissolution of the EMP by October 2003. Despite Portillo's promises, the government continued to increase the EMP's budget. In fact, the day following the announcement, over 11 million quetzals (approximately US\$1.6 million) were transferred to the EMP.⁵⁵ Furthermore, in July 2003, one day after he had repeated his pledge to abolish the EMP to the United Nations Under Secretary General for Political Affairs, Kieran Prendergast, it was revealed that the previous month President Portillo had approved a further behind-the-scenes transfer of 14 million quetzals (approximately US\$2 million) to the EMP from other government dependencies.⁵⁶ Serious additional concerns were raised when many of the demobilized EMP members did not end their careers in the security forces, but were allegedly re-assigned to a security detail at the National Palace of Culture.

In October 2003, after years of persistent national and international pressure, the Guatemalan government officially dismantled the EMP. The announcement came a month after the Guatemalan Congress approved a law abolishing the EMP and transferring some of its legitimate functions to the SAAS. Although many welcome the dismantling of the EMP as an important step in the implementation of the Peace Accords, serious concerns remain that the military may continue to exert influence within the new structure. The new legislation allows for many EMP members to be transferred to the SAAS.⁵⁷ During a press interview, the director of the SAAS Ricardo Marroquín announced that approximately thirty percent of EMP personnel would be re-assigned to the new civilian agency.⁵⁸ Moreover, according to the new law, the person in charge of the SAAS will be nominated by the president, and can be either civilian or military. The dismantling of the EMP will be an empty gesture unless concrete steps are taken to ensure that EMP officers involved in human rights abuses are brought to justice and that such individuals are not reincorporated in the security forces or any other government entity.

Equally disconcerting is the fact that prior to the dismantling of the EMP, a government accord⁵⁹ was passed, which provided for the creation of a Department of Strategic Analysis within the Ministry of Defense (*Departamento de Análisis Estratégico del Ministerio de la*

Defensa, DAE). The DAE, apparently intended to carry out some intelligence functions within the military, will usurp functions that rightly belong to the SAE. Further, the DAE will be under military, rather than civilian, control. The accord states that the DAE is to provide the Ministry of Defense with on-going analysis on military issues and short- to long-term strategic plans, in order to define national and international defense policies.

Civil Self-Defense Patrols

During the war Civil Self-Defense Patrols (*Patrullas de Auto-Defensa Civil*, PACs) were formed as a paramilitary force to help the Guatemalan Army in its counter-insurgency efforts. The PACs were legally established on April 1, 1982 under the National Plan for Security and Development (*Plan Nacional de Seguridad y Desarrollo*) of the military junta installed by the coup d' état against Lucas García, led by General Efraín Ríos Montt. Operating under military orders, the patrols acted as the army's civilian adjuncts, "protecting" their communities from the URNG guerrillas.⁶⁰ In each community a "military commissioner" (*comisionado militar*) was selected from among the inhabitants to serve as the army's representative and to head up a PAC.⁶¹ These "commissioners," backed by and linked to the military, came to exercise significant, and often unchecked power in their communities.

Ostensibly the patrols formed spontaneously and were voluntary, but in fact service was obligatory in most communities. The PACs were comprised of males between fifteen and sixty years of age. Their members were mostly indigenous Mayans from rural areas. During 1982 and 1983 nearly eighty percent of the male population in indigenous rural areas was militarized into the PACs.⁶²

Estimates vary as to the total number of Guatemalan men who served in the PACs, with the figure ranging as high as one million. There were 375,000 registered PAC members at the time of their demobilization in 1995.⁶³

The counter-insurgency work of the PACs varied over time, and from community to community, but many were involved in repression and human rights abuses. While part of this "voluntary" paramilitary force, tens of thousands of Guatemalan men were

BRIGADIER GENERAL (RET.) LUIS FELIPE MIRANDA TREJO

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From 1979 through 1983 Luis Felipe Miranda Trejo served as a military intelligence officer in three different locations and headed the Center for Training and Special Operations of the *Kaibiles* (elite counter-insurgency forces). He later became the commander of various military zones, including Puerto Barrios, Escuintla, Playa Grande, and

Huehuetenango. During the Serrano Elías administration he was commander of the Mobile Military Police (*Policía Militar Ambulante*, PMA).⁶⁴

During his tenure as commander of Military Zone No. 19 in Huehuetenango in 1994, Miranda Trejo was accused of forcibly recruiting young indigenous men into the military.⁶⁵ As a result of the controversy that followed and a number of civil charges brought against him, he was dismissed from his post during Ramiro de León Carpio's government. After the signing of the Peace Accords in 1996, Miranda Trejo retired from the army.

In November 1999, Trejo was elected in Huehuetenango as an FRG deputy to the Guatemalan Congress. As deputy, he served on the legislative Commission for National Defense where he argued for increased funding for the Guatemalan military.

Miranda Trejo has been implicated in various human rights violations. He allegedly sought to block the investigation of the 1990 assassination of U.S. citizen Michael Devine. He commanded the military base from which Captain Hugo Contreras, who was implicated in Devine's assassination, supposedly escaped.⁶⁶

In 1998, a court in Quetzaltenango opened proceedings against Miranda Trejo as the alleged intellectual author of the 1993 killing of activist Juan Pablo Chanay during a demonstration.⁶⁷ He was commander of Military Zone No. 19 at the time of Chanay's murder. In 1998, eleven former members of the Civil Self-Defense Patrols (PACs) were convicted for their participation in the murder. Three months later, however, they were freed from a police station by an armed mob. At the time, the investigation against Miranda Trejo remained open. There still has been no progress in the investigation due in large part to the immunity that Trejo enjoyed as a deputy in the Congress.⁶⁸

On March 14, 2002, Miranda Trejo was appointed by President Portillo to serve as director of the Guatemalan Institute for Tourism (INGUAT). Shortly thereafter, workers complained that he was “militarizing the institution.” They cited Miranda’s hiring of retired General Jorge Perussina as one of his chief advisors.⁶⁹

Miranda Trejo promoted the integration of ex-PAC members into local FRG chapters, and then later was on the governmental commission that negotiated with the former PACs regarding their demands for economic compensation.

forced to participate in the patrols and to commit human rights abuses. Many of the individual patrollers who carried out abuses were coerced into doing so, under threat of death to themselves and their families. Those who did not comply with army orders were themselves tortured and killed. Amnesty International concluded that

*members of patrols were themselves amongst the victims of abuses. Not only was conscription into the patrols forcible, but the involuntary members of them were often themselves victimized if they refused to serve or to carry out specific acts ordered by the army.*⁷⁰

The Catholic Church’s REMHI project documented 1,731 incidents of human rights violations with a total of 3,424 victims during the war years in which the PACs alone were implicated. There were an additional 1,799 incidents with a total of 10,602 victims involving the PACs in combination with the military, including participation in 342 massacres.⁷¹

PACs participated in eighteen percent of the violations documented by the Historical Clarification Commission (CEH). Of the violations in which PACs participated, 85 percent were carried out by PACs together with the army or other state forces; in fifteen percent of the cases PACs acted alone.⁷² In addition, the commission found that military commissioners were responsible for eleven percent of all of the human rights violations documented by the CEH.⁷³



Memorial to the victims of the internal armed conflict in a former military detachment and exhumation site in San Juan de Comalapa, Chimaltenango.

The PACs were also part of an alternative system of authority over and control of the population that was directed by the military. Much of the system remains intact today. Since the signing of the Peace Accords, during both the Arzú and Portillo governments, military commissioners and individual ex-PAC members have assumed leadership positions in local government. Although the Accords mandated military, intelligence and police reforms in state institutions, the “group with power at the local level generated by the counter-insurgency was never

displaced.”⁷⁴ Military commissioners and ex-PAC members are now mayors, city council members, teachers, and police. Many have allegedly used their positions of local authority to benefit disproportionately from state funds and development projects.

“Lateral impunity” is also a legacy of the PACs in Guatemala. Lateral impunity refers to relationships and patterns of interaction that result in impunity for those who perpetrate crimes at the local level. In August 2001 in its twelfth verification report MINUGUA observed

*an increase in the involvement of municipal authorities, especially auxiliary mayors, who were responsible for the bulk of confirmed violations, and of former members of the Voluntary Civil Defense Committees (CVDCs) who were mainly responsible for lynchings.*⁷⁵

There are also credible allegations that, in addition to lynchings, ex-PAC are responsible for many of the politically motivated crimes that occur at the local level, including threats, intimidations, murders and attempted murders.

THE MORENO NETWORK AND SALVAVIDAS: A Case Study⁷⁶

The case of the Moreno network clearly illustrates the reach of the *hidden powers* in Guatemala – their illicit activities, insidious linkages and structure. A vast array of military and government officials – some retired and some current office holders – were involved in the Moreno network. Many of those involved had been part of *La Cofradia* or *El Sindicato*, had been involved in the EMP, or worked with the PACs. They were able to operate with relative impunity and to maneuver legally to obstruct justice over a period of several decades.



1970s: Salvadoran-born Alfredo Moreno Molina was assigned by the Guatemalan military to work with counter-insurgency efforts within Customs. Over time he built and oversaw an illegal network involving personnel at different border crossing points. Moreno and his network eventually were able to control the movement of truck containers, the type of merchandise that was transported, the frequency of shipments and the value of the products that were imported.⁷⁷ Truck containers were “kidnapped” and were only returned to the owners after they made a payment of a percentage of their value. Customs officials gave Moreno a percentage of their take and in exchange he would allow them to keep their jobs.⁷⁸ This powerful contraband operation involved officials in the courts, the National Police, the Treasury Police (*Guardia de Hacienda*), the Public Ministry, the army and the Public Finance Ministry.⁷⁹

1989: Within the Moreno network a smaller, more exclusive group was formed that called itself the *Grupo Salvavidas* or “Lifesaver Group.” The *Salvavidas* was an effort to intentionally put together a powerful network of men with influence in and connections to all spheres of public and political life in the country. Its members used their positions within the government to act with impunity and to deny justice to others.

Court documents indicate that *Salvavidas* had a clearly defined structure. While this degree of organization may seem highly unusual for a criminal syndicate, it is indicative of the fact that *Salvavidas* members were extremely confident that they could carry out their activities without fear of law enforcement. Moreno was the president of the ‘board of directors’ of

Salvavidas. Other key members included Justice of the Peace Osmundo Waldimir Villatoro Escobar, Judge Rolando Sagastume and Col. Jacobo Esdras Salán Sánchez.⁸⁰

14 September 1996: An investigation carried out by Defense Minister Julio Balconi Turcios concluded that Moreno had committed the crimes of tax fraud, falsification or alteration of documents, and illicit enrichment.

Twelve search warrants were executed and evidence was collected that corroborated the allegations of criminal wrongdoing against Moreno.⁸¹ More than fifty identification cards were found from different state institutions, all with Moreno's photograph. Computer records, files and photographs were confiscated that contained detailed information on the Moreno network and its contraband operation. The evidence implicated numerous high-ranking military officers and high-profile civilians, among them Gen. Luis Francisco Ortega Menaldo, Col. Juan Guillermo Oliva Carrera, Gen. Roberto Eduardo Letona Hora, Maj. Fernández Ligorria, Col. Salán Sánchez, Alfonso Portillo, Gen. Efraín Ríos Montt, Col. Napoleón Rojas Méndez, Maj. Byron Barrientos⁸² and Mario Guillermo Ruiz Wong.⁸³

During the search of Moreno's house, Justice of the Peace Villatoro Escobar arrived even though it was located outside of his jurisdiction. He tried to arrange for Moreno to be released on his own recognizance in order to avoid pre-trial detention.

Based on the evidence, Moreno was arrested.

16 September 1996: Then-presidential contender Alfonso Portillo, candidate of the FRG, admitted having received a 70,000 quetzals (approximately US\$11,667) campaign contribution from Moreno, but claimed that he had no knowledge of Moreno's involvement in illegal activities.

17 September 1996: The Interior, Defense and Finance Ministers held a press conference to announce the dismissal of 27 officers from within the military and the police, among them Gen. Ortega Menaldo, Col. Salán Sánchez, Col. Oliva Carrera and Col. Napoleón Rojas Méndez.⁸⁴ Moreno was prohibited from leaving the country and his bank accounts were frozen along with 24 others that belonged to military and public officials involved in the case.

18 September 1996: Presidential spokesman Ricardo de la Torre said that calculations were still being made, but it appeared that Moreno had evaded paying taxes on approximately 80 million quetzals (about US\$15 million) per month over at least ten years.⁸⁵

27 September 1996: The prosecutors in charge of investigating Moreno reported that they had been repeatedly threatened and told not to move forward with the investigation or to bring the case to trial.

November 1996: The Public Ministry informed the press that Portillo received large quantities of money from Moreno during his unsuccessful bid for the presidency against victorious National Action Party (*Partido de Acción Nacional*, PAN) presidential candidate Alvaro Arzú. An FRG spokesperson responded that the PAN government was using the Moreno case to try to discredit Portillo and the FRG.

December 1998: The Fifth Sentencing Court absolved Moreno for the crime of tax fraud. The Tenth Court of Appeals, presided over by Judge Ruiz Wong who himself had been implicated in the Moreno case, upheld that verdict. The Supreme Court annulled the ruling and ordered that the case be reheard by an appeals court.

24 May 1999: Four witnesses linked Moreno to military officers and politicians. They indicated that “take” from the contraband was turned over weekly to judges, lawyers, Moreno family members and military officers. Allegedly Col. Salán Sánchez and Gen. Letona Hora each received 5,000 quetzals (about US\$833) a week.⁸⁶

January 2000: After Portillo of the FRG won the presidency, the new attorney general, Rodolfo González Rodas, decided to close the Special Cases Unit that had been handling the Moreno case and investigating Moreno’s connections with Portillo and Ríos Montt.⁸⁷ The case was re-assigned to the Office of the Prosecutor Against Organized Crime.

21 January 2000: The Court of Appeals, presided over by Judge Yolanda Pérez, upheld Moreno’s absolution for the fourth time on a technicality because the appeal was formulated improperly. In press statements, Moreno triumphantly declared that the case against him “is political . . . nothing has been proven against me.”⁸⁸ He indicated that, because the PAN had lost the election, ‘show trials’ would not take place that would discredit Portillo and Ríos Montt.

The Tenth Court of Appeals, presided over by Judge Ruiz Wong, annulled the four-year prison sentence that the Fifth Sentencing Court had imposed on Moreno’s wife, Manuela Lucinda González, for her involvement in the contraband operation. Higher courts upheld this ruling. In the end, she was ordered to pay a fine of 1.2 million quetzals (about US\$151,900) in fines for perjury and tax fraud. She was sentenced to a prison sentence of one year and four months commutable at five quetzals (about US\$.63) a day, and the payment of a 400 quetzals (about US\$50) fine.

21 January 2001: Elio Sánchez, Gen. Ortega Menaldo and other individuals linked to the Moreno case managed to avoid pre-trial detention and were released on their own recognizance.

13 February 2001: The Sentencing Court presided over by Judge Sandra Ciudad Real revoked the order to imprison Moreno until the trial and ordered him freed upon payment of three million quetzals (about US\$389,600) in bail. Moreno was ordered to sign in every Monday and forbidden from leaving the country.⁸⁹ The defense lawyer argued that Moreno did not have sufficient funds to make bail, and requested that the freeze on his properties be lifted to make available the required amount.

22 May 2001: The Criminal Sentencing Court ordered the lifting of the freeze on Moreno's assets to allow him to raise money to make bail.⁹⁰

27 July 2001: The Criminal Sentencing Court reduced Moreno's bail to one million quetzals (about US\$128,370) although the Public Ministry calculated that he had defrauded the nation of approximately US\$20 million.

11 December 2001: Moreno paid one million quetzals (about US\$130,317)⁹¹ in bail and was released from prison.

29 March 2002: The Fourth Court of Appeals suspended the arrest warrant issued thirteen days earlier by the Sentencing Court against Moreno's wife, Manuela Lucinda González, for failing to pay the 1.2 million quetzals (about US\$151,900) in fines ordered in 2000.

More than seven years after Moreno and key members of his network were charged with contraband, customs fraud, material falsehood and bribery, the case is still pending before the Sentencing Court in Mixco.

Hidden Powers Consolidate Political Power

If *hidden powers* and clandestine groups have existed in Guatemala for decades, and their presence and their ties to military intelligence, drug trafficking and organized crime are not new phenomena, then what is different about the current situation? A new, and particularly dangerous, distinguishing factor is the increasingly successful consolidation of political power on the part of *hidden powers*.

Hidden powers have relationships with most of the political parties and actors in Guatemala, through campaign contributions, and through personal connections and relationships. Although the most visible relationship has been with the Guatemalan Republican Front (*Frente Republicano Guatemalteco*, FRG), most political analysts believe that the *hidden powers* have contacts and influence with all the major political parties, and therefore with the legislative and executive branches of government, regardless of which party is in power.

The FRG

In recent years, the FRG has been an important vehicle for consolidating the political authority of *hidden powers*. The FRG has close ties with actors who were involved in counter-insurgency efforts during the internal armed conflict. Retired Gen. Efraín Ríos Montt, the former military dictator during the worst of the violence in the early 1980s, the head of the party's congressional caucus, and its presidential candidate in the 2003 elections, is the most notable example.

From 2000 through 2003, the FRG controlled two branches of government. It held a majority of seats in the Congress and occupied the presidency. This nexus allowed *hidden powers* to wield great influence and to achieve more control within state institutions, further weakening the government's ability to fight corruption and impunity.

GENERAL RÍOS MONTT: Exerting Power in the Courts and on the Streets

On May 24, 2003, the FRG selected retired Gen. Efraín Ríos Montt to be its presidential candidate, despite a clause in the Guatemalan constitution barring anyone who participated in a coup from running for elected office. Ríos Montt led a coup d' état in 1982 and became military dictator and president. The UN-sponsored Historical Clarification Commission (CEH) created by the 1996 Peace Accords found that “acts of genocide” were committed during counter-insurgency operations while Ríos Montt was president.

On June 6, 2003, consistent with its earlier rulings in 1990 and 1995, the Supreme Electoral Tribunal deemed Ríos Montt an *ex-de-facto* ruler and banned him from running for president. The FRG appealed to the Constitutional Court, whose president is Ríos Montt's childhood friend, Judge Mario Guillermo Ruiz Wong.⁹²

On July 30, 2003, the Constitutional Court of Guatemala issued a ruling that permitted Ríos Montt to be legally inscribed as a candidate for president. In the week prior to announcement of the Court's decision, Ríos Montt's supporters congregated in front of the Constitutional Court and engaged in wide-scale protests and acts of intimidation. On July 24, Guatemala City was paralyzed by mobs throwing stones, burning tires and blocking the streets. One journalist died of a heart attack while pursued by a mob. This date is now colloquially referred to as Black Thursday (*Jueves Negro*).

U.S. Ambassador John Hamilton said of the violence:

*The violent demonstrations in the City of Guatemala today constitute an affront to democracy and a dangerous mockery of the right of protest and freedom of assembly. It is difficult to believe these protests were not centrally planned and organized. FRG party leaders have an unavoidable responsibility to see that these disruptions of public order cease immediately, before there is further loss of life, injury and damage to the prospects of free and fair elections.*⁹³

On October 9, 2003, Ríos Montt supporters harassed Nobel Peace Prize laureate Rigoberta Menchú, following a judicial proceeding at the Constitutional Court against Ríos Montt's candidacy. Shortly after public prosecutor Carlos Gabriel Pineda Hernández stated that the Public Ministry was in favor of Ríos Montt's candidacy, the FRG supporters cheered him on and then proceeded to spit on Menchú and yell, “Go back to the terminal market to sell

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Mob violence on Black Thursday in Guatemala City.

tomatoes.”⁹⁴ The FRG supporters blocked the Constitutional Court’s exit for over an hour, shouting that they wanted to lynch everyone in sight. The president of the Constitutional Court, Guillermo Ruiz Wong, instead of demanding order, chose to leave the room. Pineda and police agents also left the building without taking any action. Rigoberta Menchú has filed a lawsuit against Ruiz Wong and members of the FRG who participated in the incident, and has requested that Carlos Gabriel Pineda be removed from his post.

A January 2002 Hemisphere Initiatives (HI) report describes a familiar pattern in post-conflict societies that is playing out in Guatemala in a very pronounced way. “The merging of clandestine counter-insurgent structures that developed during the internal conflict with organized criminal gangs” resulted in an increase in crime.⁹⁵ At the same time “there was evidence that some of the perpetrators of crimes had been part of clandestine paramilitary structures during the internal conflict.”⁹⁶ This dynamic fed “a kind of vicious circle in which weak institutions create opportunities for

the spread of corrupt networks, which in turn seek to further weaken institutional capacity to combat corruption.”⁹⁷

Levels of corruption have increased dramatically in Guatemala in recent years. In a 2003 study by Transparency International in which business leaders and policy analysts were asked to rate levels of corruption in various countries, Guatemala ranked among the 34 most corrupt countries.⁹⁸ Many people who have occupied cabinet-level posts during the Portillo administration now face corruption charges.⁹⁹

HI notes that, in comparison to its neighbor, El Salvador, clandestine groups in Guatemala “have penetrated [institutions] much more thoroughly and at much higher levels.” It attributes this to the fact that “the relative weakness of political parties in Guatemala and the failure to purge the old security apparatus” have made “it easier for organized criminal gangs rooted in clandestine counter-insurgency structures to maintain and extend their political influence in the post-conflict period.”¹⁰⁰ The result has been devastating in terms of the further weakening of already struggling state institutions and the rule of law in the country.

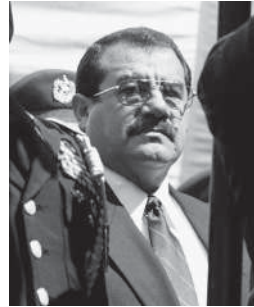
Presidential advisors

The ascendancy of Alfonso Portillo to the presidency in January 2000 saw the public rehabilitation of nefarious figures who had been reprimanded in the past for their involvement in illegal activities. Most notably, three prominent participants in the Moreno contra-band network – Gen. Francisco Ortega Menaldo, Col. Jacobo Esdras Salán Sánchez and Col. Napoleón Rojas Méndez – became close presidential advisors. Military analysts have dubbed these three men “*los Montesinos* of Guatemala.”¹⁰¹ In a similar vein, *El Periódico* journalist José Rubén Zamora has speculated that these three “are the real power in Guatemala.”¹⁰²

This triumvirate, and others from *La Cofradía*, wielded immense influence in the Portillo administration in appointments and changes related to the military.¹⁰³ General Otto Pérez Molina has criticized the fact that presidential decisions about the armed forces took into account not only the opinion of the Defense Minister, but also that of “former military personnel who are very close to him that wield direct

COLONEL (RET.) JACOBO ESDRAS SALÁN SÁNCHEZ

A 1974 graduate of the School of the Americas and a 1979 graduate of the military academy (*Escuela Politécnica*), Jacobo Esdras Salán Sánchez is said to be a member of *La Cofradía*. He worked at the Army Intelligence Directorate (D-2) in the late 80s and 90s. In 1996, he was dismissed from the army because of his involvement in the contraband ring run by Alfredo Moreno.



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Salán has been accused by numerous human rights organizations of participation in the 1989 kidnapping and assassination of several students from the University of San Carlos, and in the 1990 murder of U.S. citizen Michael Devine.

Salán headed Alfonso Portillo's security detail during the electoral campaign. When Portillo became president, Salán became the *de facto* head of the Presidential General Staff (EMP). He took advantage of his close proximity to the president to accumulate immense power. A press commentary noted that

*with the placement of his most loyal men in strategic posts within military intelligence, Salán was able to build a parallel power as great or of more importance than that of the Minister of Defense ... if the Minister had to wait for hours to meet with the President, Salán, in contrast, has him just around the corner.*¹⁰⁴

Portillo's closeness with Salán drew criticism from the U.S. Embassy and human rights organizations. Sources indicate that Salán fell out of favor with the United States for stealing goods that had been confiscated from drug traffickers when he was involved in counter-narcotics operations.¹⁰⁵ In 2000, the U.S. Embassy "extra-officially" asked for his removal due to his ties with drug trafficking.¹⁰⁶

On May 11, 2000, a previously unknown group, the Association of Military Officers Against Impunity (*Asociación de Militares Contra la Impunidad*, AMCI) accused Salán of involvement in multiple cases of violations of human rights, illegal enrichment, and of participation in criminal networks. The group alleged that Salán and his criminal network were currently undertaking persecutions and tapping cellular phones.¹⁰⁷

A few days later, it was alleged that Salán was heading an illegal espionage network, orchestrated by Ortega Menaldo, which provided information to the president. According to an investigative piece published in *El Periódico*

*at least fifteen military officers and a number of politicians were members of the network. The people involved in Salán's network were his subordinates and members of the military intelligence apparatus during the armed conflict.*¹⁰⁸

The day before the article appeared, *El Periódico* reported that a vehicle with unidentified tags had followed a journalist to his home. At least five other people involved in the investigation reportedly also received threats prior to that incident.¹⁰⁹

After this series of allegations, in mid-2000 Salán stepped down and Portillo tried to distance himself from Salán. In an interview with *Prensa Libre*, Salán explained that he left “out of friendship, because I believe that the criticisms about me are affecting the President.”¹¹⁰ Despite U.S. pressure, the distance-taking was rhetorical. Salán continued to serve as Portillo’s advisor. A presidential order made him responsible for the logistics of *Plan Puebla Panamá*, a region-wide infrastructure development plan.¹¹¹

On October 23, 2002, Attorney General Carlos de León Argueta announced that Salán was one of the five retired military officers that the Public Ministry (*Ministerio Público*) will investigate for alleged involvement in organized crime. The investigation is still underway, with little visible progress.

influence in appointments, changes and everything related to the military.”¹¹² Mario Polanco from the Mutual Support Group (*Grupo de Apoyo Mutuo*, GAM) of family members of the disappeared and detained went a step further, voicing the opinion that the armed forces “should be subordinate to the President and to the Minister, not to parallel groups that wield influence in all decisions.”¹¹³

Although Portillo has made assurances that Ortega Menaldo had nothing to do with his government, active duty officers who requested anonymity have commented

that the opinion of this former military leader is determinate in decision-making ... Ortega Menaldo, who was a close collaborator

*of Colonel Jacobo Salán Sánchez, former head of the EMP, keeps men close to him in key posts within the Army.*¹¹⁴

Helen Mack, director of the Myrna Mack Foundation, concurred with this analysis, stating that “one of the groups outside of the army that has close ties with the president is made up of military officers aligned with Ortega Menaldo, who also have collaborators inside the military institution.”¹¹⁵

During his tenure as Defense Minister, Juan de Dios Estrada was dismissive of allegations of undue influence by Portillo’s advisors. He stressed that, as former military, Portillo’s advisors are consummate professionals, explaining that:

Members of the army know the principles of honor and of loyalty and respect the hierarchy. From the Minister to second lieutenant

COLONEL (RET.) NAPOLEÓN ROJAS MÉNDEZ

In 1989, Napoleón Rojas Méndez worked at the Army Intelligence Directorate (D-2). In this capacity, he reportedly participated in the attempted coup against President Vinicio Cerezo. In 1996, he was dismissed from the army because of his involvement in Alfredo Moreno’s contraband operations.¹¹⁶ Rojas served as security advisor to President Portillo.



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In November 2002, the United States revoked Rojas’ visa due to suspicion of involvement in organized crime, drug trafficking, contraband, and human rights violations.¹¹⁷ Rojas is one of the five high-ranking retired military officers under investigation by the Public Ministry (*Ministerio Público*) for ties to organized crime. In March 2003, in response to an inquiry by the special prosecutor investigating the case, President Portillo submitted a report to the Public Ministry regarding his relationship with Rojas. In the report, Portillo confirmed that Rojas had served as his security advisor and had even accompanied him on a number of official trips.¹¹⁸ Eight months later, the Constitutional Court filed a motion in favor of Rojas, giving the Public Ministry 30 days to present its case against him.

*they are professionals. ... These same principles do not allow meddling by people outside of the institution; this includes members that are no longer active duty and former military.*¹¹⁹

The Portillo administration experienced unusually high turn-over in key positions in the government. Analysts attributed the turn-over to a continuing power struggle between the Portillo and Ríos Montt wings of the party, and to the advisors' influence over top-level presidential appointments, especially in the military. The *Prensa Libre* newspaper reported that on average someone was removed and replaced every week. The turn-over rate was particularly high in key cabinet posts. In the past three years there were five ministers of the economy, four ministers each for defense, interior and agriculture, and three communications ministers.¹²⁰

THE REVOLVING DOOR: Turn-over During the Portillo Administration

MINISTERS OF DEFENSE:

Gen. Juan de Dios Estrada (January 2000 – November 2000)
Gen. Eduardo Arévalo Lacs (November 2000 – November 2001)
Gen. Álvaro Leonel Méndez Estrada (November 2001-August 2002)
Gen. Robin Macloni Morán Muñoz (August 2002 – present)

INTERIOR MINISTERS:

Mario Guillermo Ruiz Wong (January 2000 – July 2000)
Byron Barrientos (August 2000- November 2001)
Gen. (ret.) Eduardo Arévalo Lacs (November 2001 – July 2002)
Adolfo Reyes Calderón (July 2002 – present)

DIRECTORS OF THE NATIONAL CIVILIAN POLICE:

Angel Conte Cajulún (July 1997 – January 2000)
Baudilio Portillo Merlos (January 2000 – May 2000)
Mario René Cifuentes Echeverría (June 2000 – July 2000)
Rudio Lección Mérida (August 2000 – March 2001)
Enio Rivera Cardona (March 2001 – January 2002)
Luis Arturo Paniagua Galicia (January 2002 – October 2002)
Raul Artímedes Manchame Ceiba (November 2002 – July 2003)
Oscar Raul Segura Sánchez (July 2003 – present)

Presidential advisers have also aided in the administration of the federal budget, finding ways to augment monies allocated to the military, and, in particular, to the EMP (which by law is not subject to audits). Funds have been transferred from other line items to the military to undertake joint patrols with the police and to distribute fertilizer and vitamin-enriched cookies for school children. In May 2002, Finance Minister Eduardo Weymann told opposition members of Congress that during the Portillo government 201.7 million quetzals (about US\$25.9 million) had been transferred to the EMP for the “Presidential Library for Peace” program, Pope John Paul II’s visit, and the broad category of “presidential management.”¹²¹

On October 23, 2002, Attorney General Carlos de León Argueta announced that his office would investigate Gen. Ortega Menaldo, Col. Salán Sánchez, Col. Rojas Méndez, and two other retired military officers – Gen. Manuel Antonio Callejas y Callejas and Gen. Mario Roberto García Catalán – for their presumed links to organized crime.¹²² On December 5 of that same year, the Public Ministry (which de León heads) named the prosecutors who will manage the investigation. That same night unidentified gunmen fired six shots at de León when he was returning to his home in Guatemala City. The attorney general, who escaped unharmed from the incident, expressed his belief that the attack against him was linked to these investigations.¹²³

There has been little progress in the investigations. Special Prosecutor for Corruption Karen Fischer, one of the prosecutors assigned to the investigation, resigned her post on March 13, 2003. Nearly four months later, Special Prosecutor for Threats Against Humanitarian Activists, Tatiana Morales, who replaced Fischer as Special Prosecutor for Corruption and was also assigned to the investigation, resigned as well.¹²⁴

Hijacking of the judiciary

In his inaugural address on January 14, 2000, President Portillo declared that:

The application of justice ... has an intimate relationship with the processes for transformation of the state. Criminal organization, be it political or common, represents a parallel power to that of the state,

*and constitutes the principal threat to consolidating the democratic Rule of Law. Pressures of every type are exerted in order to stop the process of judicial reform. Moreover, the culture of violence prevents us from resolving peacefully and legally our social conflicts. Overcoming the authoritarian temptation is a difficult task.*¹²⁵

Lamentably, during his administration this situation has continued unabated. There are numerous credible allegations of intimidation, corruption, and manipulation in the judiciary.

Death threats and intimidation of members of the judiciary are extremely common in cases involving human rights violations and politically motivated crimes, particularly where the defendants were current or former members of the military, military commissioners or civil patrollers. Judges and prosecutors are threatened. In some cases the threats are aimed at influencing current decisions. In others, they are reprisals for past decisions. A January 2000 report of the UN Human Rights Commission noted that many judges and prosecutors are denied health insurance because their jobs are considered to be too dangerous.¹²⁶ A U.S. State Department report found that, “[w]ith



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Vice President Francisco Reyes López, President Alfonso Portillo, and ex-dictator Efraín Ríos Montt at the inauguration in January 2000.

relatively few exceptions, plaintiffs, witnesses, prosecutors, and jurists involved in high-profile cases against members of the military reported threats, intimidation and surveillance.”¹²⁷ Witnesses are often too intimidated to testify.

Political interference in legal cases, particularly those where human rights or corruption charges have been brought against highly placed officials, is the norm. Key cases are habitually assigned to judges who appear to be partial to the accused, reportedly because they have either been bribed or fear reprisals for their decisions. Evidence is often inexplicably lost. Even in cases in which arrests have been made, suspects often go free. Few cases are brought to trial.

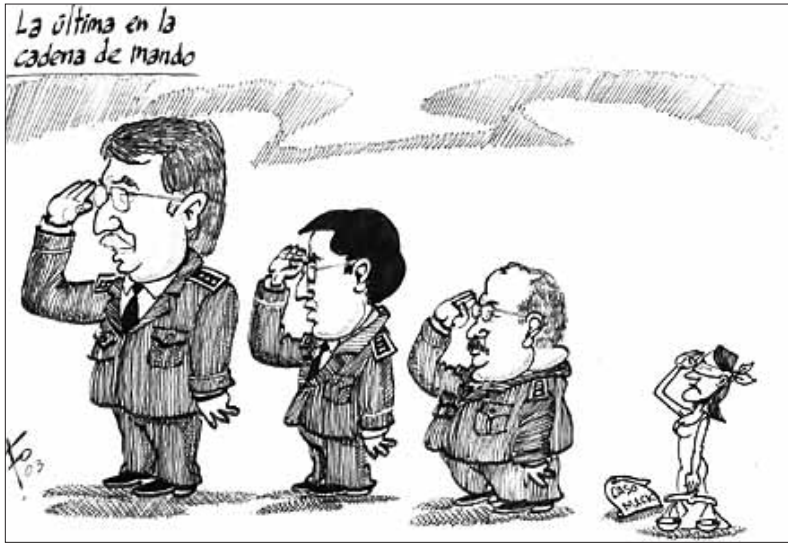
One exasperated diplomat said, “Basically, all the sectors of law enforcement, the judiciary, the Public Ministry and the police have all been either bought off, penetrated or intimidated.”¹²⁸

After a visit to Guatemala, Param Cumaraswamy, the UN Special Rapporteur on the Independence of Judges and Lawyers, concluded that corruption, influence-peddling and their associated ills remained widespread, fed by the political factors which continued to influence the tenure, appointment and dismissal of judges.¹²⁹ It is noteworthy that the Congress and the president play a major role in appointments to both the Constitutional Court and the Supreme Court.

In March 2003, after an official visit to Guatemala, the Inter-American Commission on Human Rights of the Organization of American States noted that:

*In Guatemala, the attacks on and threats to judicial officers, the existence of unlawful pressures and influences on judges, the insufficiency of resources, the lack of serious and timely investigations by the Public Ministry, in particular in cases of special importance... are factors that contribute, among other things, to the widespread impunity that seriously affects the rule of law.*¹³⁰

High-profile human rights and corruption cases languish in the courts. Defense lawyers abuse the system by employing numerous dilatory appeals and motions, for which they are rarely sanctioned. Judges rarely dismiss frivolous appeals or patently invalid motions. As



The caption reads: "The last in the chain of command." From left to right, Gen. Edgar Augusto Godoy Gaitán, Col. Juan Valencia Osorio, Col. Juan Guillermo Oliva Carrera and Lady Justice on the Mack case.

a result, these measures are used as delaying tactics, frequently holding up trials for months or even years. Those involved in efforts to convict perpetrators of past or present abuses must repeatedly return to court, as decisions are appealed all the way up to the Constitutional Court.

The high-profile case against three high-ranking military intelligence officers – Gen. Edgar Augusto Godoy Gaitán, Col. Juan Valencia Osorio (*Archivo* chief) and Col. Juan Guillermo Oliva Carrera (second in command of the *Archivo*) – as alleged intellectual authors of the 1990 murder of renowned anthropologist Myrna Mack Chang graphically illustrates the grave shortcomings of the Guatemalan justice system. After repeated delays and despite strong evidence, only one of the three was convicted, and that conviction was subsequently overturned on technical grounds by the appellate court.¹³¹ The Inter-American Court of Human Rights heard the Mack case in November 2002. On December 19, 2003, the Court ruled that Guatemala had violated several provisions of the American Convention on Human Rights in the killing of Myrna Mack, and the subsequent denial of justice in the case.

Continuing impunity

The outcome of an ineffective and corrupt judiciary is continued impunity for the *hidden powers* and their collaborators. The Institute of Political, Economic and Social Studies (*Instituto de Estudios Políticos, Económicos y Sociales*, IPES) in Guatemala summed it up as follows:

*In our society, agents or former agents of the State have woven a secret, behind-the-scenes network dedicated to obstructing justice. They have created a virtual alternative government that functions clandestinely with its own standardized and consistent modus operandi. In such a context, crimes are not clarified, and those responsible are not identified ... pressure, threats, attacks and corruption are all part of the efforts to undermine and demoralize the judiciary, who, knowing they are not able to count on a security apparatus that will guarantee that the law is enforced, feel obliged to cede in the face of this parallel power.*¹³²

UN Special Rapporteur Kumaraswamy characterized impunity as the “cancer of Guatemala,” which if not arrested and excised would slowly but surely destabilize society. He particularly warned of military pressures on the judiciary to protect its personnel from prosecution for past abuses and regretted the government’s lack of political will to address impunity and other grave judicial issues. As a result, he noted that the average citizen had little faith in the judiciary, citing a 1997 opinion poll which had found that 88 percent of Guatemalans interviewed considered the judicial system inadequate.¹³³

Ex-PAC reorganization to rebuild an electoral base

After the FRG assumed power, a concerted effort was made to reorganize the former members of the PACs. The Association of Guatemalan Military Veterans (*Asociación de Veteranos Militares de Guatemala*, AVEMILGUA) spearheaded this effort, focusing its attention in areas of the country where the army most aggressively mobilized PACs to support its “scorched earth” counter-insurgency campaign.

In 2002, AVEMILGUA helped organize massive protests by ex-PACs to demand back pay of 20,000 quetzals (about US\$2,599) each for the “service they rendered to the state” during the internal

AVEMILGUA



Founded in the mid-1990s, the Association of Guatemalan Military Veterans (AVEMILGUA) is comprised of more than 1,200 former members of the Guatemalan armed forces.¹³⁴ AVEMILGUA's stated mandate is to assist in increasing the "honor, prestige and dignity" of the army, to analyze

national strategy, and to raise awareness of the value and function of the military in a democratic state.¹³⁵ It has offices in Guatemala City and in several departments.

The current president of AVEMILGUA is retired General Víctor Manuel Argueta Villalta, who was head of the EMP (April 1982-August 1983) during Ríos Montt's presidency, and is related by marriage to Ríos Montt's wife. Villalta was an advisor to the president and vice president of the Guatemalan Congress in the 2000-2003 period. These posts were held by Ríos Montt and his daughter Zury respectively.

Gen. Edgar Augusto Godoy Gaitán, former director of army intelligence (1986-1987) and head of the EMP (1988-1991), was secretary of AVEMILGUA at the time of its founding.¹³⁶

armed conflict.¹³⁷ In June 2002, thousands of ex-patrollers took over much of the northern department of Petén. They closed the area's airport and crude oil operations, and blocked access to the famous Mayan archeological site at Tikal, holding 62 tourists hostage. Rosenda Pérez Valles, President of the Association of Former Members of the Civil Self-Defense Patrols of the department of Petén, played a leading role in organizing the protests. Her support for FRG efforts to reorganize the ex-PACs did not go unrecognized. On November 9, 2003 she was elected deputy to the Guatemala Congress for the FRG.

On July 10, 2002 President Portillo stated publicly that the former members of the PAC “were heroes that defended the country” whose requests merited attention.¹³⁸ Two months later Portillo promised to pay 20,000 quetzals (about US\$2,599) to each ex-patroller.¹³⁹ Since that time 612,000 former patrollers



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Former members of the Civil Self-Defense Patrols (PACs) demand compensation for “services rendered.”

have formally registered with the government’s Secretariat for Peace to receive compensation. Former patrollers have held multiple demonstrations around the country due to delays in the delivery of the promised payments. In May 2003, ex-members of the PACs burned down a municipal building and a market in the department of Suchitepéquez, and in late October former patrollers blocked highways and took four *Prensa Libre* journalists hostage in the department of Huehuetenango.

The reorganization of the ex-PACs and Portillo’s decision to compensate them have caused alarm in the international community. MINUGUA issued a statement expressing concern that the government had chosen to compensate “a group associated with grave violations of human rights” while at the time the national program of reparations for victims had languished.¹⁴⁰ The Inter-American Commission on Human Rights expressed

*its deep concern over the reorganization of groups of former members of the Civil Self-Defense Patrols (PAC) and the existence of clandestine structures linked to the State and to economic and other types of interest, who operate with the participation or tolerance of State agents.*¹⁴¹

The congressional and the first round of the presidential elections on November 9, 2003, were crucial for the FRG’s ability to maintain or further consolidate its political power. Many Guatemalans viewed compensation of the PACs as a blatant attempt to buy votes for the FRG in order to solidify the party’s electoral base and ensure Gen.

Ríos Montt's election as president. An editorial declared compensation of the ex-PACs "a mere electoral strategy of the FRG," and admonished the Portillo government for assuming public debt of US\$700 million in order "to obtain a pocket of funds to utilize prior to the elections."¹⁴²

If indeed payment of the ex-PACs was an FRG election strategy, it failed miserably. Voters turned out in record numbers and ousted the FRG from the executive. Ríos Montt placed a distant third with nearly 20 percent of the vote. When he steps down as president of the Guatemalan Congress in January 2004, Ríos Montt will lose his immunity, and court cases can proceed against him for his role in the genocide of the early 1980s.

Allies/inroads within other political parties

Although the defeat of the FRG is unquestionably a blow for the *hidden powers*, there are indications that they have followed a calculated strategy that has allowed them to make inroads in other political parties, and, thus, in whatever government assumes power in January 2004. Guatemalan civil society organizations have cautioned that the *hidden powers* have developed relationships with most, if not all, political parties in order to protect, strengthen and consolidate their power. In a speech prior to the elections, human rights defender Helen Mack observed that:

*It is not precise to say that the FRG and Ríos Montt embody the interests of the hidden powers. Describing it as an exclusive relationship would be a weak, limited and biased analysis. The hidden powers have managed to place people they trust in various candidacies and positions of party leadership.*¹⁴³

Concerns have also been raised that *hidden powers* and their collaborators may be making financial contributions to various political campaigns. Under Guatemalan law any such contributions need not be disclosed, and may even be anonymous, so investigating these concerns is difficult.

Many view the broad participation in political parties of retired military officers who have allegedly been involved in past human



Guatemalans wait to vote in general elections in Fray Bartolomé de las Casas, Alta Verapaz, on November 9, 2003.

rights violations as an attempt to secure power in the new government that could result in impunity for the *hidden powers* and their clandestine networks. Included among the retired military active in the political parties are Gen. (ret.) Otto Pérez Molina, who was recently elected deputy to the Guatemalan Congress for GANA and has been implicated in various human rights violations, and Col. (ret.) Mario Mérida González, deputy to Congress for UNE, who is a member of AVEMILGUA and was implicated in the killing of university student Alioto López Sánchez.

Hidden powers have managed to imbed themselves within political parties and the existing state structure and operate in the shadows in order to protect their interests. The wall of impunity that they have constructed has helped guarantee the continuation of their illegal activities. It is clear that the new president and government of Guatemala must make investigating and prosecuting the *hidden powers* a top priority.



Caption to go here

(c) JONATHAN MOLLER

Guatemalan Perspectives on *Hidden Powers*

In the past three years the problem of *hidden powers* and their clandestine groups has come to the fore in Guatemalan society. Throughout his presidency Alfonso Portillo made reference to the phenomena of *hidden powers* and clandestine groups in Guatemala. On March 1, 2000, only a month and a half after taking office, he spoke at a regional seminar on “The Formulation of Defense Policies in Democratic Societies.” Flanked by his Minister of Defense and U.S. Ambassador Prudence Bushnell, Portillo told a mixed audience of civilians and military officers that, during his short tenure, he had found that the power of the state does not rest in the presidency, but rather is unlawfully held by *hidden powers*.¹⁴⁴

Well into the second year of his term, in November 2001, Portillo declared that clandestine groups are “imbedded in the institutions of the state.”¹⁴⁵

Despite the rhetoric, the Portillo administration was slow to investigate or take steps to put a stop to the illegal activities of *hidden powers* and their clandestine groups, even as the human rights situation in the country deteriorated markedly. Prominent groups within Guatemalan civil society sounded the alarm and consistently criticized government inaction. In August 2000, the Episcopal Conference of Guatemala’s powerful Catholic Church (*Conferencia Episcopal de Guatemala*, CEG) issued a public statement arguing that the country was facing a very grave reality in terms of the deficient application of justice. The CEG cited a lack of political will and the inefficiencies of the current justice system as causes, and noted that “parallel powers, on the other hand, seek to obstruct investigations, cause anguish and fear in the people and maintain the climate of impunity.”¹⁴⁶

In March 2001, the Rigoberta Menchú Foundation, founded by the Nobel laureate, issued a press release urging that



Rigoberta Menchú Tum, Nobel Peace Prize laureate.

[...] the state take pertinent measures to turn around the deteriorating human rights situation that we face, undertaking a clear and frontal attack against clandestine groups that operate with total impunity under the protective shadow of state institutions and functionaries; that relevant investigations be initiated and carried out to the ultimate consequences, that

*those responsible be processed and condemned.*¹⁴⁷

Over the next year, as the human rights situation continued to worsen and more of their colleagues were targeted, the level of fear and exasperation grew. Human rights leaders decided that they needed to organize and take dramatic action to place the issue in the public spotlight.

Security is Not Negotiable

On March 22, 2002, eighteen Guatemalan human rights organizations jointly drafted, signed and presented a document entitled “Security Is Not Negotiable” to Vice President Juan Francisco Reyes López (who was serving in the president’s stead because Portillo was out of the country). In it they denounced a range of serious violations “from phone calls, being followed, surveillance and interception of calls, faxes and e-mail communications to ransacked homes and offices, kidnappings, assaults and assassinations.”¹⁴⁸ The text stated pointedly that:

*The illegal security forces and clandestine apparatuses cannot operate without the acquiescence of the state, so we cannot accept the state’s response when it alleges that it is unaware of their existence or that they are beyond its control.*¹⁴⁹

The organizations demanded that the Security Cabinet, composed of key government ministers,¹⁵⁰ report to them on the following three points by mid-April:

- ▶ the results of the investigation that was being carried out to identify and prosecute members of illegal security bodies and the government security apparatus acting outside of the law;
- ▶ the results of investigations carried out in relation to the many violent acts that had been denounced, leading to the identification of their intellectual and material authors; and
- ▶ security and investigative mechanisms that had been implemented to ensure the security of human rights defenders.¹⁵¹

At Reyes López's invitation, on April 16 representatives of the organizations met with the Security Cabinet. As there was no response to their demands, they reiterated the concerns set forth in the "Security Is Not Negotiable" document. The deadline for a response was extended until May 15, and then postponed again until May 27 at the Security Cabinet's request.

At a second meeting on May 28, the Security Cabinet presented two reports to the human rights leaders. In the first, the interior minister and the attorney general detailed the progress made in the investigation of nine cases, none of which had yielded positive results. They attributed the majority of the cases to common crime.

The second report had been prepared by the president's Secretariat for Strategic Analysis (SAE). The report confirmed the existence of clandestine groups in the country, but did not provide any new information or identify the *hidden powers* behind them. It concluded that "there are strong signs and UN verification of the existence of illegal security bodies and clandestine apparatuses, at least since 1993 until the present" and that "the security and justice system must take decided action to identify, dismantle and sanction those responsible for the illegal actions that have been denounced."¹⁵² An urgent confidential memorandum that accompanied the report concluded that MINUGUA reports "demonstrate that the phenomenon has been present during the political transition and in the post-war period, maintaining certain characteristics that have been accentuated in the latest period in cases in which the victims are members of social organizations."¹⁵³



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Helen Mack, human rights defender.

Apparently, there was not consensus among top-level officials in the Portillo administration about the findings of the report. In a press interview, SAE head Edgar Gutiérrez admitted that state entities had refused to cooperate in the preparation of the report, and confessed that the investigation relied primarily on information from MINUGUA.

Shortly thereafter former Defense Minister and then-Interior Minister Eduardo Arévalo Lacs commented that, “The MINUGUA reports do not prove anything. They are only an opinion. Otherwise they would serve as evidence in a trial. They cannot be discarded, but neither can they be verified.”¹⁵⁴

In late May another measure was taken by Attorney General Carlos de León Argueta, the government official with primary responsibility for investigating and prosecuting threats and attacks against human rights defenders. He named criminal lawyer Tatiana Morales as “Special Prosecutor for Threats against Humanitarian Activists” to handle these cases. Guatemalan human rights defenders generally viewed this as a token gesture and noted that without a significantly greater budget, more investigative personnel and the cooperation of other governmental institutions, Morales alone could do very little. They continued to express skepticism about the government’s willingness to fully investigate their cases.

A Presidential Commission

Meanwhile, on May 24, 2002, the executive branch emitted Governmental Accord 170-2002, creating the Presidential Commission for the Investigation of Threats and Attacks. The commission’s stated purpose was to investigate threats and abuses denounced by human rights organizations so as “to set in motion suitable legal actions in order to stop the activities of those who, sheltering themselves in anonymity, seek to sow panic among organized civil society.”¹⁵⁵ The commission, coordinated by Reyes López, was comprised of Arévalo Lacs, Gutiérrez, and de León Argueta.

Despite his appointment to the presidential commission, two days later Reyes López tried to downplay the gravity of the human rights situation in the country, explaining that:

*Guatemala, like any other country in the world, faces some issues where improvement is needed. Although the Security Cabinet becomes more active every day, this is not because problems have intensified but because all existing problems need to be addressed. A crisis does not exist regarding human rights.*¹⁵⁶

Again government officials conveyed a mixed message. Reyes López's position was sharply refuted by Guatemala's newly elected Human Rights Ombudsman, Dr. Sergio Fernando Morales Alvarado, who said

*evidence exists that [the crisis] is not an invention, but a reality and it has been recognized as such even by the executive in recent declarations. It must go further, recognize the problem, but figure out how to combat it.*¹⁵⁷

Twenty-five human rights organizations refused to work with Portillo's commission. They expressed their belief that existing state institutions should address the human rights crisis, not ad-hoc mechanisms like the commission. They further explained that they were not closed to dialogue with the government, but simply felt that any dialogue had to be conditioned upon the identification, capture and prosecution of members of the clandestine groups presumed to be responsible for the repression.¹⁵⁸ Portillo responded, saying that "We're going to investigate case by case, but if they don't help us and they don't give us information, it's going to be very difficult."¹⁵⁹

Opposition congressional deputy Nineth Montenegro of the New Nation Alliance (*Alianza Nueva Nación*, ANN) noted that Portillo often calls together ad-hoc commissions to give the appearance that he is concerned about pressing social issues, but, ultimately, no action is taken. Helen Mack concurred, stating that "a commission is a way for them to say that they are doing something when you know that nothing will get done."¹⁶⁰

A short time later, on June 7, 2002, after eleven prominent human rights leaders and journalists received a faxed death threat letter,

"TRUE GUATEMALANS"?

On June 7, 2002, shortly after the visit of Hina Jilani, the UN Secretary General's Special Representative on Human Rights Defenders, a communiqué was issued by a group calling itself "True Guatemalans." It was faxed to eleven journalists and human rights workers, threatening them with death as "enemies of the fatherland."

It proclaimed that "pseudo-human rights organizations and their sympathizers have devoted themselves to tarnishing the image of the fatherland and the triumph of democracy over communism that was won with the blood of our heroic soldiers." The letter denounced the recipients for "kissing the feet of and groveling before" Jilani.

It went on to say that, "These damned persons are a blemish on society. They are parasites of human rights, that should be exterminated as one eradicates a cancer," and ominously concluded that:

The birds should pay with their blood. The first to feel the taste of the steel of our bullets will be: Clara Arenas, Miguel Angel Albizurez, Miguel Angel Sandoval, Nery Rodenas, Frank La Rue, Mario Polanco, Abner Guoz, Marielos Monzón, Ronaldo Robles, Rosa María Bolaños, the damned Chinese woman, Helen Mack ... The list goes on. There have been plenty of warnings. Now we will act for real so that these traitors of the fatherland have something to scream about. ... Activist seen ... Activist dead!!!

government spokesman Byron Barrera again downplayed the gravity of the situation. He remarked:

Of course we're concerned, but the threats are being exaggerated ... We have many problems, like poverty and unemployment that are more serious. But that anyone could think that there are clandestine armed groups operating in Guatemala, that is absurd.¹⁶¹

Incensed and frightened, the human rights community responded. "We believe the government knows perfectly well who these clandestine groups are," said Frank La Rue, director of the Center for

Legal Action on Human Rights (*Centro para la Acción Legal en Derechos Humanos*, CALDH). “But the government is unwilling to take any action to stop them.”¹⁶²

Rejecting what they considered to be hollow overtures by the government and the president, the human rights groups requested that the Inter-American Commission on Human Rights (IACHR) of the Organization of American States (OAS) order precautionary measures in recognition of their “vulnerability.”¹⁶³ On June 13, 2002, the IACHR expressed concern about threats against Guatemalan human rights defenders, emphasizing the state’s obligation to “protect the life and physical integrity of human rights defenders and to guarantee them the full exercise of their activities in favor of human rights.”¹⁶⁴

At the end of 2002, in early December, the first National Congress of Human Rights was convened in Guatemala City. Its 165 delegates noted with concern that numerous attacks against organizations and human rights defenders had occurred, and lamented that to date those that belong to clandestine groups had not “been exhaustively investigated, prosecuted and jailed.” The Congress resolved “to call on the United Nations and the Organization of American States (OAS) to establish, jointly with the Guatemalan government, a commission to investigate armed clandestine groups, as follow up for the peace process.”¹⁶⁵

The threats and attacks against human rights defenders continued throughout 2003 (as documented earlier).



Caption to go here

(c) JONATHAN MOLLER

International Concern about *Hidden Powers*

The international community has joined in the chorus of disapproval of the persistent attacks against human rights defenders and other civil society leaders, and of the impunity with which those responsible operate in Guatemala. International donors are wary of rampant corruption and the government's inability to meet its obligations within the peace process. Proponents of free trade in the region are preoccupied by the high crime rate, money laundering schemes and organized crime activities. There is growing and resounding consensus that both the clandestine groups and the structures behind them in Guatemala need to be investigated and dismantled. This section of the report provides an accounting of actions taken by a number of key actors in the international community.

The United Nations (UN)

In 1994, the United Nations established the UN Verification Mission in Guatemala (MINUGUA) to verify efforts to end discrimination, combat impunity, strengthen institutions responsible for security (the military, the National Civilian Police and the Human Rights Ombudsman), dismantle irregular or clandestine groups, and protect human rights defenders. MINUGUA issues an annual report delineating progress in each of these areas. The reports have consistently documented the continued existence of illegal armed groups and clandestine security apparatuses in Guatemala.

After a notable spike in the number of attacks in early 2002, the United Nations augmented its human rights reporting with an official visit to Guatemala by the Secretary General's Special Representative on Human Rights Defenders, Hina Jilani. Jilani came at the invitation of the Guatemalan government. The purpose of the six-day visit was to assess the situation of human rights defenders, and specifically to examine the legal framework as well as alleged incidents relating to the defense of human rights in the country.



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Hina Jilani, UN Secretary General's Special Representative on Human Rights Defenders.

In a statement issued on June 1, 2002, at the end of the visit, Jilani

urged the Government to put an end to impunity for past and current violations and to conduct a thorough and independent investigation into the allegations of violations against human rights defenders and on the alleged

*existence of clandestine groups.*¹⁶⁶

In press interviews she stated that, “Although I have not received proof of links between the army and the National Civilian Police and clandestine groups, I have listened to reliable accounts that they exist.”¹⁶⁷ She also stressed the need to develop strategies to identify clandestine groups.

President Portillo publicly questioned Jilani’s claims about the existence of paramilitary groups with links to the army and the National Civilian Police (PNC). He said that in Guatemala, no one was capable of knowing the “absolute truth” and that anybody who said otherwise was a “liar.” He characterized Jilani’s interpretation as “very subjective” and suggested that she needed to listen to “all versions” of the story.¹⁶⁸

Some six months later, after the human rights situation in the country had deteriorated further, Jilani released another statement that read in part:

*The involvement of clandestine structures and groups in attacks against defenders and allegations of their links to state security forces is a matter of serious concern that must be addressed by the Government on an urgent basis.*¹⁶⁹

Jilani said that she had taken note of recent proposals to set up an international investigatory commission in Guatemala to investigate such allegations.

The Organization of American States (OAS)

From July 23 to 26, 2002, a delegation of the OAS Inter-American Commission on Human Rights (IACHR) also made an official visit to Guatemala to assess the situation of human rights defenders. The IACHR expressed

its deep concern over the reorganization of groups of former members of the Civil Self-Defense Patrols and the existence of clandestine structures linked to the state or to economic or other types of interests, who operate with the participation or tolerance of state agents.

It noted further that:

*The monopoly of power must be exclusively in the hands of those with a constitutional mandate, and responsible officials must apply due diligence in investigating, prosecuting, and punishing the members of so-called 'clandestine groups.'*¹⁷⁰

Another IACHR delegation visited Guatemala in March 2003 to examine the situation of human rights defenders and justice sector workers, “social cleansing” and the extra-judicial execution of adolescent gang members, and the issue of government payment of the former members of the Civil Self-Defense Patrols (PACs).

On concluding its visit, the IACHR noted that “it could not hide its serious concern over the lack of progress in matters vital to the preservation and strengthening of the rule of law.”¹⁷¹ In comparison to its previous delegation in July 2002, this time the IACHR found a significant increase in attacks and threats that evidenced a pattern of intimidation against human rights defenders.

In a preliminary report on the delegation, the IACHR concluded that

*[...] impunity, corruption, organized crime, and the social exclusion of various sectors, pose a serious danger of backsliding in the effective observance of the rule of law, and limit the full enjoyment of the human rights that the American Convention recognizes for all persons.*¹⁷²

The IACHR stated that it had continued to receive reliable information about the existence of clandestine groups and illegal security apparatuses. In its report, the IACHR noted that:

*[Clandestine groups] have been associated with drug trafficking, kidnapping, contraband, theft on a large scale, and in particular with attacks on and threats to human rights defenders, judicial officers, witnesses, journalists, trade unionists, and other social sectors.*¹⁷³

The IACHR expressed its full support for the proposed establishment of an international commission to investigate these groups.

The European Union (EU)

On April 11, 2002, by a unanimous vote, the European Parliament approved a resolution regarding the human rights situation in Guatemala. Through this resolution it manifested its concern

for the escalation in intimidation against all those involved in the efforts to confront impunity—the survivors, the witnesses, the NGOs, the journalists, the politicians, church figures, leaders of rural workers, and in particular the repeated threats against forensic scientists involved in efforts to exhume common graves for the purpose of gathering proofs for possible judgments.

The resolution asks

*the Guatemalan Government to assume its responsibility for controlling and sanctioning of clandestine groups, for the security of its citizens and for the investigation of the multiple cases of human rights violations, in part pending since ten years ago, and that it complete the dismantling of those agencies indicated in accordance with the Peace Accords.*¹⁷⁴

On December 10, 2002, the Council for Latin America (*Consejo para América Latina*, COLAT) and its delegates from the fifteen member states of the EU passed a resolution giving the Guatemalan government sixty days to take concrete actions to implement the remaining commitments of the Peace Accords, and to combat ‘parallel groups,’ drug trafficking, contraband and corruption. Philippe Combescot,

then head of the EU mission in Guatemala, said that suspension of bilateral aid to the executive was under discussion.¹⁷⁵

In April 2003, the European Parliament approved another resolution regarding the situation in Guatemala. Through the resolution, the Parliament acknowledged that based on information provided by human rights organizations

violations of human rights are on the increase and the justice system is deteriorating further, since the present government has not provided the necessary resources.

The Parliament expressed concern for the victims of the increasing violence and called on the Guatemalan government “to abolish impunity, improve civil security and guarantee human rights.”¹⁷⁶

The United States government

Senior United States officials have stated repeatedly that the government of President Alfonso Portillo is suspected of ties to drug trafficking, corruption and human rights abuses. The U.S. government has begun to take steps to address the prevailing environment of impunity in Guatemala.

In May 2002, the U.S. Department of State took the bold step of revoking the visas of several influential Guatemalans for their involvement in organized crime, drug trafficking, money laundering and corruption. The list of those denied entry into the United States included Gen. (ret.) Francisco Ortega Menaldo; banker Francisco Alvarado MacDonald and his sons; César Medina Farfán, who was allegedly involved in embezzlement within the Interior Ministry and borrowed the presidential airplane to carry out shady business deals in Panama; José Armando Llort, for his corrupt management of the National Mortgage Credit Fund; former Minister of Transportation and Infrastructure Luis Rabbé, for his alleged involvement in a corruption scandal involving 20 million dollars; and Adolfo Lacs, for his illegal appropriation of shares in the Worker's Bank. Several months later, Gen. (ret.) Manuel Antonio Callejas y Callejas and Col. (ret.) Napoleón Rojas Méndez were added to the list for their involvement in drug trafficking and organized crime.

FRANCISCO ALVARADO MACDONALD



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In March 2001, the Guatemalan government deposited a total of 1.2 billion quetzals (about US\$157 million) in two banks – *Banco Promotor* and *Banco Metropolitano* – which were known to have serious financial problems. These “Twin Banks,” as they came to be known, were owned by Francisco Alvarado MacDonald, a close friend of President Portillo’s. Alvarado MacDonald had bankrolled Portillo’s election campaign, co-signed the rental agreement on his mansion, and lent him

money for his Mercedes Benz and for other cars used by his bodyguards. Despite the infusion of cash, both banks went bankrupt and there were large losses for account holders and for the national treasury.

In July 2001, Judge Marco Antonio Posadas Pichillá upheld a temporary motion that blocked the take-over of the banks by government authorities. Newspaper articles noted that Posadas Pichillá’s ruling overstepped the bounds of his judicial authority in order to protect Alvarado MacDonald’s interests. A counter suit was filed against the judge on charges of corruption.¹⁷⁷

In addition, Alvarado MacDonald filed a civil suit against members of the Monetary Board (*Junta Monetaria*), the government entity responsible for authorizing state intervention in the banks. The suit sought compensation from Monetary Board members for the losses that Alvarado MacDonald suffered as a result of the Board’s intervention in the two banks. Civil judges allowed the suit to proceed.

In 2001, the General Supervisor of Tribunals (SGT) reviewed complaints against Posadas Pichillá in conjunction with his investigation of the fraud that bankrupted the “Twin Banks.” Judge Pichillá was removed from the bench as a result of the findings of the SGT. The U.S. Department of State reported that, “There were credible allegations that Alvarado MacDonald used his financial and political power to influence the handling of the case.”¹⁷⁸

Lizardo Sosa, president of the Central Bank of Guatemala and a member of the Monetary Board, firmly supported intervention in the “Twin Banks.” He was kidnapped in the early hours of February 25, 2002 while jogging near his home. The crime was widely viewed as political in nature. A ransom was paid and 72 hours later, Sosa was freed.

A few days later, a shoot-out ensued in Guatemala City, killing two army officers and wounding three members of the National Civilian Police (*Policía Nacional Civil*, PNC). One of the officers killed, who reportedly was dressed in civilian clothing, was shot after allegedly having shouted, “Don’t Shoot! We’re the same as you!” Government officials maintained that the incident resulted from poor communication during a joint operation. Witnesses told the press, however, that they believed the army officers were there to transport Sosa’s ransom money.¹⁷⁹

After *El Periódico* newspaper reported on irregularities in finance and luxury car import businesses belonging to Alvarado MacDonald, journalist Silvia Gereda was kidnapped.¹⁸⁰ She was one of the main people responsible for the newspaper’s investigative reporting on these matters.

In early 2002, the United States revoked the visas of Alvarado McDonald and his two sons, Carlos Alvarado and Francisco Alvarado, under a section of the Immigration and Nationality Act pertaining to individuals currently under criminal investigation.

To date, 43 charges have been brought against Alvarado McDonald accusing him of contraband, falsification of private documents, illicit granting of loans, and improper withholding, among others. Thus far McDonald has managed to avoid prosecution through the use of multiple dilatory appeals and motions.

Top-level U.S. officials have publicly condemned the current situation in Guatemala. In October 2002, testifying before a U.S. congressional committee on the threats to democratic stability in Guatemala, then-Assistant Secretary of State for Western Hemisphere Affairs Ambassador Otto J. Reich strongly criticized the Portillo government for maintaining close ties to clandestine groups. Reich described the Guatemalan government’s efforts to fight corruption as “little more than lip service.”¹⁸¹ Acting Assistant Secretary of the Bureau of International Narcotics and Law Enforcement Affairs Paul Simons testified that:

*Narcotics trafficking ...money laundering and organized crime are on the increase in Guatemala. Some of the leaders of these activities have very close ties to the president and regularly influence his decisions, especially with respect to personnel nominations in the military and ministry of government.*¹⁸²

U.S. officials testifying at the hearing also raised serious concern regarding the notable increase in attacks and intimidations against human rights defenders. In her testimony, Monica Vegas Kladakis, Senior Coordinator for Democracy and Human Rights Promotion of the Bureau of Democracy, Human Rights and Labor of the U.S. Department of State, noted that:

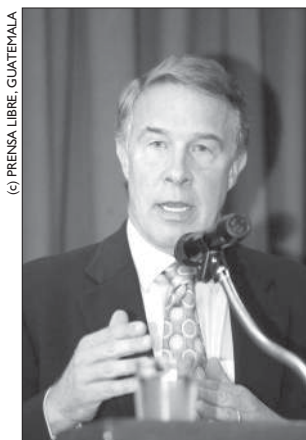
*Clandestine groups that commit human rights abuses with impunity are on the rise, and those who work to protect human rights and democracy are increasingly at risk and under threat... the clandestine groups responsible for the recent wave of threats and violence against human rights activists and forensic anthropologists may be operating with at least the tacit complicity of elements within the Guatemalan government.*¹⁸³

The United States' criticisms incited significant debate inside Guatemala and resulted in the Guatemalan government temporarily recalling its Ambassador to the United States, Ariel Rivera. Minister of Foreign Affairs Gabriel Orellana described Reich's statement as "misguided and biased."¹⁸⁴

During a visit to Guatemala in November 2002, State Department Deputy Assistant Secretary for Western Hemisphere Affairs Dan Fisk said, "I wish to reiterate my government's concerns regarding the level of corruption, drug trafficking and delinquency of the mafias in this country."¹⁸⁵ U.S. officials hammered away at this message for

several months. In March 2003, in a prepared statement, U.S. Ambassador to Guatemala John Hamilton emphasized that the increased number of attacks on human rights defenders caused the greatest concern for the United States, noting that "the obstruction of justice, threats, and intimidation also were traced to 'parallel forces' or 'clandestine groups' related to the Government."¹⁸⁶

In late 2002, U.S. government officials signaled that the United States was seriously considering declaring Guate-



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U.S. Ambassador to Guatemala
John R. Hamilton.

mala an unworthy partner in the anti-drug effort. Early in January 2003, *The Washington Post* reported that:

*Bush administration officials and key members of Congress have made it clear that they believe Central America's largest country simply lacks the political will to face the problem head-on.*¹⁸⁷

On January 31, 2003, in his annual report listing the major illicit drug-producing and drug transit countries, President George W. Bush declared that Guatemala had “failed demonstrably to make substantial efforts” in combating drug trafficking.¹⁸⁸ Even though sanctions that would have ended all U.S. assistance other than that earmarked for humanitarian and anti-drug operations were waived for national security reasons, for the first time the measure of decertification was applied to a Central American country.

Eight months later, the United States, despite noting troubling levels of corruption, re-certified Guatemala as an ally in its counternarcotics efforts. Guatemalan activists and political analysts characterized the decision to re-certify as “meaningless, given that the drug trafficking and organized criminal structures remain intact.”¹⁸⁹

In the economic sphere, although the negotiation and signing of a Central American Free Trade Agreement is a high priority for the Bush administration in the region, at least one senior U.S. official has expressed reticence, exclaiming, “We cannot sign a treaty with a country like that.”¹⁹⁰

Consultative Group process

Since the signing of the Guatemalan Peace Accords in 1996, there have been five Consultative Group meetings. The Consultative Group, generally organized by the Inter-American Development Bank, serves as a key forum for dialogue between Guatemala, international donors and multilateral agencies, and for coordinating donor assistance to Guatemala for the implementation of the Peace Accords.

During the Consultative Group meeting held in Washington, DC, in February 2002, international donors sent a strong message of dissatisfaction with the dismal state of affairs in the country by linking

international assistance to good governance, human rights and progress on the Peace Accords. At the time, the Guatemalan government pledged to accelerate the implementation of the Peace Accords; combat impunity; improve the human rights situation and citizen security; increase its tax collection and allocate sufficient amounts in the federal budget for the fulfillment of key provisions of the Accords; and promote dialogue and national unity.

Fifteen months later, in May 2003, international donors convened once again in Guatemala City to review the Guatemalan government's progress in implementing the peace agreements. There was consensus among international donors that the implementation process had fallen short of the Guatemalan government's promises. MINUGUA summed up the overall sentiment of donors in its report to the Consultative Group when it characterized the implementation of the Peace Accords from February 2002 to May 2003 as "disappointing."¹⁹¹

In its report, MINUGUA expressed serious concern regarding the ongoing acts of intimidation and threats against human rights defenders and other civil society actors. The report also states that

*the risk posed by illegal armed groups and clandestine security apparatuses continues to be a matter of grave concern. No advances have been made in the investigation and dismantling of these groups.*¹⁹²

At the meeting itself, Rolf O. Berg, the Norwegian ambassador and president of the Dialogue Group (*Grupo de Diálogo*) which is part of the Consultative Group process, observed that "impunity continues to be the norm, rather than the exception,"¹⁹³ and criticized the limited impact of the government's attempts to combat corruption.

At the close of the two-day meeting, international donors strongly urged the Guatemalan government to improve the human rights situation and citizen security; combat impunity and corruption; make definite progress in creating an international commission to investigate the clandestine groups and establish a national reparations program; increase its tax collection to 12 percent and allocate sufficient funds in the federal budget for the fulfillment of key provisions of the Accords; and comply with the military and intelligence reforms included in the Peace Accords.

Creation of an International Commission to Investigate Clandestine Groups

On January 16, 2003, in a courageous effort to address the deteriorating human rights situation in Guatemala and with support from a number of human rights organizations, the country's Human Rights Ombudsman,¹⁹⁴ Dr. Sergio Fernando Morales Alvarado, emitted a resolution calling on the government to establish an international commission to investigate the clandestine groups and illegal security apparatuses in the country, and their possible links to the state. The Ombudsman's resolution states that

[...] investigations undertaken show that in Guatemala [clandestine groups] continue violating people's rights to life, integrity, security and dignity; and that one of the sources that generates that problem is the absence of specific mechanisms that permit the restoration of the rule of law – gravely damaged by the internal armed conflict.¹⁹⁵

In the resolution the Ombudsman requested the participation of the United Nations and the Organization of American States in the commission as a measure to enhance international and domestic credibility.

Shortly after the Ombudsman's announcement, the Guatemalan Congress unanimously adopted a resolution expressing its support for the proposal and urging the government to promptly establish the commission.¹⁹⁶ Analysts believed that the government and the political parties thought it was in their electoral interest to make public gestures of support for the commission. While some government and political party officials were thought to be genuinely supportive, many others were viewed as motivated more by short-term electoral considerations than by any commitment to human rights. Given that the commission proposal had emerged out of frustration with the government's inability to move to investigate human rights abuses, many in the human rights commu-

nity doubted the sincerity of some of the politicians voicing support for the proposal. Nonetheless, activists thought it important to take advantage of the political moment and move forward with the proposal.

The same day that Congress acted, the Ministry of Foreign Affairs issued a press release stating that it had asked José Miguel Vivanco, head of the Americas Division of Human Rights Watch, to serve as facilitator between the government, the Human Rights Ombudsman, and non-governmental human rights organizations in discussions to be undertaken to define the mandate, structure and duration of such a commission.

In mid-March, after weeks of negotiations, the Guatemalan government, represented by the Minister of Foreign Affairs, Edgar Gutiérrez, the Ombudsman, and representatives of the human rights community signed an agreement about the formation of an international commission. The agreement was signed in the presence of ambassadors from the United States, Sweden, Denmark, Spain, Canada, and Mexico, among others, demonstrating the high level of international support for the proposal. According to the mandate delineated in the agreement, the Commission for the Investigation of Illegal Bodies and Clandestine Security Apparatuses (*Comisión para la Investigación de Cuerpos Ilegales y Aparatos Clandestinos de Seguridad*, CICIACS) would investigate the illegal armed groups that operate in the country and their possible connections with state actors and organized crime, with a view toward dismantling the illegal armed groups and prosecuting those responsible.¹⁹⁷

In a March 2003 letter to the UN Secretary General, the Minister of Foreign Affairs formally requested the involvement of the United Nations in the creation of the commission. The United Nations responded favorably and agreed to send a UN technical team to Guatemala to assess the viability of the proposal. Four months later, the UN team of experts visited the country to meet with Guatemalan government officials, the Human Rights Ombudsman, and representatives of human rights organizations and the international community.

In October 2003, the United Nations submitted its recommendations to the Guatemalan government on how to strengthen the initial proposal. In its analysis the UN noted that:



On March 13, 2003, Guatemala's Minister of Foreign Affairs and Human Rights Ombudsman and human rights leaders signed an agreement to establish the CICIACS.

The problems being encountered by the justice system in Guatemala in dealing effectively with these illegal structures lie not only in the procedural phase of the investigation but extend to the entire criminal proceeding, including the indictment, trial, system of remedies...and even the constitutional remedy of amparo.¹⁹⁸

Building upon the model originally proposed, the UN technical team concluded that in order for the CICIACS to be successful it required “sufficient authority to overcome the structural deficiencies of the current criminal justice system of Guatemala.” The United Nations therefore recommended that CICIACS be established as a

UN-led investigatory commission for the defense and protection of human rights, with clear powers to conduct investigations, and, where appropriate, to institute proceedings in national criminal courts and to take appropriate follow-up action. CICIACS would operate independently and be governed strictly by international law and the Guatemalan constitution.¹⁹⁹

The United Nations recommended that the CICIACS be mandated to investigate the existence of clandestine groups in the country, their association with the state and their responsibility for attacks against human rights defenders. In addition, the Commission would

have the power to investigate the groups' links to transnational crimes, including organized crime and drug trafficking.

From the beginning of the process, many in the international community have welcomed the proposal to create the Commission.

At the Consultative Group held in Guatemala City in May 2003, the United States, Canada, Sweden, the Netherlands and other international donors expressed full support for the Commission as a positive step for combating impunity and called on the Guatemalan government to take concrete steps to ensure the prompt establishment of the CICIACS.

In its eighth report on the verification of the peace agreements covering the period from May 2002 through July 2003, the United Nations Verification Mission in Guatemala (MINUGUA) makes reference to the Commission, observing that "such an investigation in tandem with greater efforts to strengthen the permanent institutions of the criminal justice system, could make an important contribution to identifying and combating such [clandestine] groups."²⁰⁰

WOLA and other international non-governmental organizations view the CICIACS as a valuable instrument in the fight against impunity. In a letter to President Portillo dated February 6, 2003, 17 U.S.-based human rights, development and religious non-governmental organizations urged the Guatemalan government to make a clear commitment to establish the Commission and to move quickly and decisively to put it in action. The letter stated pointedly that

*Guatemala has two choices: to continue to be characterized by impunity, corruption and injustice; or to embrace the promises of the 1996 Peace Accords and carry out the reforms necessary for a society based on respect for human rights.*²⁰¹

Two weeks later, 40 European, Canadian and U.S.-based non-governmental organizations reiterated this message in a paid advertisement published in the Guatemalan daily *Prensa Libre*. The ad read in part:

We...express our firm support for the proposal to establish an international commission to investigate illegal groups and clandestine

*security apparatuses in Guatemala as a clear mechanism to end the wave of violence, threats and hostilities to which human rights defenders and other representatives of civil society have been subject to in that country... We believe it is imperative that the government of Guatemala adopt decisive steps against those who seek to prevent the consolidation of the rule of law and the establishment of a firm and lasting peace in the country.*²⁰²

At the time of the publication of this report, negotiations were still taking place among the United Nations, the Guatemalan government, the Human Rights Ombudsman and human rights organizations. It is unclear whether a final agreement can be reached before the Portillo administration leaves office in January 2004. It may fall to the next government to finalize the agreement and to formally establish the Commission. International pressure will be crucial to this process.

Progress toward the establishment of the Commission has not gone unnoticed by the clandestine groups and the *hidden powers* behind them. They have directed their ire against the Human Rights Ombudsman and his staff. In April 2003, the Human Rights Ombudsman's Office in the department of Izabal was broken into. On June 11, 2003, José Israel López, regional representative of the Human Rights Ombudsman's Office in the department of Chimaltenango, was assassinated.

For the CICIACS to be successful, the government must provide the Commission access to key information and ensure the physical safety of Commission members, staff and their families, and of Guatemalans and others who come forward with valuable information. The ultimate proof of the success of the Commission, however, will be the Guatemalan government's political will to successfully dismantle the clandestine groups and the *hidden powers* behind them, its record in prosecuting those involved, and the actions it takes to prevent the reemergence of such groups.

The CICIACS represents a valuable opportunity in the effort to consolidate the rule of law in Guatemala. If successful, it will greatly facilitate Guatemalan civil society efforts to promote accountability for past abuses. The Commission could also serve as

a valuable model for other countries in the region that are struggling to combat political violence, corruption and organized crime.

Conclusions & Recommendations to Policy-makers

Hidden powers and their brutal enforcers, the clandestine groups, are deeply entrenched in Guatemala. It will not be easy to extricate their tentacles from state and society, but the stakes are high. If the peace process is to move forward in a meaningful way and democracy is to be consolidated in Guatemala, they must be brought under control and then eliminated. Their involvement in attacks on human rights defenders, in corruption schemes, organized crime and drug trafficking, undermines the functioning of legitimate state institutions. Effective governance and the rule of law will not be possible in Guatemala until clandestine groups are dismantled and their backers are held accountable.

Since the signing of the Peace Accords, some of those who participated in the counter-insurgency forces that operated during Guatemala's 36-year internal armed conflict have joined clandestine groups. Through the clandestine groups, those responsible for human rights abuses during the years of genocide and violence continue to engage in illegal activities with impunity, sowing terror among the citizens of post-conflict Guatemala. The clandestine groups and other illegal armed groups must be investigated and dismantled, as stipulated in the 1996 Peace Accords. Their members who have committed crimes and the *hidden powers* who ordered them must be brought to justice.

Developing effective strategies to ensure the demise of *hidden powers* and clandestine groups in the current context of debilitated public institutions, fragmented and tainted political parties, and weak civic actors in Guatemala will be challenging, regardless of who assumes power in the country. It will require tremendous political will, courage and tenacity on the part of government authorities, bolstered by the support of Guatemalan civil society and the international community. Political will, now seriously lacking, is key to the successful dismantling of the clandestine groups and their backers.

Although the Guatemalan government has publicly recognized the existence of clandestine groups, its efforts to investigate and eliminate the groups have been insufficient and belie a lack of political will. The wall of impunity that these groups and their sponsors have constructed to guarantee the continuity of their illegal activities has hindered the minimal efforts that have been undertaken. Unless political will is clearly demonstrated in the closing days of the Portillo administration and by the newly-elected president and Congress, the faith of Guatemalan citizens in their government and in the rule of law will continue to erode.

Policy-makers, in Guatemala and internationally, should take the following steps to address the problem of clandestine groups and *hidden powers* in Guatemala:

- ▷ Ensure the implementation of the proposal to create an international commission to investigate the existence of clandestine groups in Guatemala, their involvement in attacks on civil society actors and in crimes against those seeking justice, and any links they may have to current or former state actors, and to make recommendations for criminal prosecution or other appropriate measures.

The ability to investigate and successfully dismantle clandestine groups is both a question of political will and technical expertise. The pervasiveness of *hidden powers*, their considerable influence with state actors and their propensity for violent reprisals impair the Guatemalan government's ability to effectively investigate clandestine groups. These circumstances require that the government enter into partnership with the international community in order to mount a serious investigation of clandestine groups. An international commission comprised of experienced staff with technical expertise, unbridled access to pertinent information, and sufficient financial resources should carry out a prompt and effective investigation of clandestine groups.

In early 2002, WOLA, in conjunction with leading Guatemalan human rights organizations, began looking at different mechanisms that could serve as a model for such an endeavor. A similar commission, called the "Joint Group (*Grupo Conjunto*) for the Investigation of Illegal Armed Groups with Political Motivation in El Salvador," was established in El Salvador in 1993.²⁰³

About a year after the Peace Accords were signed in El Salvador in 1992, as the first post-war electoral campaign got underway, there was a sharp increase in political violence by clandestine groups. The governments that served as guarantors of the peace process were concerned and responded. Following discussions, the president of El Salvador asked the United Nations to establish the Joint Group. The international commission had four members – the head of the human rights office of the UN observer mission (ONUSAL), the Salvadoran government's Human Rights Ombudsman, and two presidential appointees. Assisted by a team of technical staff, the Joint Group worked intensively for six months investigating the involvement of illegal armed groups in the resurgence in political violence in the country. In July 1994, it issued a report and recommendations. A confidential annex was prepared for the Salvadoran government, listing the names of specific individuals for whom criminal proceedings were indicated.

While the results of the Joint Group's work are considered mixed, it did focus attention on the problem of clandestine groups and political attacks notably diminished. The formation of the Joint Group in El Salvador was only possible because of intense international interest and support.

As noted earlier in this report, the United Nations has, in response to a request from the Guatemalan government, proposed the creation of a UN-led investigatory commission to examine the existence of clandestine groups, their links to the state, and their responsibility for attacks on human rights defenders. Under the UN proposal, the commission would also have the authority to examine clandestine groups' links to transnational crimes. It would have the power to bring criminal cases in Guatemala courts.

At the time of publication, the United Nations was in negotiations with the Guatemalan government about the proposal. The government of Guatemala ought to endorse the proposal whole-heartedly and implement it promptly, and the international community should press the government to do so.

- ▷ Increase governmental and non-governmental capacity to continue human rights monitoring after the UN Verification Mission in Guatemala (MINUGUA) closes.

MINUGUA is scheduled to depart Guatemala at the end of 2004. Focused attention is needed now to ensure a smooth transition and ongoing, effective human rights monitoring. The international community should continue to provide targeted funding and training to governmental and non-governmental entities to help increase their capacity and technical expertise to continue human rights monitoring after MINUGUA departs, and to play appropriate roles in the dismantling of the *hidden powers*. Provision should also be made for some programmatic aspects of MINUGUA's work to be shifted to other UN agencies, like the office of the UN High Commissioner for Human Rights (UNOHCHR), the UN International Children's Fund (UNICEF) and the United Nations Development Program (UNDP).

- ▷ Enhance the ability of Guatemala's Human Rights Ombudsman to effectively implement the mandate of his office to investigate allegations of abuses perpetrated by the military, the police or any other public agency or authority.

In order to ensure continuity when MINUGUA departs, it is particularly urgent that the Human Rights Ombudsman and his staff be able to adequately monitor the human rights situation in the country. The Ombudsman is the government official in Guatemala with primary responsibility for ensuring human rights protection and defense. By law, the Ombudsman is to have functional, administrative and technical autonomy from the executive, legislative and judicial branches of government. In practice, however, despite significant financial and technical support from the international community, the Ombudsman's Office does not yet have effective autonomy. Nor has it yet demonstrated the capacity to exercise the broad-sweeping powers afforded it under the law.

To implement its mandate, the Human Rights Ombudsman's Office must have trained professional staff and sufficient budget to receive and investigate complaints from citizens regarding arbitrary administrative actions, human rights violations or other illegal behavior by Guatemalan authorities, both civilian and military, as well as by private entities that provide public services. The Ombudsman must have effective powers to protect his/her staff, and all those contribut-

ing to his/her investigations, from physical attack and from frivolous criminal or legal action.

If the links between clandestine groups and the security forces are to be severed, the Ombudsman must have the effective ability to actively investigate the conduct of the military and the police, particularly in cases involving violations of the rights to life and to physical and mental integrity. This requires, as dictated by law, that the Ombudsman and staff be able to carry out inspections of state facilities, conduct interviews with government employees, and have unbridled access to government information.

When Guatemalan or international human rights law has been violated, the Ombudsman must be able to exercise his/her power to make recommendations to the government on how to remedy the situation, including referral of cases of criminal wrongdoing to the Attorney General of the Republic. When recommendations are issued, mechanisms must be put in place within the Ombudsman's office to ensure adequate follow-up and, if necessary, further action to press for their implementation. Guatemalan civil society and the international community should also monitor the Guatemalan government's progress in complying with recommendations, and support the Ombudsman's efforts as appropriate.

▷ Link international assistance to good governance, effective respect for human rights, and the implementation of the Peace Accords and the recommendations of the Historical Clarification Commission (*Comisión de Esclarecimiento Histórico*, CEH).

Progress on good governance, human rights and the implementation of the Peace Accords and CEH recommendations will contribute to diluting the influence of the *hidden powers*. All donors must maintain and increase pressure for Guatemalan government compliance with important military, justice and social reforms included in the Peace Accords, and with CEH recommendations. This is particularly true for multilateral donors – the Inter-American Development Bank, the International Monetary Fund, the World Bank – who have been reluctant to exert influence on the Guatemalan government. Donors should work together to ensure that a consistent message is sent to the government.

At the meeting of the Consultative Group on Guatemala held with international donors in February 2002, the Guatemalan government pledged to combat impunity; improve the human rights situation and citizen security; accelerate the implementation of the Peace Accords; increase its tax collection and allocate sufficient amounts in the federal budget for the fulfillment of key provisions of the Accords; and promote dialogue and national unity. At the following Consultative Group meeting in May 2003, the Guatemalan government reiterated these commitments and pledged to combat corruption and to make definite progress in the establishment of an international commission to investigate clandestine groups. The international community must insist that the government demonstrate measurable progress on each of these commitments. International donors must demand that clear, measurable benchmarks be established to gauge progress toward the fulfillment of specific commitments made by the Guatemalan government. Donors must carefully monitor this process and demand that commitments be honored. Specifically, donors should consult on an ongoing basis with local communities and civil society representatives – including human rights leaders – and take their concerns into account in efforts to evaluate the government’s progress in meeting its commitments. Assessment of the achievement (or lack thereof) of benchmarks, and the formulation and adoption of new benchmarks building on that assessment, must be an integral part of the Consultative Group process. Decisions about future financing and aid to the Guatemalan government should be based on the government’s performance in fulfilling the commitments it has made to the international community.

- ▷ Suspend all regular military training for either the Guatemalan armed forces or the police by foreign governments and international bodies until the Guatemalan government complies with provisions of the Peace Accords on military, intelligence and police reform.

The *hidden powers* have longstanding ties to the Guatemalan security forces that must be severed. Full compliance with the military provisions prescribed in the Peace Accords would significantly debilitate the *hidden powers* by limiting their sphere of influence, yet seven years have passed and successive governments have stubbornly refused to implement them. All foreign govern-

ments and international bodies should prohibit military training to Guatemalan security forces until these provisions are fulfilled.

With regard to the United States, a congressional ban on International Military Education and Training (IMET) and Foreign Military Financing in Guatemala was established in 1990. Although the ban has been modified to permit non-combat training through expanded IMET (E-IMET) for courses such as civil-military relations, military justice, defense resource management and administration, the U.S. Congress has consistently sustained the ban and clearly expressed its rationale for doing so. The House Appropriations Committee report for the Foreign Operations appropriations bill for FY2003 maintained language from the previous year, stating:

*The Committee retains the existing ban on Foreign Military Financing and International Military Education and Training (IMET), with the exception of E-IMET, until adequate reforms of the Guatemalan armed forces are carried out as established in the peace accords.*²⁰⁴

The current ban should be maintained. In addition, it should be expanded to prohibit counter-narcotics training of the Guatemalan military.²⁰⁵

The United States should also maintain, or formalize, its *de facto* suspension of joint military exercises until Guatemala fully complies with the military reforms in the Accords.

- ▷ Ensure the total dismantling of the Presidential General Staff (*Estado Mayor Presidencial*, EMP), and the establishment of appropriate mechanisms to guarantee that any government entities (new or existing), which replace the legitimate functions of the EMP are subject to civilian oversight.

Historically, Guatemala's *hidden powers* have relied heavily on current and former EMP members for information and operational support. Implicated in multiple serious human rights violations, the EMP served a dual function for decades. It provided security for the president and the vice president and their families, and, at the same time, it was a center for military intelligence and covert activities operating out of the presidential palace.

The 1996 Peace Accords clearly stipulated that the EMP be immediately dismantled. Despite that commitment, the Guatemalan government repeatedly postponed compliance on this measure until October 31, 2003.²⁰⁶ Despite the recent dismantling, unless concrete steps are taken to ensure that EMP officers involved in human rights abuses are brought to justice and that such individuals are not reincorporated in the security forces or any other government entity (new or existing), there will be compliance with the letter but not the spirit of the Accords.

Further, concerns have also been raised regarding a recent government accord mandating that records of the EMP be transferred to the Ministry of Defense. These records, which may contain key information that could shed light on human rights violations committed by members of the EMP, should more appropriately be placed under the custodianship of civilian authorities. Such an arrangement could help prevent the military from tampering with or destroying valuable human rights information.

Moreover, the Presidential Guard – another military unit, which provides security for the president – must also be dismantled and provisions made for its functions to be assumed by another entity within the government. This would be a necessary further step towards curbing the military's ability to exert influence on the executive. Until this occurs, the Guatemalan government must immediately cease and desist from any and all transfer of funds to the presidential Guard from other line items in the federal budget.

▷ Demonstrate visible and unequivocal support for all those involved in human rights protection and anti-impunity initiatives.

The Guatemalan government is obligated to guarantee the physical safety of human rights and other civil society leaders, and all those involved in the criminal justice system, including judges, prosecutors and witnesses. The Guatemalan government and civil society, representatives of other governments and the international community must publicly support those engaged in human rights protection and anti-impunity initiatives. Positions concerning the deterioration of human rights in Guatemala must be unequivocal, and must demand investigation and prosecution of those responsible for attacks.

- ▷ Support efforts to strengthen the justice system in Guatemala.

The investigation and prosecution of those responsible for attacks by clandestine groups and other criminal activities hinges upon the effective functioning of Guatemala's justice system. The Public Ministry and the National Civilian Police must have adequate budget and staff to undertake professional criminal investigations that are thorough and prompt. Internal affairs offices must be bolstered so that Public Ministry officials, police or officers of the court who accept bribes, tamper with or destroy evidence, or commit other abuses at the behest of *hidden powers* will themselves be investigated and severely reprimanded.

- ▷ Revoke or deny visas to, and move to prosecute, Guatemalans involved in drug trafficking, organized crime and money laundering.

The United States and other governments should continue to revoke or deny visas to Guatemalans, including government officials and prominent citizens, when evidence exists of criminal wrongdoing. Further, foreign governments should actively seek the extradition of any Guatemalan charged with crimes that are subject to prosecution on their soil. Such measures would send a clear message to individuals with ties to the *hidden powers* that their activities will no longer be tolerated outside of Guatemala.

Endnotes

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- ² Juan Hernández Pico, "The Armed Wing of the 'Hidden Powers' in Action," *Envío*, April 2002, p. 26, and Adriana Beltrán, interview with Carmen Aida Ibarra, 9 December 2003.
- ³ Ibid.
- ⁴ Jaime Robles Montayo, *El 'Poder Oscuro'* (Guatemala City: Myrna Mack Foundation, September 2002), draft, pp. 89-90.
- ⁵ Amnesty International, *Guatemala's Lethal Legacy: Past Impunity and Renewed Human Rights Violations* (London: Amnesty International, International Secretariat, 28 February 2002), p. 49, <<http://www.amnesty.ca/library/amr3400102.pdf>>.
- ⁶ Myrna Mack Foundation, "Análisis Preliminar de los Hechos de Violencia contra la Comunidad de Derechos Humanos y Organizaciones Sociales de Guatemala," May-June 2002, pp. 2-3.
- ⁷ United Nations Verification Mission in Guatemala (MINUGUA), *Thirteenth Report on Human Rights of the United Nations Verification Mission in Guatemala* (New York: UN General Assembly, Fifty-seventh Session, A/57/336, paragraph 52, 22 August 2002), p. 9, <www.minugua.guate.net/Informes/INFODDHH INFO13oDDHHenglish.doc>.
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- ¹⁵ "The Armed Wing of the 'Hidden Powers,'" op.cit., p. 27.
- ¹⁶ Recovery of Historical Memory Project (REHMI), *Guatemala Never Again! The Official Report of the Human Rights Office*, Archdiocese of Guatemala, Recovery of Historical Memory (REHMI) Project (Maryknoll, NY: Orbis Books, 1999), p. 245.
- ¹⁷ "Destaca falta de liderazgo," *Prensa Libre*, 2 November 2000, p. 4.
- ¹⁸ Jennifer Schirmer, *The Guatemalan Military Project: A Violence Called Democracy* (Philadelphia: University of Pennsylvania Press, 1998), p. 23.
- ¹⁹ *Guatemala Never Again!*, op.cit., p. 252.

- ²⁰ Proyecto Interdiocesano de Recuperación de la Memoria Histórica (REHMI), *Guatemala Nunca Más*, Tomo II (San José: Imprenta LIL S.A., 1998), p. 256. WOLA staff translation.
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- ²² Tracy Wilkinson, "New Guatemalan President Orders Military Shake-up," *Los Angeles Times*, 8 June 1993, p. A10.
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- ³⁷ *The Guatemalan Military Project*, op.cit.
- ³⁸ In 1995 a federal judge in Boston ordered Gramajo to pay \$47.5 million in reparations for his role in "an indiscriminate campaign of terror against civilians." Torture survivor Sister Dianna Ortiz and eight Guatemalan massacre survivors brought the civil suit against him under the Alien Torts Act.
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- ⁵² *Ibid.*, paragraph 49.
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- ⁶³ Ibid.
- ⁶⁴ A database on Guatemalan military officers, including Miranda Trejo, is posted on the web at: <<http://www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB32/Oficiales.RTF>>.
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- ⁸³ Ruiz Wong was named Interior Minister by President Portillo and served from January to July 2000. He became the president of the Constitutional Court (Corte de Constitucionalidad) on April 14, 2003. See Claudia Méndez Villasenor, "Ruiz Wong asume Presidencia de CC," *Prensa Libre*, 15 April 2003, p. 6.

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- ⁸⁵ Pavel Avellano, “Fiscalía: Mafía estafó al gobierno en más de 80 millones de quetzales mensuales,” *La República*, 18 September 1996, p. 5.
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- ⁹⁵ *Who Governs?*, op.cit., pp. 10-11.
- ⁹⁶ *Ibid.*, p. 11.
- ⁹⁷ *Ibid.*
- ⁹⁸ Guatemala was worse than the other Central American countries with the exception of Honduras. Source: Transparency International, *Corruption Perception Index 2003* (Berlin: Transparency International, 7 October 2003), p. 5, <http://www.transparency.org/pressreleases_archive/2003/dnld/cpi2003.pressrelease.en.pdf>.
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regular military training. Since section 1004 is funded out of the defense appropriations bill, not the foreign operations appropriations bill where the ban on aid to Guatemala is included, the training does not technically violate the current congressional ban. But it is inconsistent with congressional opposition to IMET.

- ²⁰⁶ President Portillo promised to dismantle the EMP in his campaign platform and in his inaugural address. In December 2002, he presented a proposal to the Guatemalan Congress for dismantling the EMP by November 2003, shortly before the end of his term. On October 30, 2003, the Guatemalan government announced that the EMP had been officially dismantled, and that some of its legitimate functions had been transferred to the SAAS. While most welcome the dismantling of the EMP, serious concerns remain that the military may continue to exert influence within the new structure.

Abbreviations

AMCI	Asociación de Militares Contra la Impunidad <i>Association of Military Officers Against Impunity</i>
ANN	Alianza Nueva Nación <i>New Nation Alliance</i>
AVEMILGUA	Asociación de Veteranos Militares de Guatemala <i>Association of Guatemalan Military Veterans</i>
CALDH	Centro de Acción Legal en Derechos Humanos <i>Center for Legal Action on Human Rights</i>
CEG	Conferencia Episcopal de Guatemala <i>Episcopal Conference of Guatemala</i>
CEH	Comisión de Esclarecimiento Histórico <i>Historical Clarification Commission</i>
CICIACS	Comisión para la Investigación de Cuerpos Ilegales y Aparatos Clandestinos de Seguridad <i>Commission for the Investigation of Illegal Bodies and Clandestine Security Apparatuses</i>
COLAT	Consejo para América Latina <i>Council for Latin America</i>
DAE	Departamento de Análisis Estratégico del Ministerio de la Defensa <i>Department of Strategic Analysis within the Ministry of Defense</i>
DSP	Departamento de Seguridad Presidencial <i>Department of Presidential Security</i>

D-2	Dirección de Inteligencia Military <i>Intelligence Directorate</i>
EMP	Estado Mayor Presidencial <i>Presidential General Staff</i>
EU	European Union
FMM	Fundación Myrna Mack <i>Myrna Mack Foundation</i>
FRG	Frente Republicano Guatemalteco <i>Guatemalan Republican Front</i>
GAM	Grupo de Apoyo Mutuo <i>Mutual Support Group</i>
GAN	Gran Alianza Nacional <i>Great National Alliance</i>
IACHR	Inter-American Commission on Human Rights
IPES	Instituto de Estudios Políticos, Económicos y Sociales <i>Institute of Political, Economic and Social Studies</i>
MINUGUA	Misión de Verificación de las Naciones Unidas en Guatemala <i>United Nations Verification Mission in Guatemala</i>
MR	Movimiento Reformador <i>Reform Movement</i>
OAS	Organization of American States
PAC	Patrullas de Auto-Defensa Civil <i>Civil Self-Defense Patrols</i>
PAN	Partido de Acción Nacional <i>National Action Party</i>

PMA	Policía Militar Ambulante <i>Mobile Military Police</i>
PNC	Policía Nacional Civil <i>National Civilian Police</i>
PP	Partido Patriota <i>Patriot Party</i>
PSN	Partido de Solidaridad Nacional <i>National Solidarity Party</i>
REHMI	Recuperación de la Memoria Histórica <i>Recovery of Historical Memory Project</i>
SAAS	Secretaría de Asuntos Administrativos de Seguridad <i>Secretariat for Administrative Matters and Security</i>
SAE	Secretaría de Análisis Estratégico <i>Secretariat of Strategic Analysis</i>
UN	United Nations
UNE	Unidad Nueva Esperanza <i>National Unity of Hope</i>
URNG	Unidad Revolucionaria Nacional Guatemalteca <i>Guatemalan National Revolutionary Unity</i>

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