

# Totonicapán: Tension in Guatemala's Indigenous Hinterland

Latin America Report N°47 | 6 February 2013

International Crisis Group  
**Headquarters**  
Avenue Louise 149  
1050 Brussels, Belgium  
Tel: +32 2 502 90 38  
Fax: +32 2 502 50 38  
[brussels@crisisgroup.org](mailto:brussels@crisisgroup.org)

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## *Executive Summary*

On 4 October 2012, Guatemalan soldiers allegedly opened fire on Maya protestors from the highland province of Totonicapán, killing six and injuring more than 30. It was a tragedy that appeared to show not only the dangers of using the army to maintain public order but also the rising tensions within impoverished indigenous communities. Although President Otto Pérez Molina initially denied military responsibility for the shooting, he did the right thing by allowing prosecutors to conduct a thorough investigation. Now the government must step up efforts to reform and strengthen the national police, establishing clear benchmarks for the military's withdrawal from law enforcement. To minimise the risk of new confrontations, it must also address the legitimate demands of indigenous communities for access to electricity, education and land, as well as their right to be consulted about decisions that affect their culture and livelihoods.

The militarisation of law enforcement is especially perilous in a country with yawning economic inequalities between the descendants of European colonisers and the original, largely Maya, inhabitants. Protests over mining and hydroelectric projects, educational reform and access to land and public utilities, especially by the desperately poor indigenous population, are on the rise. The trigger of the October protests was high electricity prices. But the marchers also incorporated demands for affordable education and the recognition and promotion of indigenous rights.

The government and its allies within the business community are determined to pursue investments in mining and hydroelectric power that it believes will stimulate economic growth, creating jobs and generating the revenues necessary to fund both infrastructure and social programs. Opponents, including some Maya communities directly affected by those projects, fear the benefits will accrue only to a narrow elite, while the rural poor will bear the environmental and social costs.

Guatemala's recent past makes such unrest particularly dangerous. Between 1960 and 1996, the country suffered one of the most brutal counter-insurgency campaigns in Latin American history, during which, a UN commission has estimated, 200,000 people died, most of them killed by security forces in Mayan highland communities.

Both ends of the political spectrum have used the Totonicapán tragedy to evoke the past: Some activists dubbed the killings a massacre, suggesting the army deliberately gunned down protesters to suppress legitimate dissent. Some conservatives have hinted at a radical conspiracy to create martyrs and neutralise the armed forces.

President Pérez Molina has taken several steps to defuse tensions. In the case of Totonicapán, his government promoted an agreement between local officials, the electricity utility and government regulators that may lower the cost of public lighting. It has also promised to continue pushing for a rural development law (stalled in Congress) designed to combat indigenous poverty by promoting local food production and access to land.

But tension over other issues, such as mining and hydroelectric projects, continues to fuel conflict in many rural areas. The government needs to give indigenous populations a voice and a stake in the formulation and implementation of policies that will have an impact on their fundamental interests.

The onus is not on the national government alone. Local and communal authorities, as well as organisations that represent indigenous and/or rural interests, need to negotiate in good faith to reach democratic compromises on how to manage natural resources. They must also commit themselves to peaceful protests that infringe as little as possible on the rights and livelihoods of other communities.

## *Recommendations*

*To avoid future confrontations and give indigenous communities a voice and a stake in rural development*

### **To the Guatemalan authorities (national and local), security forces, investors and political parties:**

1. President Pérez Molina should commit his government to a timetable and benchmarks for police reform – including the training and equipping of units specialised in crowd control – so that the military can be withdrawn from crime fighting and other public security functions
2. Security forces should work closely with protest organisers (and vice versa) to guarantee that demonstrations can proceed peacefully with as little harm to economic activity and commuters as possible.
3. Congress should create legal means of addressing the legitimate concerns of communities about environmental degradation and the social and economic impact of hydroelectric and mining projects; and seek input from local indigenous leaders on legislation to establish the “good faith” consultations required under International Labour Organization Convention no. 169.
4. The National System of Permanent Dialogue (SNDP) should promote a comprehensive review of extractive best practices, in close consultation with investors, environmental groups and indigenous organisations, in order to devise joint strategies aimed at protecting local interests.
5. Municipal authorities, both elected and indigenous, should work together to distribute government resources in a manner that is transparent and equitable, and to set fees for public utilities, such as street lighting, in accordance with usage and income.
6. Investors should perform environmental and human rights due diligence that takes carefully into account the special needs and challenges faced by indigenous communities; and also conduct base line studies and ongoing assessments through credible mechanisms in collaboration with the community.
7. Political parties should promote indigenous participation at the highest levels and consider mechanisms to make the selection of local candidates and functionaries more democratic and open.

**Guatemala City/Bogotá/Brussels, 6 February 2013**

# Totonicapán: Tension in Guatemala's Indigenous Hinterland

## I. Introduction

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Totonicapán, a highland municipality north west of Guatemala City, seems an unlikely seedbed for social unrest. Dependent primarily on commerce and micro-industry – especially the cottage production of textiles and garments – the area has been largely immune to the conflicts over land and mining that have roiled other impoverished indigenous areas.<sup>1</sup> The Maya K'iche' inhabitants of "Toto" were relatively unscathed by the armed conflict from 1960 to 1996 that claimed tens of thousands of indigenous victims elsewhere. The leaders of the settlements known as the "48 *cantones*" (cantons) pride themselves on protecting their Maya traditions and identity from the encroachment of outside ideologies and conflicts as zealously as the old-growth forests they have claimed as community property since the days of Spanish colonisation.<sup>2</sup>

But on 4 October 2012, *Totonicapenses* found themselves at the centre of one of the worst clashes between indigenous people and the military in the sixteen years since the signing of the peace accords. A march to protest electricity rates and controversial constitutional and education reforms turned deadly when soldiers apparently fired on protestors who had blocked a winding stretch of the Pan-American Highway leading west from Guatemala City to the Mexican border. Six demonstrators died. Soldiers sustained injuries from stones thrown by the marchers, and two trucks – an army troop carrier and a private vehicle – were set on fire.<sup>3</sup>

After initially denying military involvement in the shootings, President Otto Pérez Molina ordered the army and police to cooperate with investigators. He convened the diplomatic corps, assuring it that the army would no longer intervene in social protests.<sup>4</sup> Later that week, Attorney General Claudia Paz y Paz announced that an army colonel and eight soldiers whose weapons were linked to the deaths were being charged with extrajudicial execution.<sup>5</sup> Pérez Molina promised to respect the outcome of the trial, telling reporters his government was ready to "apologise for the actions at Totonicapán" should security forces be found guilty.<sup>6</sup> But he has also

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<sup>1</sup> For the department's economy, see "Totonicapán: Plan de desarrollo departamental, 2011-2025", Secretaría de Planificación y Programación de la Presidencia (SEGEPLAN), 2011, pp. 32-34.

<sup>2</sup> For a recent analysis of the community's internal and external politics, see Stener Ekern, *Comunidad y liderazgo en la Guatemala K'iche'* (Guatemala, 2010).

<sup>3</sup> Louisa Reynolds, "Guatemala: Army kills seven indigenous protestors in Totonicapán", Latin-america Press, 11 November 2012. The death toll in later reports was reduced to six.

<sup>4</sup> Sergio Morales and Geovanni Contreras, "Embajadores solicitan revisar presencia militar en protestas", *Prensa Libre*, 9 October 2012.

<sup>5</sup> Romina Ruiz-Goiriena, "Nine soldiers detained in Guatemala protest shooting", Associated Press, 11 October 2012.

<sup>6</sup> Enma Reyes, "El Estado dispuesto a pedir perdón por sucesos en Totonicapán", *Diario de Centro América*, 12 October 2012. *Diario de Centro América* is the government paper.

issued a warning to protestors: “blocking highways and burning trucks is not peaceful protest”.<sup>7</sup>

The president is trying to walk through a political minefield. The killings exposed ideological rifts that could threaten a fragile democracy already undermined by the criminal violence and corruption fuelled by illegal drug trafficking. His government faces increasing protests – from students, peasants and indigenous groups – calling for the fulfilment of longstanding demands and angry over proposed policies they deem damaging or inadequate. But it also faces demands from business community supporters who want the retired general to use the “iron fist” his party waved during the campaign and put a stop to highway blockades and land seizures.

Given the weakness of the National Civil Police (PNC), Pérez Molina has relied heavily on the military to fight crime and contain social unrest.<sup>8</sup> His government points with pride to declining violence in the capital and surrounding municipalities, where homicides fell 19 per cent in 2012.<sup>9</sup> To highlight these achievements, the president celebrated his first year in office with a rally in a working class area of Guatemala City, where he said overall crime had dropped by 73 per cent thanks to the “Maya Task Force”, a joint army-police operation.<sup>10</sup>

But this crime-fighting strategy is almost entirely military: in the Maya Task Force soldiers outnumber police by ten to one.<sup>11</sup> Human rights advocates such as Helen Mack, who served as police reform commissioner under the previous government, term such efforts a military “occupation” that does not address the need for preventive policies, such as community policing. “What is going to happen when the military finally withdraw?”, she asked. “Won’t crime just go back up?”<sup>12</sup>

Even more problematic is the use of military force to contain demonstrations, especially in indigenous areas. The killings on 4 October showed the danger of sending troops – poorly trained, if at all, in crowd control or violence prevention – to conflictive regions, especially in a country with a long history of military rule and repression. The Totonicapán protest also laid bare rising ethnic and social tensions over such issues as power, mining and land in a society whose indigenous communities remain desperately poor and largely excluded from political institutions.

Though, according to official statistics, the Maya and other native-Guatemalan peoples are about 40 per cent of the population – indigenous activists say more than half – they have never figured prominently (measured either by numbers or posi-

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<sup>7</sup> “Presidente confirma que soldados dispararon en protestas”, *Siglo21*, 5 October 2012.

<sup>8</sup> On civilian police in Guatemala, see Crisis Group Latin America Report N°43, *Police Reform in Guatemala: Obstacles and Opportunities*, 20 July 2012. For the government’s view of its security policies, see “Report of the Working Group on the Universal Periodic Review: Guatemala”, UN Human Rights Council, A/HRC/22/8, p. 5.

<sup>9</sup> This is the percentage decrease in the department of Guatemala, which includes the capital city. In the country as a whole, murders fell by 12 per cent, continuing a decline that began in 2009. *Informe Mensual sobre la Violencia Homicida en Guatemala*, Central American Business Intelligence (CABI), vol. 1, no. 8 (January 2013), Anexo: Ranking Departamental de Violencia en 2012.

<sup>10</sup> Sofía Menchú, “El Presidente ofrece transparencia, seguridad y empleos para 2013”, *elPeriódico*, 14 January 2013.

<sup>11</sup> According to a government website, the task force deployed 1,300 soldiers and 120 police. “Desde la instalación de Fuerza de Tarea Maya, cero asesinatos en zona 18”, Gobierno de Guatemala, Secretaría de Comunicación Social de la Presidencia de la República (<http://guatemala.gob.gt>), 12 October 2012.

<sup>12</sup> Crisis Group interview, Guatemala City, 15 January 2013.

tion) in Congress, the cabinet or other national institutions.<sup>13</sup> Nor have large numbers managed to join the growing, but still relatively small, middle class. About half Guatemala's population lives in poverty, according to government statistics, including more than 10 per cent classified as extremely poor. This rises to 75 per cent for indigenous peoples, including about 25 per cent categorised as extremely poor.<sup>14</sup>

In the department of Totonicapán, whose population is both indigenous and largely rural, the extremely poor population is estimated at between 26 and 35 per cent.<sup>15</sup> Three out of four suffer from chronic malnutrition and one out of four is illiterate.<sup>16</sup> "Given the startling levels of poverty and inequality", researchers wrote recently, "the wave of protests should ... have surprised no one".<sup>17</sup>

The demonstration on 4 October was just one manifestation of the discontent within much of Guatemala's hinterland. The agricultural affairs secretariat identified 1,250 ongoing conflicts over land alone (such as invasions and evictions, disputes between communities or individuals over property lines and conflicts over access to water) during 2012.<sup>18</sup> The Office of the Human Rights Ombudsman (Procuraduría de Derechos Humanos) listed more than 1,000 conflicts (protests, roadblocks, occupations, taking officials hostage and other disturbances) in 22 departments in its 2012 annual report.<sup>19</sup>

The causes are various: The expansion of large-scale export agriculture in largely indigenous departments such as Alta Verapaz and Baja Verapaz has generated confrontations over land, amid accusations that small farmers are being pressured or tricked into selling their property. The lack of clear titles has also generated disputes

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<sup>13</sup> The 2002 census classified 39 per cent of the population as indigenous and 60 per cent as "ladino" (mixed). See Instituto Nacional de Estadística ([www.ine.gob.gt/np/poblacion/index.htm](http://www.ine.gob.gt/np/poblacion/index.htm)). The Minority Rights Group International said 51 per cent of Guatemala's population is indigenous in its "World Directory of Minorities and Indigenous Peoples – Guatemala: Maya", July 2008. Crisis Group interview, Carlos Guarquez, executive director, Asociación de Alcaldes y Autoridades Indígenas, Guatemala City, 4 December 2012. There are more than twenty distinct linguistic groups of Maya descent, according to the directory. The largest groups are the K'iche', followed by Kakchiquel, Mam and Q'eq'chi' speakers. In addition there are two small non-Maya groups: the Garífuna community, an Afro-indigenous group on the Atlantic coast, and the Xinca, most of whom live in southern Guatemala along the border with El Salvador. On the slight inclusion of Maya in political institutions, see Section III.C below.

<sup>14</sup> For overall poverty, see "Encuesta Nacional de Condiciones de Vida (ENCOVI) 2011", Instituto Nacional de Estadística, p. 9. The survey defines poverty as per capita annual income below 9,030 quetzales (approximately \$1,170) and extremely poor as below 4,400 quetzales (about \$570). For indigenous poverty, see "Política de Desarrollo Social y Población 2011", Secretariat of Planning and Programming (SEGEPLAN), p. 12.

<sup>15</sup> SEGEPLAN says extreme poverty in the department is 25 per cent, while the most recent report from the human rights ombudsman cites 34.88 per cent, making Totonicapán one of the poorest departments in the country. See "Totonicapán: Plan de Desarrollo Departamental", 2011-2025, SEGEPLAN, p. 15; and "Informe Anual Circunstanciado 2012: Situación de los Derechos Humanos en Guatemala", Jorge Eduardo De León Duque, Procurador de los Derechos Humanos, p. 197.

<sup>16</sup> According to SEGEPLAN, the prevalence of chronic malnutrition was 77 per cent and illiteracy was 27 per cent. "Totonicapán: Plan de Desarrollo", op. cit., p. 49. In the country as a whole, according to the human rights ombudsman, 49 per cent of children under five suffer chronic malnutrition and 18 per cent of adults (over fifteen) are illiterate. "Informe Anual", PDH, op. cit., pp. 64, 158.

<sup>17</sup> Anita Isaacs and Rachel Schwartz, "Repression, Resistance, and Indigenous Rights in Guatemala", *Americas Quarterly* (online), 29 January 2013.

<sup>18</sup> Sergio Morales, "Aumentan conflictos en demanda de tierras en el país", *Prensa Libre*, 4 September 2012, and "p. 236.

<sup>19</sup> Informe Anual 2012", PDH, op. cit., pp. 236-238



between small farmers or indigenous communities over claims to ancestral lands or water sources.<sup>20</sup> In both the west and east – San Marcos and Huehuetenango; Izabal and Santa Rosa – opposition to mining or hydroelectric projects has sparked protests, some of which have turned violent.<sup>21</sup>

Adding to this volatile mix is the presence of drug traffickers and the absence of law enforcement. In October, Government Minister Mauricio López Bonilla admitted that because of threats against it, the PNC – whose numbers are already thin, especially in rural areas – had withdrawn from 32 municipalities in eight central and western departments, including the border departments of San Marcos, Huehuetenango and Petén that have been penetrated by organised crime.<sup>22</sup>

The government must also contend with business and agricultural leaders who have long opposed fiscal reforms that might provide funding for both police and social programs and who are now calling for tougher action against the leaders of protest movements. Shortly after the Totonicapán killings, the powerful Cámara del Agro (Chamber of Agriculture) published a full-page advertisement accusing prosecutors (“despite the complaints we have been presenting in recent years”) of failing to go after those responsible for protests:

We Guatemalans are victims, with increasing frequency, of illegal actions that include highway blockades by people armed with machetes and stones. If the Public Ministry [public prosecutor's office] had acted according to law, we would not today be mourning the death of Guatemalans.<sup>23</sup>

The business associations have clashed directly with the president over his support for a rural development law – which includes provisions to “discourage the concentration of land” and to “stimulate the area dedicated to the production of foodstuffs” – that they claim violates property rights.<sup>24</sup> To members of the chamber, the measure is “agrarian reform”, which are fighting words in Guatemala.<sup>25</sup> Fear of land redistribution (denounced as communism) helped spark elite opposition to President Jacobo Árbenz, culminating in his ouster in a CIA-sponsored coup in 1954. Land redistribution was also a demand of the guerrilla groups that battled the security

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<sup>20</sup> Ibid.

<sup>21</sup> Guatemala has 43 hydroelectric power plants in operation, three under construction and nineteen that have been approved as projects. While they offer tremendous potential for lowering high energy costs, they have exacerbated tensions over access to water and land in rural areas. Ibid, pp. 137-140.

<sup>22</sup> Guatemala has 174 police per 100,000 inhabitants, a rate lower than its Central American neighbours. “Índice de Seguridad Pública y Ciudadana en América Latina: El Salvador, Guatemala y Honduras”, Red de Seguridad y Defensa de América Latina (RESDAL), October 2011, pp. 25, 47, 69. See also Crisis Group Report, *Police Reform*, op. cit., p. 7. On the withdrawal of police from certain municipalities, see Geoffrey Ramsey, “Police withdraw from key drug zones of Guatemala”, In-Sight Crime: Organized Crime in the Americas ([www.insightcrime.org](http://www.insightcrime.org)), 19 October 2012. A spokesman for the government ministry said that the police were returning to some municipalities but could not give precise numbers. Crisis Group telephone interview, Willy Melgar, 20 November 2012.

<sup>23</sup> “Cámara del Agro exige al ministerio público cumplir con su función para prevenir mayor conflictividad y dolor a los guatemaltecos”, full page advertisement published in *elPeriódico*, 9 October 2012. A knowledgeable official said that prosecutors are investigating attacks on security forces and the destruction of public and private property, though identifying those responsible is difficult. Crisis Group interview, 19 November 2012.

<sup>24</sup> Congreso de la República, *Iniciativa de ley 4084, Artículo 10*.

<sup>25</sup> Claudia Palma, “Disculpen señores, pero esto es una reforma agraria”, *elPeriódico*, 28 November 2012. Pérez Molina has faced opposition in his own party over passage of the law.

forces for more than 30 years.<sup>26</sup> But those controversies had barely touched the Maya K'iche' of Totonicapán.

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<sup>26</sup> One of the best histories of the prelude to the 1954 coup is Piero Gleijeses, *Shattered Hope: The Guatemalan Revolution and the United States, 1944-1954* (Princeton, 1991). On the guerrillas in a department of western Guatemala, see Paul Kobrak, *Huehuetenango: Historia de una Guerra* (Guatemala, 2003), p. 41. For analysis of tensions over land in the 1970s and 1980s, see Timothy P. Wickham-Crowley, *Guerrillas and Revolution in Latin America* (Princeton, 1992), pp. 121-23, 239-41.

## II. Totonicapán

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At the centre of San Miguel de Totonicapán's town square stands a statue of Atanasio Tzul, draped in a black cape following the killings on 4 October. Tzul led a nineteenth century revolt against the colonial tributes levied specifically on indigenous peoples. His 1820 uprising lasted less than a month, during which he ousted the mayor of San Miguel and allegedly (some historians are doubtful) put on Spanish military garb and had himself crowned king. Troops entered the town without resistance several weeks later, whipped the residents, sacked their homes and threw Tzul and other suspected ringleaders into prison.<sup>27</sup>

For the people of Totonicapán, Tzul symbolises their "spirit of independence", an apt hero for a department that remained aloof from the violence that roiled Guatemala in the mid- to late-twentieth century.<sup>28</sup> Of the largely indigenous departments in the north and west, it was the least affected by the armed conflict, even as the killing reached its bloody climax during the early 1980s. It is also the most ethnically homogeneous: 98 per cent Maya.<sup>29</sup>

The UN-sponsored Commission for Historical Clarification recorded hundreds of massacres by security forces in neighbouring Quiché (327), Huehuetenango (83), Chimaltenango (63) and Sololá (fourteen), but none in Totonicapán.<sup>30</sup> According to anthropologist Stener Ekern, who lived there for a year, residents tend to express a neutral stance toward the two sides in the conflict, blaming the guerrillas as much as the army for placing the indigenous population "in the crossfire".<sup>31</sup> Santos Augusto Norato, an academic and local indigenous leader, said slogans about agrarian reform never really "stuck" in Toto, where subsistence agriculture is secondary to the cottage textile and garment industry and commerce.<sup>32</sup>

The people of Totonicapán have not been passive in the face of policies they fear will affect their interests, however. One issue that has repeatedly triggered uprisings (perhaps in the spirit of Atanasio Tzul) is taxation. In 1987, residents, angry over sales tax changes, burst into government offices to seize and burn tax forms. In 1997, thousands blocked highways in Totonicapán and other highland municipalities to protest property tax law changes, despite assurances that small holders would be exempted. Rural opposition, combined with pressure from the powerful business

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<sup>27</sup> Victoria Reifler Bricker, *The Indian Christ, the Indian King: The Historical Substrate of Maya Myth and Ritual* (Austin, 1981), pp. 80-84. Tzul was released the following year, after Guatemala as a whole revolted and won independence from Spain.

<sup>28</sup> Ekern, *Comunidad*, op. cit., p. 50.

<sup>29</sup> "Pueblos por departamento, 2002", Instituto Nacional de Estadística.

<sup>30</sup> "Guatemala: Memoria del Silencio", Comisión de Esclarecimiento Histórico, February 1999, Section 730. The commission defined massacre as the execution of more than five defenceless people in one place during one operation. Ibid, Section 709.

<sup>31</sup> Ekern, *Comunidad*, op. cit., p. 38.

<sup>32</sup> Crisis Group interview, Totonicapán, 12 November 2012. Norato, an economics professor at the Universidad Rafael Landívar's Quetzaltenango campus, was president of the 48 cantons in 2001. According to studies cited by Ekern, agriculture provides about 20 per cent of the average family's income in the mountainous area, where soils are poor and temperatures sometimes dip below freezing. Ekern, *Comunidad*, op. cit., p. 48. The neighbouring municipality of San Francisco El Alto is an important centre for indigenous-owned garment factories whose products are sold in domestic and Central American markets. See Omar A. Ortez, "Manufacturing Firms and Local Jobs: The Influence of Competitive Strategies on Labour in the Garment Sector of San Francisco El Alto, Guatemala", master's thesis, Massachusetts Institute of Technology, 2001.

chambers, forced President Álvaro Arzú to withdraw the measure.<sup>33</sup> Then in 2001 marchers opposed to another increase in the sales tax attacked government offices, a radio station and the mayor's residence. In response the government of President Alfonso Portillo imposed a state of siege on the municipality, sending tanks to patrol the streets.<sup>34</sup>

Though willing to stand up to authorities, the people of Totonicapán have done so often to stop change, not promote it. Their affinity for traditionally conservative causes – such as opposition to taxation – has made it difficult for leftist parties to cultivate alliances there. The community's high degree of organisation, moreover, gives it electoral clout lacking in other indigenous areas. "Toto has the ability to make agreements with the government and with the parties", said Amílcar Pop, a congressman with the leftist, largely indigenous party Winaq.<sup>35</sup> "But there are problems when they [the government and parties] do not keep their promises". "Through history, the cantons of Totonicapán have taken very conservative positions", wrote Juan Luis Font in a newspaper column pointing out that if not for "racism and cultural differences", their natural allies would be on the right.<sup>36</sup>

Ricardo Falla, a Jesuit anthropologist specialising in the Maya K'iche', wrote that the tendency in Totonicapán to focus on narrow interests and forge political deals has alienated it from other grassroots organisations. The knowledge that many in Totonicapán had voted for the governing Patriot Party in the 2011 elections made the killings especially bitter. "What am I going to tell my son?", he reported hearing the widow of a 4 October marcher wail. "That the government killed them? That government that we ourselves put in power?"<sup>37</sup>

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<sup>33</sup> "Congress rescinds Guatemala's first progressive tax", Cerigua Weekly Briefs, no. 10, 5 March 1998. Proponents of the measure, including leftist parties and donors, said it would combat tax evasion by ending the self-assessment of property values.

<sup>34</sup> International Work Group for Indigenous Affairs, *The Indigenous World 2001/2002* (Copenhagen, 2002), p. 91. Crisis Group interview, Santos Norato, Totonicapán, 12 November 2012. The state of siege was lifted after four days, following negotiations between leaders of the 48 cantons and President Alfonso Portillo. See also Iván Castillo Méndez, *Descolonización Territorial, del Sujeto y la Gobernabilidad* (Guatemala, 2008), p. 278.

<sup>35</sup> Crisis Group interview, Guatemala City, 15 November 2011.

<sup>36</sup> Juan Luis Font, "Te pareces tanto a mí", *elPeriódico*, 15 October 2012.

<sup>37</sup> Ricardo Falla, "Totonicapán: la primera masacre después de la paz", *Revista Envío*, November 2012.

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### III. Indigenous Governance

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#### A. *Parallel Authorities*

The Maya of Totonicapán claim that their indigenous government is the oldest and best organised in Guatemala. The 48 cantons that make up the municipality have preserved traditions of communal service said to date from pre-Hispanic times. Each canton – they range from rural hamlets to zones within the city of San Miguel de Totonicapán – chooses a mayor and various officials charged with tasks such as maintaining order, guarding the communal forests, caring for water sources and overseeing the community thermal baths. The local mayors, who meet about once a week to conduct community business, hold a yearly assembly each November to elect the president of the 48 cantons, who serves as the municipality's *alcalde indígena* (indigenous mayor).<sup>38</sup>

This indigenous government is parallel to the municipal government that is chosen every four years in general elections, along with the president and members of congress. The municipal code of 2002 recognises the legitimacy of indigenous authorities without specifying their formal powers.<sup>39</sup> There are traditional indigenous mayoralties in about 36 of Guatemala's 332 municipalities, the strongest of which are in Totonicapán, Sololá (capitals of departments with the same name) and Chichicastenango, the largest city in the department of Quiché.<sup>40</sup> Some of these indigenous officials are still chosen by the local *principales* (notables); the majority, including most of the cantons in Totonicapán, have adopted more democratic processes.<sup>41</sup> In addition to overseeing communal tasks, these mayors resolve conflicts within the community and dispense justice through a process that often involves mediating between the disputants with the goal of coming to terms on compensation rather than punishment.<sup>42</sup>

Activists say the government is happy to pay lip-service to indigenous institutions as long as they preserve order, much as they did during Spanish times. "The state is indebted to [indigenous authorities] because they help maintain harmony and peace in the communities", said Carlos Guarquez, executive director of an association of indigenous leaders. "Crime statistics show that indigenous communities are the least violent".<sup>43</sup> Political analyst and activist Álvaro Pop said the state uses traditional leaders as interlocutors but does not recognise their authority except in times of crisis.<sup>44</sup>

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<sup>38</sup> Crisis Group interviews, Totonicapán, 12-13 November 2012. Also, Stener Ekern, "La Comunidad Maya en tiempos de cambio: ¿La base del movimiento Maya?", in Santiago Bastos Amigo and Roddy Brett (eds.), *El Movimiento Maya en la década después de la paz* (Guatemala, 2010), p. 209.

<sup>39</sup> Decreto número 12-2002, Congreso de la República de Guatemala. See also below.

<sup>40</sup> Crisis Group interview, Carlos Guarquez, Guatemala City, 4 December 2012. See also Joris van de Sandt, "Conflictos Mineros y Pueblos Indígenas en Guatemala", September 2009, p. 56. This report was financed by the Catholic Organisation for Relief and Development Aid (Cordaid) in The Hague.

<sup>41</sup> Crisis Group interview, Carlos Guarquez, executive director, an association of indigenous leaders, 4 December 2012. Ekern, *Comunidad*, op. cit., pp. 66-68.

<sup>42</sup> Jan Arno Hessbrügge and Carlos Fredy Ochoa García, "Mayan Law in Post-Conflict Guatemala", in Deborah Isser (ed.), *Customary Justice and the Rule of Law in War-Torn Societies* (Washington DC, 2011), p. 87.

<sup>43</sup> Crisis Group interview, Guatemala City, 4 December 2012.

<sup>44</sup> Crisis Group interview, Álvaro Pop, president, Organismo Naleb', Guatemala City, 30 October 2012.

Despite their essential role within the community, these indigenous institutions exist in a kind of limbo: Their legitimacy is recognised in the constitution, by international obligations and under the municipal code, but they operate without a clear official framework defining their responsibilities or functions. "In principle, the *alcaldías indígenas* claim and exercise the competence to get involved in all municipal issues", wrote Jan Arno Hessbruegge and Carlos Fredy Ochoa García in an article on post-conflict Maya law. "However, due to the general loss of indigenous influence at the municipal level, their actual power has been severely curtailed, and many have become mere annexes to the elected municipal mayor".<sup>45</sup>

Article 66 of the 1985 constitution says "the state must recognise, respect and promote the ways of life, customs, traditions, [and] forms of social organisation" of indigenous peoples. The 1996 peace accords made the government's obligations to these ethnicities more specific, including recognition of the "role of community authorities"; "equitable distribution of government expenditure"; and "representation of indigenous peoples at the local, regional and national levels".<sup>46</sup> But following the government's failure to win passage of constitutional reforms in a 1999 referendum, the sweeping agenda outlined under the agreement has stagnated. Few of the changes regarding indigenous rights have been codified in law.<sup>47</sup>

## B. Consultations

The principle of indigenous self-government was also reaffirmed in 1996 when Guatemala ratified convention 169 of the International Labour Organization (ILO), which requires it to respect the right of indigenous peoples to "retain their own customs and institutions, where these are not incompatible with fundamental rights defined by the national legal system and with internationally recognised human rights".

The convention also requires that the government "consult the peoples concerned, through appropriate procedures and in particular through their representative institutions, whenever consideration is being given to legislative or administrative measures which may affect them directly". This right has been invoked most passionately in connection with mining concessions, many of which are in highland areas with large or exclusively indigenous populations. The convention adds that these consultations shall be undertaken "in good faith" and with the goal of "achieving agreement or consent".<sup>48</sup>

It does not require conclusions of the consultations to be binding, however. Nor has the provision been translated into laws or regulations governing when and how such consultations will take place.<sup>49</sup> Regulations proposed by President Álvaro Colom in 2009 were challenged in court by indigenous groups that complained they had

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<sup>45</sup> Hessbruegge and Ochoa, "Mayan Law", op. cit., p. 87.

<sup>46</sup> "Agreement on identity and rights of indigenous peoples", Section IV.D.

<sup>47</sup> See William Stanley and David Holiday, "Broad Participation, Diffuse Responsibility: Peace Implementation in Guatemala", in Stephen John Stedman, Donald Rothchild, and Elizabeth M. Cousens (eds.), *Ending Civil Wars: The Implementation of Peace Agreements* (Boulder, 2003), pp. 421-662.

<sup>48</sup> "Indigenous and Tribal Peoples Convention", C169, International Labour Organization, 27 June 1989, Articles 6 and 8.

<sup>49</sup> Nonetheless, the constitution (Article 46) obligates the government to enforce the ILO convention: "... in human rights matters, the treaties and conventions accepted and ratified by Guatemala shall prevail over domestic law".

not even been consulted about the procedures for consultations.<sup>50</sup> The Constitutional Court in May 2011 issued a provisional *amparo* (a writ to protect constitutional rights) ordering the authorities to rewrite the regulations with “the active participation of indigenous peoples themselves”.<sup>51</sup>

The Colom government said that the draft regulations were circulated among government agencies dealing with indigenous affairs and incorporated changes recommended by the UN Special Rapporteur on the rights of indigenous peoples and by the ILO. It also solicited public comments, some of which rejected state regulation of the consultations, arguing that the process should be controlled by the communities themselves. Rather than rewrite the bill in the midst of an electoral campaign, the government suspended the process until it could count on “better social and political conditions”.<sup>52</sup>

Complicating matters, Article 20 of the 2002 municipal code states ambiguously that indigenous mayors are “forms of natural social cohesion” organised “in accord with their own norms, values and procedures”.<sup>53</sup> It further establishes that “communities or indigenous authorities” can request that the municipal council carry out consultations “when the nature of the issue affects in particular [their] rights and interests” and that the results of these consultations are binding. Nevertheless, in practical terms such consultations are not binding on national authorities, such as the energy and mining ministry (MEM), which approves licences to explore for or to extract minerals and for hydroelectric projects.<sup>54</sup>

Since 2004, there have been dozens of municipal or community consultations on mining, all of which have expressed opposition to such projects.<sup>55</sup> A regional organisation in Huehuetenango said it has helped organise 58 non-binding votes in that department alone, basing them on “ancestral principles and practices of participation and decision-making”.<sup>56</sup> But rather than the consultations envisioned by the ILO as a way to secure local “agreement or consent”, these tend to be protest votes,

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<sup>50</sup> Carlos Loarca, “El Estado de derecho de Álvaro Colom vrs. consultas de buena fe”, *Enfoque*, 30 March 2011. Some groups go further, arguing that “community consultations are ancestral practices that do not require regulation by the government”. See “Corte de constitucionalidad dictamina suspensión definitiva del reglamento de consulta propuesta por el gobierno de Guatemala”, statement by the Asamblea Departamental por la Defensa del Territorio – Huehuetenango, 9 December 2011.

<sup>51</sup> Corte de Constitucionalidad, expediente 1072-2011, 24 November 2011. See also “Report of the Committee of Experts on the Application of Conventions and Recommendations”, International Labour Organization, 2012, p. 947.

<sup>52</sup> “Propuestas recibidas por el gobierno central sobre proyecto de Reglamento de las Consultas a Pueblos Indígenas, en el marco del Convenio No. 169 de la OIT”, Government of Guatemala, 18 November 2011, at [www.dialogo.gob.gt](http://www.dialogo.gob.gt). The UN Special Rapporteur James Anaya stated that the draft regulations did not meet international standards. He also said the government had not adequately consulted with indigenous peoples about the process. “Informe del Relator Especial de Naciones Unidas sobre los derechos de los pueblos indígenas, James Anaya”, A/HRC/16/xx, 4 March 2011, p. 5. Hereafter, UN Rapporteur’s Report 2011.

<sup>53</sup> Decreto número 12-2002, Congreso de la Republica de Guatemala.

<sup>54</sup> Crisis Group telephone interview, Oscar Rosal, head of the mining development department, energy and mines ministry, Guatemala City, 6 December 2012. Rosal said the ministry did not keep track of these local *consultas* because the results were not binding.

<sup>55</sup> A document prepared by the government’s National System of Permanent Dialogue (SNDP) lists 61 community consultations from April 2004 to August 2011, mostly in the west and north west. “Consultas comunitarias realizadas en el país, entre los años 2005 y 2011”.

<sup>56</sup> Statement by the Asamblea Departamental por la Defensa del Territorio – Huehuetenango, 9 December 2011, op. cit.

organised after the fact or to prevent future licences from being granted.<sup>57</sup> Neither the national government nor the investors participate, so the community never analyses the pros and cons of any project or negotiates specific demands. Instead, community members, including children, vote in public, raising their hands and voices to register their opposition, not just to a specific project, but to mining in general.<sup>58</sup>

Conflicts over the Marlin Mine, operated by a subsidiary of the Canadian company Goldcorp, demonstrate the need to secure community support prior to initiating operations. A 2010 human rights assessment report commissioned on behalf of Goldcorp noted that the gold mine “has been controversial since its inception in 2004, and the source of continuing claims of human rights abuse, including isolated instances of violence”.<sup>59</sup> The company says it has implemented many of the report’s recommendations, consulted with members of the local community to assess their needs and concerns and invested in schools and a health clinic. It also works with a local committee to monitor the mine’s impact on the local water supply.<sup>60</sup> Despite such assessments and consultations, opposition to the mine, both local and international, continues.<sup>61</sup>

Some authors argue that the anti-mining movement is “revitalising indigenous identity”. Several highland communities where traditional Maya authorities had disappeared are engaged in the “(re)creation of indigenous mayoralties”, according to one study.<sup>62</sup> The anti-mining movement has also encouraged some communities to forge regional ties, said another. Eight Maya communities in Huehuetenango created an indigenous “parliament” (*Patq’um*) that then declared political and territorial autonomy.<sup>63</sup> Regional organisations such as the Assembly for the Defence of Territory – Huehuetenango and the Council of Maya Peoples of the West are using opposition to mining to highlight broader battles against “development imposed from

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<sup>57</sup> Raúl Maas and Elmer López, “Minería en Guatemala”, in *Perfil Ambiental de Guatemala 2010-2012. Vulnerabilidad local y creciente construcción de riesgo*, Instituto de Agricultura, Recursos Naturales y Ambiente, Universidad Rafael Landívar (2012), p. 193. Maas and López called them “community pressure mechanisms”, *ibid.*

<sup>58</sup> See Barbara Trentavizi and Eleuterio Cahuec, “Las Consultas Comunitarias de ‘Buena Fe’ y las practicas ancestrales comunitarias indígenas en Guatemala”, January 2012, pp. 26-29, 39-40. This study, posted on the website of Institute of International Relations and Investigations for Peace ([www.iripaz.org](http://www.iripaz.org)), is based on field work commissioned by the UN OHCHR, though the authors say the conclusions are their own and do not necessarily reflect UN views. According to them, “[d]espite having no clear information about what having a mine near their homes implies or about the hoarding of water by a huge hydroelectric project, residents consider these projects a threat to their way of life and express their deepest opposition”, p. 26.

<sup>59</sup> “Human Rights Assessment of Goldcorp’s Marlin Mine: Executive Summary”, Common Ground Consultants Inc., commissioned on behalf of Goldcorp by the Steering Committee for the Human Rights Impact Assessment of the Marlin Mine, May 2010, p. 4.

<sup>60</sup> For the company’s description of these efforts, see the website of Montana Exploradora, S.A., its subsidiary in Guatemala, <http://goldcorpguatemala.com>. Goldcorp’s October 2010 and April 2011 updates responding to the recommendations in the human rights assessment report are available on its website ([www.goldcorp.com](http://www.goldcorp.com)).

<sup>61</sup> See Appendix on the Marlin Mine in the UN Rapporteur’s Report 2011, *op. cit.*, p. 41. On the company’s alleged abuses, see “Time to monitor Guatemala’s mining sector?”, Inside Story Americas, Al Jazeera, 24 November 2012. For Goldcorp’s response to critics, see “Dispelling the Myths of Marlin”, on the company’s blog, “Above Ground” ([www.goldcorp.com](http://www.goldcorp.com)), 13 July 2012.

<sup>62</sup> Joris van de Sandt, “Conflictos mineros”, *op. cit.*

<sup>63</sup> Ivan Castillo Méndez, “Especificidades de los movimientos indígenas en el altiplano occidental guatemalteco en contra de la acumulación global”, in Bastos and Brett, *op. cit.*, pp. 340-341.



outside for the benefit of a small oligarchy” and “the appropriation of our land and territories”.<sup>64</sup>

Guarquez of the indigenous mayors association warned that these conflicts over mining, as well as unfulfilled demands for access to electricity, education and land, are convincing many communities that “the state is against the indigenous people”. “These communities are becoming ungovernable”, he said. “This is going to continue to generate conflict, even revolution, if the government does not take measures soon”.<sup>65</sup>

### C. *Political Inclusion*

The conflicts over mining are just one manifestation of the government’s difficulty (or disinterest) in integrating the ethnic groups that make up nearly half (and by some estimates more than half) the population. Despite elections, a plethora of parties, competitive news media and the other trappings of democracy, politicians of indigenous descent are strikingly absent from leadership at the national level.

Each of the past four presidents has appointed one indigenous minister to the relatively low-profile position of culture and sports minister.<sup>66</sup> The only Maya presidential candidate since the peace accords has been Nobel Peace Laureate Rigoberta Menchú, who won less than 4 per cent of the vote in 2011. Maya communities are also under-represented in Congress. Their percentage of deputies has risen only slightly over the past quarter century from 8 per cent in the 1986-1991 term to 14 per cent (22 of 158 lawmakers) in the current Congress.<sup>67</sup>

Totonicapán has done better than most departments: two of its four congressional deputies are Maya. Only Sololá (96 per cent Maya) has a higher percentage: indigenous legislators hold two of its three seats. In contrast, only three of the nine deputies representing Alta Verapaz (93 per cent Maya) are indigenous and only two of the eight deputies for Quiché (88 per cent Maya) are indigenous.<sup>68</sup>

Maya leaders say the reason for their poor showing in elections is simply a matter of money. As representatives of an overwhelmingly poor population, they have trouble raising campaign cash among their own supporters. The high cost of winning elections leads parties to sell positions on their lists, especially those of regionally elected deputies, to the highest bidder.<sup>69</sup> “To become a deputy you need both a base of support and money”, said Guarquez of the mayors association. “It costs between 500,000 to one million *quetzales* (about \$65,000 to \$130,000) to become a candidate”.<sup>70</sup>

The problem is compounded by the disdain many indigenous leaders feel toward the political parties, an attitude shared by the general public.<sup>71</sup> A study of indigenous

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<sup>64</sup> “Declaración política de los pueblos maya de Guatemala”, 23 October 2012, at <http://consejodepueblosdeoccidente.blogspot.com>; and “Llamado de unidad al pueblo quiche consejo de pueblos kiche”, at <http://adh-huehue.blogspot.com>.

<sup>65</sup> Crisis Group interview, Guatemala City, 4 December 2012.

<sup>66</sup> *Ibid.*

<sup>67</sup> “Participación y representación indígena en partidos políticos guatemaltecos”, Asociación de Investigación y Estudios Sociales (ASIES), October 2012, pp. 13-14.

<sup>68</sup> *Ibid.*, p. 24. Totonicapán, as noted above, is 98 per cent Maya.

<sup>69</sup> On the issue of campaign financing, see Crisis Group Latin America Briefing N°24, *Guatemala's Elections: Clean Polls, Dirty Politics*, 17 June 2011, pp. 12-14.

<sup>70</sup> Crisis Group interview, Guatemala City, 4 December 2012.

<sup>71</sup> According to a 2010 survey by the Latin American Public Opinion Project that graded confidence in political institutions on a 1 to 100 scale, parties were the least trusted political institution with a

political participation in six highland departments by a Guatemalan think-tank found that party representatives rarely interacted with the communities outside of campaign season; some even lacked departmental headquarters. "There is little relation [with communities]", said a mayor interviewed for the study, "because of the distrust the people feel toward the candidates and political parties in general".<sup>72</sup>

Participants in the study said candidates were viewed as beholden to those who financed their campaigns, not the general public.<sup>73</sup> Candidates used such financing to buy votes, they said, through methods as crude as offering "plates of food with cash attached to the bottom". Those already in office sometimes used threats to win re-election, telling voters they would lose benefits or even properties if their opponents took office. Indigenous leaders who took party posts were seen as having been co-opted without being allowed to rise to positions of authority. Those surveyed blamed partisan politics for fostering divisions within the community and even the family.<sup>74</sup>

Local leaders interviewed in Totonicapán voiced similar complaints. A former Maya mayor said that politicians sought to "co-opt" indigenous leaders and "hypnotise" the people. An official with a local NGO accused politicians of "blackmailing" voters and "taking advantage of their lack of education and poverty". "Those who have money are elected", said another, while "those of us who are poor cannot be candidates". Both indigenous and non-indigenous residents (*ladino*) took it as a given that politicians use public works to win votes. A non-indigenous businessman said it was common for local officials to start projects, such as roads, just before an election. "They'll put on just one layer of asphalt", he explained, "and tell the neighbourhood that if they win re-election they'll put on the other".<sup>75</sup>

The local chapter of Transparency International (Acción Ciudadana) estimated that corruption has consumed about one fifth of appropriated funds over the past fifteen years.<sup>76</sup> Most complaints received by the group concern municipal governments, whose spending is theoretically monitored by the Contraloría General de Cuentas, Guatemala's public accounts watchdog. But government auditors themselves have been accused of having overly chummy relations with local authorities. Mayors are protected by an immunity that can only be lifted by the courts, a process that can take months.<sup>77</sup>

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score of only 29. Congress was next to last (37). Dinorah Azpuru, et al., *Cultura política de la democracia en Guatemala, 2010* (Guatemala, 2010), pp. 120-121.

<sup>72</sup> "Participación", ASIES, op. cit., p. 37.

<sup>73</sup> Ibid, p. 38. Group interviews were conducted by ASIES in six departmental capitals (Santa Cruz del Quiché, Totonicapán, Sololá, Cobán, Chimaltenango and Quetzaltenango) with 80 politicians and 61 local or civil society representatives. On the high cost of the 2011 campaign and the lack of transparency regarding contributions, see Crisis Group Briefing, *Guatemala's Elections*, op. cit.

<sup>74</sup> "Participación", ASIES, op. cit., p. 38.

<sup>75</sup> Crisis Group interviews, Totonicapán, 12-13 November 2012. Jessica Gramajo, "Sectoros ven clientelismo en Listado Geográfico de Obras", *Prensa Libre*, 4 October 2012.

<sup>76</sup> "Corrupción: hasta 20% del presupuesto anual se pierde en Guatemala", 1 October 2012, *América Económica* ([www.americaeconomica.com](http://www.americaeconomica.com)). Guatemala scored 33 out of 100 on the Transparency International 2012 corruption perception index, where 0 means highly corrupt and 100 very clean, [www.transparency.org/cpi2012](http://www.transparency.org/cpi2012).

<sup>77</sup> Evelyn De León, "La corrupción está latente en varias alcaldías de nuestro país", *Siglo21*, 18 September 2012. A notable exception to the impunity of local authorities is the ongoing corruption trial of Adolfo Vívar Marroquín, mayor of Antigua, a colonial town near the capital that is an important magnet for foreign tourists. Vivár's immunity was lifted in August 2012, a year after prosecutors

#### D. *Legal versus Legitimate*

Municipal governments in Guatemala have considerable autonomy and are entitled to receive funding equivalent to 10 per cent of the national budget.<sup>78</sup> Mayors can also secure benefits for their constituents through the powerful Congressional Finance Committee, which distributes funding for public works and assigns contracts to local NGOs.<sup>79</sup> Few mayors are in a better position to obtain such funds from the national treasury than Totonicapán's Miguel Chavaloc, who is closely allied with brothers Iván and Edgar Arévalo, both of whom serve in Congress. Edgar Arévalo is a former mayor of Totonicapán; Iván serves as president of the finance committee.<sup>80</sup> The brothers have dominated politics in Totonicapán for about two decades, strategically changing their party affiliation three times since 1996.<sup>81</sup>

The Arévalos and Chavaloc, who has served as mayor since 2003, have often had contentious relations with the indigenous community and/or its leadership. During the anti-tax riots in 2001, protestors attacked the headquarters of a social investment fund run by Iván, and the home of Edgar, who was then mayor.<sup>82</sup> Neither brother lives in the department that they represent, according to residents, although they reportedly own homes and businesses there.<sup>83</sup> More recently the 48 cantons have clashed with Chavaloc, who is himself indigenous, accusing him of failing to account for spending on public works, charges that he denies.<sup>84</sup>

The mayor's alleged use of strong-arm tactics during and after the 2011 campaign has attracted attention outside the municipality. Market vendors along with the drivers of city taxis and minibuses told a reporter from *Prensa Libre* that he forced them to exhibit campaign posters by threatening to deny licences to those who re-

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sent their request to the Supreme Court. See Carolina Gamazo, "Retiran inmunidad al alcalde de Antigua Guatemala", *Plaza Pública*, 21 August, 2012; and Randal C. Archibold, "In Guatemalan tourist haven, corruption case is talk of the town", *The New York Times*, 21 October 2012. Vivar is accused of defrauding the city government of about \$3 million by steering over-valued contracts to firms owned by his relatives, among other schemes.

<sup>78</sup> "La distribución de las transferencias del gobierno central a las municipalidades", Centro de Investigaciones Económicas Nacionales ([www.cien.org.gt](http://www.cien.org.gt)), n.d.

<sup>79</sup> How the "geographic list of works" is compiled has long been controversial. Opponents of the governing Patriot Party accuse it of deciding behind closed doors which municipalities get public works in order to repay political favors. See Jessica Gramajo, "Secretismo empaña el Listado Geográfico de Obras", *Prensa Libre*, 27 October 2012. Similar complaints were made under the previous government. See, for example, Maria José España, "Buscan regular Listado Geográfico de Obras a través de ley de Fideicomisos", *La Hora*, 8 August 2011.

<sup>80</sup> Enrique García, "ONG vinculadas a diputados reciben presupuesto", *elPeriódico*, 25 October 2012.

<sup>81</sup> Enrique García, "En el Congreso desde hace 16 años", *elPeriódico*, 12 September 2012.

<sup>82</sup> President Alfonso Portillo negotiated directly with leaders from the 48 cantons, not the municipality, to lift the state of siege. See Castillo Méndez, *Descolonización*, op. cit., pp. 276-78.

<sup>83</sup> Crisis Group interviews, Totonicapán, 12-13 November 2013. See also "Iván Arévalo, de maestro rural a terrateniente", Grupo Seguridad y Política, 13 April 2004.

<sup>84</sup> Carlos Ventura, "Alcalde oculta información sobre manejo de finanzas", *Prensa Libre*, 24 November 2011. Chavaloc denied misusing funds, saying he had complied with government auditors. Earlier that year Chavaloc and three other municipal officials were together fined about \$18,000 for accounting "anomalies". Carlos Ventura, "CGC multa a comunas por descontrol interno", *Prensa Libre*, 15 March 2011.

fused. The mayor denied this, saying drivers publicised his campaign voluntarily.<sup>85</sup> A report by Organismo Naleb', an indigenous advocacy group based in the capital, said Chavaloc refused funding for a well in two communities that voted against him in 2011, telling their representatives not to expect municipal help as long as he remained in office.<sup>86</sup>

Indigenous leaders interviewed in Toto complained that politics had become so dirty ("satanised", said one) that Maya candidates had no chance.<sup>87</sup> It is a charge city officials dismiss as simple "jealousy". City officials "get people things that the 48 cantons cannot provide", said municipal manager Cayetano Alvarado. "There is nothing wrong with clientelism", he added. "There is no legal impediment".<sup>88</sup>

Both traditional and municipal authorities claim to represent the people of Toto. City officials emphasise that only they hold official elected posts. "We have the legal foundation", said the city manager. "The cantons do not". He dismissed the 4 October march as a publicity stunt. "Every year their leaders have to do something; otherwise they would not be noticed".<sup>89</sup>

Indigenous leaders stressed that theirs is the "legitimate" local government. They emphasised what they said is the honesty and openness of the 48 cantons in contrast to the municipality: presidents work voluntarily, serve for only one year, cannot be re-elected and must account to the communal mayors for all their actions and expenses. Far from using their position to enrich themselves and their relatives, they often leave office poorer than when they started.<sup>90</sup> In a sign that Maya authorities are willing to break with tradition, the cantons elected a young, single woman as president of the cantons for the first time in 2011; there are no elected female mayors in the department's eight municipalities.<sup>91</sup>

But the Maya government also has its critics, who charge that traditional leaders use threats to force compliance with their protests. Store owners within the city had to shut their doors for three days to show solidarity with the 4 October march. Nor were they allowed to ship any merchandise or receive supplies. If they failed to comply, they were allegedly warned that their businesses would be torched. The local economy was "shut down", said a merchant. "That's irrational".<sup>92</sup>

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<sup>85</sup> Édgar Domínguez, "Alcalde condiciona concesiones", *Prensa Libre*, 27 June 2011. Indigenous and business leaders in Toto told similar stories during Crisis Group interviews conducted in Totonicapán, 12-13 November 2012.

<sup>86</sup> "Alcalde molesto con dos aldeas donde perdió", Cuarta Misión de Observación Electoral, Boletín 7, n.d. ([www.naleb.org.gt](http://www.naleb.org.gt)).

<sup>87</sup> Crisis Group interviews, Totonicapán, 12 November 2012.

<sup>88</sup> Crisis Group interview, Totonicapán, 13 November 2012.

<sup>89</sup> Crisis Group interview, Cayetano Alvarado, 13 November 2012.

<sup>90</sup> Anthropologist Stener Ekern said to serve as an indigenous mayor "is a sacrifice. In the short term mayors lose economically because of the large amount of voluntary work required (about 35 hours a week) and in addition they run the risk of leaving unpopular because they must mediate between families and/or localities". "Para entender Totonicapán: poder local y alcaldía indígena", *Diálogo*, a monthly publication from the Facultad Latinoamericana de Ciencias Sociales (FLACSO), September 2001, p. 3.

<sup>91</sup> Carolina Gamazo, "La vara es la que manda ..." interview with Carmen Tacám, president of the 48 cantons, *Plaza Pública*, 10 September 2012. For a list of mayors elected in 2011, see [www.municipalidadesdeguatemala.info](http://www.municipalidadesdeguatemala.info).

<sup>92</sup> Crisis Group interview, business owner, Totonicapán, 13 November 2012. Two other business-people confirmed these reports, though they expressed support for some of the Cantons' demands.

Each household, especially in the smaller, more rural cantons, must allegedly take part in the demonstrations or face fines or other punishments, such as having its water supply cut off.<sup>93</sup> Toto's indigenous leaders are unapologetic about forcing participation: "All authorities must sometimes use coercive measures to make sure their norms are respected", said José Santos Sapón, president of the 48 cantons, adding that participating in demonstrations was considered part of the traditional Maya obligation to provide "service to the community".<sup>94</sup>

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<sup>93</sup> Ibid.

<sup>94</sup> Crisis Group interview, Totonicapán, 13 November 2012. Sapón was elected in November 2012 and took office in January 2013.

#### IV. The Demands of the 48 Cantons

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##### A. Electricity

Economic concerns were at the centre of the frustrations leading up to the 4 October march, as in past demonstrations. Local Maya leaders said they have complained for years to both the municipality and the electricity distributors about rising electricity bills, malfunctioning metres, burnt-out public lighting and other problems. For the poorer populations on the outskirts of Toto, forced to spend precious time and money travelling to the city to pay bills or request repairs, rising costs and poor service were especially galling. “We were always left waiting for a response”, said Victor Gutierrez, a former president of the 48 cantons. “Finally the people decided to rise up – if they do not listen to us, what are we supposed to do? What other measures can we take?”<sup>95</sup>

Particularly frustrating in Totonicapán, as in other poor communities, is the charge for “public lighting”, which is generally assessed as a fixed fee, even for those who receive the “social tariff” (subsidised rates).<sup>96</sup> The municipal government determines the amount to be charged to the community for this, and it varies widely, with poorer, more rural communities (where there are fewer users to split the cost) often paying more than those in urban areas. Even those in neighbourhoods or towns without street lights must pay the fee, which can be half their bill. “Someone with two light bulbs and no street lamps nearby pays the same as a factory”, said Jaime Tupper, of the electricity distributing company, Energuate, which advocates changing the fixed fee to a percentage.<sup>97</sup>

The municipalities have resisted modifying the billing system, which could limit their ability to use the electricity fees to cover not only the expansion of public lighting but also other costs that are not always transparent. According to energy consultant Roberto Barrera, there is little or no public oversight of these municipal charges. “It’s a blank check”, he said. “The mayors can do what they want with it”.<sup>98</sup> The high cost of energy – analysts say Guatemalan consumers pay three times the amount charged to U.S. consumers with similar usage – is an irritant for middle and working class consumers alike. But, for the very poor, paying electricity bills may mean cutting back on essentials like food, clothing or schooling. “High cost plus poor service plus lousy customer relations: the combination is a time bomb”, said Barrera.<sup>99</sup>

The 48 cantons’ demand for cheaper, better electricity was at least partially satisfied two months after the Totonicapán demonstration, when the municipality and the electricity distributor agreed to lower the public lighting fee by 20 per cent. They

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<sup>95</sup> Crisis Group interview, Totonicapán, 12 November 2012.

<sup>96</sup> The “social tariff” is a lower rate given to those who consume less than a certain number of kilowatts per month. See “tipos de tarifas”, Comisión Nacional de Energía Eléctrica (CNEE), [www.cnee.gob.gt](http://www.cnee.gob.gt). The CNEE says about 80 per cent of users in Totonicapán benefit from the social tariff. Lorena Álvarez, “Las demandas de Totonicapán”, *elPeriódico*, 10 October 2012.

<sup>97</sup> Álvarez, “Las demandas de Totonicapán”, *op. cit.*

<sup>98</sup> Crisis Group interview, Guatemala City, 12 November 2012.

<sup>99</sup> *Ibid.* Barrera and other analysts blame the flawed privatisation of the state electrical utility (EEGSA) companies in 1998 that created a non-competitive market with little oversight. Electricity companies claim their rates are lower than others in Central America, blaming municipal governments for the high bills sent to consumers. See Celso Solano, “Guatemala, 3er país con la tarifa eléctrica más alta de la región”, *Siglo21*, 26 November 2012.

also agreed that in the future the fee would be decided in consultation with indigenous authorities.<sup>100</sup>

### B. *Educational and Constitutional Reforms*

The high cost of electricity was not the only grievance behind the 4 October march. The Maya leadership of Totonicapán had decided to join other campaigns formed against proposed education and constitutional reforms, key initiatives of the Pérez Molina government. Indigenous activists said both proposals are being negotiated without the participation of indigenous communities, even though they could limit access to education and undermine indigenous culture and organisations.<sup>101</sup>

The educational reform has sparked student protests, including road blockades and skirmishes with police, in four departments, including Guatemala, resulting in dozens of injuries and arrests.<sup>102</sup> At issue is a two-year increase in the time needed to acquire a teaching degree. At present, applicants can enrol in non-collegiate “normal schools” and become teachers without post-secondary training. The reform is designed to improve the quality of education in a country where on average public school teachers scored only 40 per cent on basic math tests and 60 per cent on language tests.<sup>103</sup> But it also would make such training more expensive for prospective teachers who can ill afford to spend additional time in school.<sup>104</sup>

The indigenous leaders of Totonicapán were defending the interests of the *normalistas*, the students at one of their community's most important institutions: the Normal School of the West (Escuela Normal Rural de Occidente, ENRO). The first public secondary school in the area to admit indigenous students when it opened in 1952, it remains the only secondary school within the municipality and thus the only one easily accessible to poorer students. Although many of those graduating from ENRO never work as teachers, it is seen as a door to one of the “only respectable vocations accessible to Maya youth”.<sup>105</sup>

The Maya leaders of Totonicapán also endorsed the demands of other indigenous groups to be included in talks over constitutional reforms that the president presented to Congress in August. The changes proposed would define Guatemala in the constitution as “pluricultural, multiethnic and multilingual”, but indigenous leaders were concerned that references to “territorial integrity” might threaten their control over lands and resources, such as the old-growth forests of Totonicapán, regarded as an ancestral right.<sup>106</sup>

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<sup>100</sup> É. Domínguez, “Pobladores tendrán luz más barata”, *Prensa Libre*, 12 December 2012.

<sup>101</sup> Crisis Group interviews, Álvaro Pop, 30 October 2012, and Amílcar Pop, 15 November 2012, both in Guatemala City.

<sup>102</sup> Carlos Manoel Alvarez Morales, “PDH no avala bloqueos de estudiantes normalistas”, *Siglo21*, 8 September 2012.

<sup>103</sup> “Informe ejecutivo de los resultados de las evaluaciones aplicadas a los docentes en el año 2008”, Dirección General de Evaluación e Investigación Educativa (DIGEDUCA), Ministerio de Educación, December 2009, pp. 21, 24. The tests, administered in 2008 to 36,536 teachers throughout the country, examined math and language skills at a sixth grade level.

<sup>104</sup> The Supreme Court halted consideration of the reform, but its decision was reversed by the Constitutional Court on 12 December. See Eder Juárez, “En impasse reforma magisterial por amparo provisional de la CSJ”, *La Hora*, 26 November 2012.

<sup>105</sup> Ekern, *Comunidad*, op. cit., p. 54. According to Ekern almost all students at the school are Maya. Ladinos prefer to study in Quetzaltenango, about half an hour away by car.

<sup>106</sup> Crisis Group interviews, Totonicapán, 12-13 November 2012.

Moreover, they rejected proposed changes to Article 66 of the constitution, which provides that the state “recognises, respects and promotes the ways of life, customs, traditions, [and] social organisations” of indigenous peoples. Under the new version, “promotes” would be revised to “protects”, an alteration viewed not only as weakening the provision but also as insulting.<sup>107</sup> They objected also to language referring to “legally recognised” sacred sites. “Who is Congress to decide what is and what is not a sacred site?” asked José Santos Sapón, an indigenous lawyer from Toto.<sup>108</sup>

For Santos Sapón, who became the new president of the 48 cantons in January 2013, the objections of Maya leaders were about more than the wording of one article, however. They were about a political system that he defined as “racist”. He dismissed attempts under successive governments since 1996 to embrace multiculturalism. (“They can change Guatemala to Guatemaya: It won’t make any difference”.) He said talking with the elected mayor was a waste of time. (“No mayor has ever set up real dialogue”.) And he said the National System of Permanent Dialogue (SNPD), established in 2008, had done “nothing”. (“The truth is they just want to minimise conflict. That’s it .... They don’t present proposals; they don’t explain anything; they just tell us what they are going to do”.)<sup>109</sup>

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<sup>107</sup> Ibid. On the proposed constitutional reforms, see Gerardo Rafael, “Presidente entrega hoy al Congreso propuesta de reforma constitucional”, *Diario de Centro América*, 27 August 2012. These reforms, which also faced opposition from business leaders, appear to be shelved for now.

<sup>108</sup> Oswaldo J. Hernández, “Totonicapán, todos los ausentes”, *Plaza Pública*, 9 October 2012.

<sup>109</sup> Santos stressed that he was not speaking on behalf of the 48 cantons but expressing personal opinions. Crisis Group interview, Totonicapán, 13 November 2012.



## V. Failed Dialogues

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### A. Circuit Breakers

Miguel Ángel Balcárcel, a political analyst named commissioner of the SNDP by President Pérez Molina, said the government would open a dialogue about the electricity issue so that all the actors could understand one another. But he expressed frustration with some of the demands of the leaders, who seemed unwilling to accept that the national government could not simply order the private sector and the municipal governments to change the rates charged for consumption and public lighting. And he dismissed the demands regarding education and constitutional reform as “last-minute strategy” designed to win national attention.<sup>110</sup>

Balcárcel also expressed the view that some of those behind the demonstrations wanted to provoke violence. “It is their way to defame this government ... to confirm the perception that [this is what happens] when an ex-general, popularly elected, is the head of government”.

But the commissioner recognised that “problems were not being solved” within a political system plagued by cultural misunderstandings and institutional weakness. The government hoped to strengthen development councils that could both address local issues and serve as early warning systems to prevent violence. “What should not happen is that these conflicts go directly from the local level to the president. There should be circuit breakers at the departmental and municipal levels”, he said. “Tonicapán is a clear example where the local government has failed”.<sup>111</sup>

The SNDP, established under Colom, is only the latest attempt to create a platform for dialogue in the absence of local governments capable or willing to solve problems at the grassroots level. Guatemala's political parties – personalistic vehicles that rarely last more than a couple of electoral cycles – do not serve as effective channels to mobilise citizens and articulate their interests. Instead, each government since the 1996 peace accords has convened special units, councils and working groups to address social conflict.

President Álvaro Arzú (1996-2000) convoked “Encounters for the Realisation” (Encuentros para la Actualización) of the peace accords, which brought together representatives from political parties, NGOs, ethnic groups, business, academia and government. Alfonso Portillo (2000-2004), under the joint auspices of the UN and the Organization of American States, organised six “Multi-Sectoral Dialogue Tables”, involving some 300 organisations, to discuss rural development, human rights, justice and security, defence policy and economic development.<sup>112</sup> Óscar Berger (2004-2008) called for a new “National Accord” to reduce poverty, which again summoned representatives from the government, the non-profit sector and business.<sup>113</sup>

While these efforts may sometimes help to defuse social conflicts (or defer them to the next government), they have done little to build consensus about how to deal with the corrosive problems of corruption, insecurity and extreme poverty. The failure to achieve tangible results from successive forums, roundtables and commissions

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<sup>110</sup> Crisis Group interview, Guatemala City, 14 November 2012.

<sup>111</sup> Ibid.

<sup>112</sup> Dinorah Azpuru, *Construyendo la Democracia en Sociedades Posconflicto: Un Enfoque Comparado entre Guatemala y El Salvador* (Guatemala, 2007), p. 280.

<sup>113</sup> Luisa F. Rodríguez, Francisco González Arrecis, Jéssica Osorio, “Gobierno convoca hoy para ‘acuerdo nacional’”, *Prensa Libre*, 5 May 2006.

undermines their credibility. The problem with such initiatives, wrote Helmer Velásquez, who heads a consortium of NGOs and cooperatives, is that “the results are trivial; they absorb an impressive amount of resources in hours of work and have served only to discredit dialogue”.<sup>114</sup> In the words of the human rights ombudsman, “dialogue has become an end in itself, used as a substitute for concrete actions to resolve serious national problems”.<sup>115</sup>

Claudia Samayoa, a human rights activist, called the initiatives “dialogues of the deaf”. She faulted the government for failing to take a more active part in the discussions, especially when they pit the private sector against actors with little economic clout, such as indigenous groups. “The state needs to participate, not just act as a mediator”, she said.<sup>116</sup>

The Maya leaders of Totonicapán, with their solid organisation and conservative outlook, have generally favoured dialogue with the authorities over confrontation, according to Samayoa. But anger over electricity prices has been accumulating for years. Frustrated with the response of the municipality and the electricity distributors, they decided to take their demands to Pérez Molina. “There is no state”, she said. “So you have to go to the president himself to get anything done”.<sup>117</sup>

#### B. *The 4 October March*

The communal mayors held a media conference the day before the march announcing that a protest would block the Pan-American Highway at the Cuatro Caminos junction, which connects roads leading to Totonicapán, Huehuetenango, Quetzaltenango and Guatemala City. A delegation from the 48 cantons would arrive at the Presidential House in the capital that same day to deliver their petition personally to the president. Marchers were told to assemble by 6am [on 4 October], which meant that the mobilisation in the more distant cantons had begun by 3am.<sup>118</sup>

By 8am, thousands of marchers blocked the highway that leads from the capital to the western border with Mexico. Most were concentrated at Cuatro Caminos, but others blocked several additional points along the highway. Indigenous authorities were in contact with police officials, who kept a contingent of anti-riot special forces several kilometres away from the protest.<sup>119</sup>

But the decision was made (it is still unclear by whom) to reinforce the civil police with military anti-riot forces. Two troop carriers accompanied by a pick-up truck left their headquarters in Guatemala City between 9am and 10am. Most of the troops carried only shields and helmets and wore protective gear. But the officer in charge,

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<sup>114</sup> Helmer Velásquez, “Diálogo u ocurrencia: No es justo hacer perder a la sociedad el tiempo”, *el Periódico*, 10 May 2006. This column was written in response to President Berger’s initiative. Velásquez is executive director of CONGCOOP (Coordinación de ONGs y Cooperativas de Guatemala).

<sup>115</sup> “Informe Anual 2012”, PDH, op. cit., p. 12.

<sup>116</sup> Crisis Group interview, Guatemala City, 5 November 2012. Samayoa is coordinator of the Unit for Protection of Human Rights Defenders in Guatemala (UDEFEQUA).

<sup>117</sup> Ibid.

<sup>118</sup> Edgar Domínguez, “Anuncian bloqueos para mañana en Cuatro Caminos”, *Prensa Libre*, 3 October 2012; also, Crisis Group interviews, Totonicapán, 12-13 November 2012.

<sup>119</sup> “Totonicapán: 4 de octubre: Presentación de los hallazgos de la Oficina del Alto Comisionado de Naciones Unidas para los Derechos Humanos en Guatemala”, UN OHCHR, 11 October 2012. This description is also based on a report presented to the media by the public prosecutor’s office on 11 October 2012.

Colonel Juan Chiroy Sal, carried a weapon, as did the six soldiers who rode with him in the pick-up. The two army trucks also carried a total of seven armed soldiers.<sup>120</sup>

Prosecutors say that when Colonel Chiroy passed the police line, he ignored their signals to stop. Instead, the military convoy continued toward Cuatro Caminos, coming to a halt about 400 to 500 metres away from the junction, along a windswept portion of the road crossing a mountain known as the Cumbre de Alaska.<sup>121</sup> According to investigators and the testimony of the soldiers themselves, the contingent quickly came under attack from stone-throwing demonstrators.<sup>122</sup>

The barrage forced them to retreat to a bend in the road, where they regrouped. It was then that soldiers apparently opened fire, killing six people and injuring more than 30. Witnesses interviewed by the office of the UN High Commissioner for Human Rights (UN OHCHR) say the gunfire lasted for ten to twenty minutes; investigators who combed the scene later found more than 100 spent shells.<sup>123</sup>

Anti-riot police, who arrived to help the army, eventually dispersed the crowd using tear gas, but they could not prevent protestors from torching one of the military trucks and a privately owned cement truck stranded by the blockade.<sup>124</sup> Some of the mostly unarmed soldiers testified that they fled into the surrounding *milpas* (cornfields). Hours after the confrontation, several dozen soldiers, some of whom were wounded, remained in hiding, unable to get back to the road for fear of being attacked by “people in pick-ups with machetes”, according to the colonel’s testimony.<sup>125</sup>

Meanwhile in the capital, Balcárcel said he had spent much of the morning meeting with the 22-member delegation from Totonicapán, discussing the constitutional reform with some and sending others to the education ministry to talk about the overhaul of teacher training. Given assurances that the demonstrators would lift the blockade, the president had ordered security forces to withdraw, Balcárcel said, and was preparing to meet with the Maya leaders.<sup>126</sup> But when news broke of a confrontation at Cuatro Caminos, the Totonicapán delegation withdrew in protest.<sup>127</sup>

Both the president and the government minister responsible for the police initially insisted that the soldiers were unarmed and therefore could not have fired the fatal shots, suggesting instead that unknown gunmen (perhaps private security guards with the cement truck) had initiated the melee by firing on protestors.<sup>128</sup> After news-

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<sup>120</sup> Public prosecutor’s report, op. cit.

<sup>121</sup> This portion of the road lies just outside Totonicapán in the department of Sololá.

<sup>122</sup> Gerson Ortiz, “MP investiga a manifestantes de Totonicapán por dos delitos”, *elPeriódico*, 17 October 2012; Crisis Group interview, official familiar with the investigation, Guatemala City, 5 November 2011.

<sup>123</sup> “Totonicapán: 4 de octubre”, UN OHCHR, op. cit.

<sup>124</sup> Crisis Group interview, official close to the investigation, Guatemala City, 19 November 2011.

<sup>125</sup> Gerson Ortiz, “Mi coronel, aquí ando perdido en la montaña con 56 hombres y 10 heridos”, *el-Periódico*, 28 October 2012.

<sup>126</sup> Crisis Group interview, Guatemala City, 14 November 2012. Government Minister Mauricio López Bonilla also said that security forces had been ordered to pull back following negotiations with demonstrators who had agreed to lift their roadblocks, but it is unclear whether Chiroy was informed. Byron Rolando Vásquez, “Hubo orden de retiro de las fuerzas de seguridad”, *Prensa Libre*, 11 October 2012.

<sup>127</sup> Crisis Group interview, Miguel Ángel Balcárcel, SNDP commissioner, Guatemala City, 14 November 2012.

<sup>128</sup> “Gobierno rechaza responsabilidad en matanza”, *Siglo21*, 5 October 2012.

papers printed a photograph of a soldier apparently aiming at demonstrators, the president conceded only that some troops had admitted to firing in the air.<sup>129</sup>

### C. *The Investigation*

The government has cooperated with the public ministry (public prosecutor's office), which launched an investigation involving 125 prosecutors and about 60 technicians and analysts.<sup>130</sup> A week after the march, Attorney General Claudia Paz y Paz ordered the arrest of eight soldiers, whose weapons were linked to the fatalities, and their commander, Colonel Chiroy. The nine are charged with extrajudicial killing, while Chiroy faces additional charges of disobeying police and abandoning his troops by leaving the scene.<sup>131</sup> Judging by their last names, the colonel and most of the soldiers that were under his command – like those killed – are of Maya descent.<sup>132</sup>

The investigation continues into possible responsibilities further up the chain of command, including examination of phone records of the soldiers involved to determine from whom they may have received orders or instructions.<sup>133</sup> The accused soldiers maintain that they were attacked. One, the only woman among the defendants, testified tearfully that protesters surrounded her truck, rocking it and threatening to set it on fire with the occupants inside. She said she “threw herself” from the vehicle, fainted after being hit in the face with a stone and was dragged to safety by fellow soldiers. Colonel Chiroy denied giving orders to shoot and said he became separated from his troops when evacuating a wounded soldier.<sup>134</sup>

The demonstrators also face possible charges. Though identifying those responsible for attacking security forces and burning the two trucks is difficult, prosecutors have informed the 48 cantons that there may be arrests.<sup>135</sup> Maya leaders left open whether they would cooperate. Given tensions in the community, any attempt to question, much less detain, suspects without the leadership's help could spark further violence. “We will have to see what the charges are”, said Santos Sapón. “The [attorney general] has a delicate task”.<sup>136</sup>

### D. *Military versus Police*

The killings demonstrated the danger of sending the military to contain social protests. For many human rights defenders, it was a tragedy foretold. Helen Mack, a rights advocate and former police reform commissioner, has long warned that the

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<sup>129</sup> “Presidente confirma que soldados dispararon en protestas”, *Siglo21*, 5 October 2012.

<sup>130</sup> Public prosecutor's report, op. cit.

<sup>131</sup> Ibid; “Guatemalan soldiers arrested over Totonicapán protest killings”, BBC, 12 October 2012.

<sup>132</sup> Anthropologist Ricardo Falla wrote: “More than two thirds of [the 90 soldiers sent to the march] are clearly Maya. The other third may be, because last names do not always determine [ethnicity] with certainty”. For Falla and other commentators who suspect the colonel was following orders to disperse the demonstration, the fact that so far only indigenous soldiers and one officer – rather than the non-indigenous high command – face charges is another indication of the political system's racism. Falla, “Totonicapán: La primera masacre”, op. cit.

<sup>133</sup> Crisis Group interview, source familiar with the investigation, Guatemala City, 19 November 2012. See also Sara Solórzano, “MP investiga a autores intelectuales de matanza de campesinos en Totonicapán”, 27 November 2012.

<sup>134</sup> Ortiz, “Mi coronel, aquí ando perdido ...”, op. cit.

<sup>135</sup> Crisis Group interview, official familiar with the investigation, Guatemala City, 5 November 2011.

<sup>136</sup> Crisis Group interview, Totonicapán, 13 November 2012.

military is ill-suited to police work. “Military doctrine is not police doctrine”, she said. “The armed forces are trained to attack and destroy”.<sup>137</sup> During a visit to Guatemala in March 2012, UN High Commissioner for Human Rights Navanethem Pillay expressed concern about “reports of an increased use of the military in law-enforcement functions”. She stressed that any such participation should only be in a “police support capacity without diverting resources from the police”; must be “subject to civilian direction and control”; and needed to be “limited in time and scope”.<sup>138</sup>

The intervention on 4 October suggests how difficult it can be to force military officers to accept orders from the civilian police, a force that many of them consider inferior in discipline and status. Chiroy allegedly ignored police orders to halt, deciding on his own where to position his forces. Then apparently panicked soldiers – who formed part of a squadron of “Citizen Security” reservists used to supplement police patrols – seemingly reacted with excessive force against stone-throwing protestors.<sup>139</sup> “The members of the army apparently did not have adequate training or the equipment to use proportionate force”, according to a report issued by the Guatemala office of the UN OHCHR that said it appeared the army contingent did not even carry tear gas launchers.<sup>140</sup>

President Pérez Molina promised a week after the killings that the army would no longer be used to disperse demonstrations. But a new military protocol published on 7 November 2012 provides wide leeway for the armed forces to assist police in case of “terrorism”, “lynchings”, “alterations to ... social peace”, “criminal action derived from national disaster” and “unexpected actions provoked by organised crime”.<sup>141</sup> Nor has the government offered a timeline or benchmarks for strengthening the police and ending use of the army for public security duties.<sup>142</sup>

Although the president attracted international attention shortly after taking office by calling the war on illegal drugs a “failure”, he has stepped up efforts to combat traffickers along the borders.<sup>143</sup> Two new army brigades have been deployed over the past year to the western border with Mexico to help police combat organised crime. But the region is also home to a largely indigenous population that has clashed with security forces over mining and hydroelectric power. In May 2012, Pérez Molina declared a state of siege in the town of Santa Cruz Barillas in Huehuetenango following riots sparked by the killing of a community leader who had opposed a local hydroelectric plant.<sup>144</sup>

The government is unapologetic about using the army to help the police both against organised crime on the border and in high-crime urban areas. “The people

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<sup>137</sup> Crisis Group interview, Guatemala City, 7 December 2011.

<sup>138</sup> Press conference by Navanethem Pillay, Guatemala City, 15 March 2012.

<sup>139</sup> Gerson Ortiz, “Controversia por disturbios suscitados en Totonicapán”, *elPeriódico*, 6 October 2012; also, “Gobierno deplora trágicos sucesos del jueves en Totonicapán y decreta Duelo Nacional”, 7 October 2012, president’s web site ([www.guatemala.gob.gt](http://www.guatemala.gob.gt)).

<sup>140</sup> “Totonicapán: 4 de octubre”, UN OHCHR, op. cit.

<sup>141</sup> “Protocolo de Actuación Interinstitucional: Apoyo del Ejército a las Fuerzas de Seguridad Civil”, Acuerdo Gubernativo No. 285-2012, *Diario de Centro América*, 7 November 2012.

<sup>142</sup> Crisis Group interview, Alberto Brunori, UN OHCHR representative, Guatemala City, 21 November 2011.

<sup>143</sup> Otto Pérez Molina, “Stop following a failed policy”, *The New York Times*, 31 May 2012.

<sup>144</sup> Carolina Gamazo, “Levantamiento de Sitio en Santa Cruz Barillas”, *elPeriódico*, 19 May 2012. Police later arrested two men who allegedly worked as private security guards at the hydroelectric plant for the killing, which is still under investigation. Evelyn De León, “Capturan a responsables de muerte de campesino”, *Siglo21*, 27 May 2012.

themselves are demanding, begging for soldiers to provide them with greater security”, said Colonel Erick Escobedo, a spokesman for the defence ministry. “We have more than 150 petitions [from local governments] for brigades”.<sup>145</sup>

As the first retired army officer to assume the presidency since the end of military rule 27 years ago, Pérez Molina's actions and appointments have come under special scrutiny. He campaigned on the promise of a tough stand against criminals and under a party banner featuring a clenched fist. He has placed ex-military officials in charge of the government ministry, which oversees the National Civil Police, as well as of the National Security Council and the Secretariat for Administrative and Security Affairs, which oversees the security of the president and vice president.<sup>146</sup> Some still question the president's role during the armed conflict, when, as an army major, he commanded troops in the largely indigenous department of Quiché.<sup>147</sup>

The government insists that charges of militarisation are unfair, pointing out that previous administrations have also been forced to rely on the army to supplement the weak and highly corrupt police.<sup>148</sup> A highly placed official said that the government is moving forward on plans to restructure the police. “This is not something you can accomplish rapidly”, he explained. “The police remain institutionally weak and inefficient. You can't just inject more money to get better results”.<sup>149</sup>

According to this official, the killings of 4 October were a tragedy for both the Maya protestors and the army, which “betrayed its own promise to never again turn its weapons on civilians”. It also threatened to revive old hatreds still latent more than sixteen years after the end of the armed conflict. “The greatest threat to Guatemala today is political extremism”, he said, but how do you encourage moderation? How do you break with the past?”<sup>150</sup>

Since 4 October, the blockades and protests have continued. In San Marcos, a department bordering Mexico, protestors angered over the arrest of a local activist in a dispute over electricity blocked roads and took hostage five police, a government human rights official and two electrical company employees.<sup>151</sup> Residents of Petén and neighbouring Alta Verapaz blocked a highway for more than 30 hours demanding road repairs.<sup>152</sup> In Sololá, citizens protesting alleged irregularities in an anti-hunger program attacked municipal offices, destroying files and documents.<sup>153</sup> In Quiché, a crowd that accused the mayor of Chichicastenango of embezzling funds for rural roads set fire to buildings and vehicles.<sup>154</sup>

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<sup>145</sup> Crisis Group interview, Guatemala City, 21 November 2012.

<sup>146</sup> See Crisis Group Report, *Police Reform*, op. cit., p. 8. Also, Alejandra Gutiérrez Valdizán, “Los alfiles en el tablero de Otto Pérez”, *Plaza Pública*, 18 March 2012.

<sup>147</sup> Mica Rosenberg and Mike McDonald, “Special Report: New Guatemala leader faces questions about past”, Reuters, 10 November 2011. There are no charges against Pérez Molina for war crimes either in Guatemala or abroad.

<sup>148</sup> See Crisis Group Report, *Police Reform in Guatemala*, op. cit., pp. 8-9.

<sup>149</sup> Crisis Group interview, Guatemala City, 9 December 2012.

<sup>150</sup> Ibid.

<sup>151</sup> Douglas Gámez, “Capturan a supuesto responsable de retención de policías y PDH”, Agencia Guatemalteca de Noticias, 9 November 2012; “Pobladores de Malacatán bloquean carreteras”, *Siglo21*, 23 October 2012.

<sup>152</sup> Rigoberto Escobar, “Campesinos levantan bloqueo luego de 30 horas”, *Prensa Libre*, 14 October 2012.

<sup>153</sup> Ángel Julajuj, “Turba causa destrozos en comuna”, *Prensa Libre*, 24 October 2012.

<sup>154</sup> Óscar Figueroa and Byron Vásquez, “Inconformes causan ola de destrucción en Chichicastenango”, *Prensa Libre*, 17 January 2013.

Tensions are not limited to indigenous regions in the west and north. A protest against the Escobal silver mine under development in the south-eastern department of Jalapa turned violent in November 2012, when crowds attacked a hotel and set vehicles on fire. In the chaos, unknown assailants also allegedly stole a cargo of explosives apparently destined for the mine. Demonstrators told local reporters they were angry because authorities had ignored their informal vote on 11 November that rejected mining in the area.<sup>155</sup>

In a disturbing echo of Guatemala's violent past, men wearing ski masks and armed with assault rifles blocked a road leading to the Escobal mine on 12 January 2012. Two security guards and one attacker died in a firefight that lasted about an hour. Although no one claimed responsibility, President Pérez Molina called the incident an act of "terrorism" carried out by assailants who "appeared to want to return to the years of internal armed conflict". Government Minister López Bonilla suggested that the attackers might be linked to drug trafficking.<sup>156</sup>

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<sup>155</sup> Hugo Oliva and Oswaldo Cardona, "Vecinos de Mataquescuintla ocasionan disturbios contra la minería", *Prensa Libre*, 19 November 2012; "Fuerzas de seguridad buscan explosivos robados en Jalapa", *Prensa Libre*, 21 November 2012.

<sup>156</sup> Gerardo Rafael, "Ven terrorismo en ataque a guardias", *Diario de Centro América*, 14 January 2013.

## VI. Conclusion

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Totonicapán is at once atypical and typical of the hinterland. Its largely indigenous population is unusually well organised in the 48 cantons, one of the oldest and most respected communal structures in Guatemala. But *Totonicapenses* share the grinding poverty suffered by most indigenous people throughout Guatemala, with high rates of malnutrition and illiteracy. Indigenous authorities may enjoy local legitimacy, but they lack the political and economic clout to provide their people with the basic services and opportunities they demand.

Elected authorities, meanwhile, lack legitimacy. In Toto, as in much of Guatemala, local leaders and business people dismiss the political parties as vehicles for individual candidates rather than organisations that represent popular interests and ideals. Many perceive the municipal government as a machine to reward political supporters, rather than an institution designed to promote community welfare. Weak democratic institutions and abysmal poverty plus ethnic mistrust together create the perfect conditions for social conflict.

The killing of six protestors on 4 October 2012 was a tragedy foretold by those who have long warned against using the armed forces to maintain domestic peace. It reflects the country's failure to build civilian security forces capable of maintaining order, as required under the 1996 peace accords. But it also reflects even deeper shortcomings in democratic institutions that remain unresponsive to the sufferings of Guatemala's impoverished indigenous hinterland. The government needs urgently to strengthen discredited democratic institutions at the national and local level. It also needs to develop mechanisms that will make indigenous peoples equal participants in democratic life and economic development.

**Guatemala City/Bogotá/Brussels, 6 February 2013**



Appendix A: Map of Guatemala



## Appendix B: About the International Crisis Group

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The International Crisis Group (Crisis Group) is an independent, non-profit, non-governmental organisation, with some 150 staff members on five continents, working through field-based analysis and high-level advocacy to prevent and resolve deadly conflict.

Crisis Group's approach is grounded in field research. Teams of political analysts are located within or close by countries at risk of outbreak, escalation or recurrence of violent conflict. Based on information and assessments from the field, it produces analytical reports containing practical recommendations targeted at key international decision-takers. Crisis Group also publishes *CrisisWatch*, a twelve-page monthly bulletin, providing a succinct regular update on the state of play in all the most significant situations of conflict or potential conflict around the world.

Crisis Group's reports and briefing papers are distributed widely by email and made available simultaneously on the website, [www.crisisgroup.org](http://www.crisisgroup.org). Crisis Group works closely with governments and those who influence them, including the media, to highlight its crisis analyses and to generate support for its policy prescriptions.

The Crisis Group Board – which includes prominent figures from the fields of politics, diplomacy, business and the media – is directly involved in helping to bring the reports and recommendations to the attention of senior policy-makers around the world. Crisis Group is chaired by former U.S. Undersecretary of State and Ambassador Thomas Pickering. Its President and Chief Executive since July 2009 has been Louise Arbour, former UN High Commissioner for Human Rights and Chief Prosecutor for the International Criminal Tribunals for the former Yugoslavia and for Rwanda.

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**February 2013**

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## Appendix C: Reports and Briefings on Latin America and the Caribbean since 2010

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*Haiti: Stabilisation and Reconstruction after the Quake*, Latin America/Caribbean Report N°32, 31 March 2010 (also available in French).

*Guatemala: Squeezed Between Crime and Impunity*, Latin America Report N°33, 22 June 2010 (also available in Spanish).

*Improving Security Policy in Colombia*, Latin America Briefing N°23, 29 June 2010 (also available in Spanish).

*Colombia: President Santos's Conflict Resolution Opportunity*, Latin America Report N°34, 13 October 2010 (also available in Spanish).

*Haiti: The Stakes of the Post-Quake Elections*, Latin America/Caribbean Report N°35, 27 October 2010.

*Learning to Walk without a Crutch: The International Commission Against Impunity in Guatemala*, Latin America Report N°36, 31 May 2011 (also available in Spanish).

*Guatemala's Elections: Clean Polls, Dirty Politics*, Latin America Briefing N°24, 17 June 2011 (also available in Spanish).

*Post-quake Haiti: Security Depends on Resettlement and Development*, Latin America Briefing N°25, 28 June 2011.

*Cutting the Links Between Crime and Local Politics: Colombia's 2011 Elections*, Latin America Report N°37, 25 July 2011 (also available in Spanish).

*Violence and Politics in Venezuela*, Latin America Report N°38, 17 August 2011 (also available in Spanish).

*Keeping Haiti Safe: Police Reform*, Latin America/Caribbean Briefing N°26, 8 September 2011 (also available in French and Spanish).

*Guatemala: Drug Trafficking and Violence*, Latin America Report N°39, 11 October 2011 (also available in Spanish).

*Keeping Haiti Safe: Justice Reform*, Latin America/Caribbean Briefing N°27, 27 October 2011 (also available in French).

*Moving Beyond Easy Wins: Colombia's Borders*, Latin America Report N°40, 31 October 2011 (also available in Spanish).

*Dismantling Colombia's New Illegal Armed Groups: Lessons from a Surrender*, Latin America Report N°41, 8 June 2012 (also available in Spanish).

*Dangerous Uncertainty ahead of Venezuela's Elections*, Latin America Report N°42, 26 June 2012 (also available in Spanish).

*Policy Reform in Guatemala: Obstacles and Opportunities*, Latin America Report N°43, 20 July 2012 (also available in Spanish).

*Towards a Post-MINUSTAH Haiti: Making an Effective Transition*, Latin America/Caribbean

Report N°44, 2 August 2012 (also available in French).

*Colombia: Peace at Last?*, Latin America Report N°45, 25 September 2012.

*Governing Haiti: Time for National Consensus*, Latin America and Caribbean Report N°46, 4 February 2013.

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