

# Annex 8: Guatemala: Catalogue of measures for the prevention of human rights abuses and protection of human rights defenders and other particularly vulnerable groups (Guatemala, February 2008)

## Foreword

The Unidad de Coordinación de Protección (Protection Coordination Unit, PCU) was established in early 2004 as a dependency of the Comisión Presidencial Coordinadora de la Política del Ejecutivo en Materia de Derechos Humanos (Presidential Coordinating Commission of Executive Branch Policies on Human Rights, COPREDEH), to strengthen governmental action by encouraging the adoption of protection measures – that is, precautionary and provisional measures and urgent calls for action. The PCU is responsible for adopting, monitoring and evaluating the protection measures adopted and for keeping international Human Rights protection bodies informed of progress.

As a result of discussions between governmental and civil society organisations and the International Community a range of deficiencies have become apparent, including:

- a. The absence of an integrated protection policy;
- b. Defective national-level protection mechanisms and programmes;
- c. An absence of risk and vulnerability assessments;
- d. Deficient services;
- e. The adoption of inappropriate measures;
- f. Improvised security schemes; and
- g. Little or no investigation of the facts leading to the adoption of special measures.<sup>1</sup>

Building on these findings, this document draws on the experiences and evolution of the Human Rights prevention and protection measures requested by civil society organisations, individual applicants and the Human Rights Ombudsman's office (the Procurador de los Derechos Humanos) that were adopted by the Guatemalan state in fulfilment of its Treaty and Non-Treaty Human Rights obligations before the United Nations and the Organisation of American States.

In response to this situation, the Catalogue of Measures for the Prevention of Human Rights Abuses and the Protection of Human Rights Defenders and other Particularly Vulnerable Groups, is intended to contribute to the implementation of Objective 2 of the Public Prevention and Protection Policy, namely to:

*“Develop, improve and strengthen existing protection mechanisms and programmes that benefit Human Rights Defenders (HRDs), others implicated in legal proceedings, and other vulnerable groups who have suffered threats or whose lives, physical integrity, freedom, security and other universal freedoms are in immediate danger as a result of actions of common criminals, organised crime or illegal, clandestine or parallel security bodies”.*

These measures are intended to guarantee the fulfilment of the objectives and actions contained in this Public Policy and to guarantee the security and protection of the social sectors mentioned above that have been subjected to threats, intimidation, persecution and/or attempts on their lives and physical integrity as a result of their activities and in exercise of their rights.

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<sup>1</sup> 29 November 2004: Seminar on the First Proposal for a Protection Policy, National Plan of Action for the Protection and Cataloguing of Protection Measures; June 2006: First Workshop for HRDs; 12 December 2006: First Inter-institutional Meeting to Analyse Prevention and Protection Programmes and Mechanisms; and the February 2007 workshop “Towards Improved Protection for HRDs in Guatemala”.

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## 1. Introduction

While the social, economic, political and legal circumstances in the country have produced changes in the Human Rights situation and in prospects for the construction of peace following the Internal Armed Conflict which ended with the signing of the Peace Accords, serious problems remain.

The illustrious Inter-American Commission of Human Rights, of the Organization of American States indicated in 2003 that “In recent years the fundamental rights of citizens have been constantly violated as a result of citizen insecurity..., and as the result of pacts of aggression, harassment and intimidation controlled or tolerated by state spheres or by its parallel structures...”<sup>2</sup>

In 2004, the United Nations Verification Mission in Guatemala (MINUGUA) found that “violence, a product of different phenomena such as organised crime, youth gangs, and illegal bodies and clandestine security apparatuses have become a national priority because of their effects on public security and in creating a state of social alarm.”<sup>3</sup>

However, neither the state institutions nor society at large have fully recognised the meaning of these transformations, with the result that the ghosts of the past continue to haunt the present.

The many explanations for these phenomena include the fact that the years of conflict have not only created a legacy of resentment and a culture of violence that in turn generates injustice, authoritarian, antisocial and predatory attitudes, but also an environment of discrimination, racism, inequality, corruption and impunity that taken together mean that there is still a need to investigate and punish grave Human Rights violations committed during the internal armed conflict, as well as a whole range of violations and criminal acts that continue to be committed.

Today, it remains difficult to ensure guarantees and the respect, defence and protection of Human Rights. The multiple factors that in the past led to the violation of individual and collective civil, political, economic, social and cultural rights remain present.

This situation is manifested in organised crime, common criminality, youth gangs, drugs trafficking, lynchings, vendettas, community or local-level violence, gender-based and domestic violence, in violence against women, administrators and other employees of the legal system, others implicated in legal proceedings [sujetos legales], HRDs, journalists and other communications professionals.

Given these circumstances, especially in the context of recent events involving the National Civilian Police - whose agents were involved in the unacceptable murder of four Salvadoran citizens and the subsequent murder in a detention centre of the four members of the Criminal Investigations Division accused of the crime - there the security forces have been discredited and are widely distrusted, and there is widespread condemnation of state responsibility for criminal acts.

The challenges faced by male and female HRDs, employees of the legal system, others implicated in legal proceedings, victims of abuses of power, journalists and other communications professionals, trade unionists and other vulnerable groups who work in situations of threat and intimidation demand that the state should develop dynamic and effective mechanisms to respond to their security needs.

Today, recourse to supranational prevention and protection mechanisms challenges the security services and the Guatemalan state to develop a specialised infrastructure capable of guaranteeing, among other things:

- a) A Prevention and Protection Programme;
- b) Strengthened institutions;
- c) Improved coordination and cooperation;
- d) Training for security personnel;
- e) The development of a civilian intelligence service;
- f) Effective investigation and punishment of perpetrators;
- g) Analysis and assessment of risks and vulnerability;
- h) A standard prevention and protection mechanism that strengthens state Human Rights policies and the National Plan of Action in favour of these groups and individuals.

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2 Inter-American Commission of Human Rights, “Justicia e Inclusión Social los desafíos de la democracia en Guatemala” Organization of American States (2003) p. 45.

3 Ninth Report of the Secretary General on the Verification of the Peace Accords, 30 August 2004, par. 4.

The Guatemalan government believes it is necessary to develop a comparative framework for the protection of certain sectors of society, including those indicated above, in order to maximise the efforts of the security forces to guarantee the enjoyment of their rights and fundamental freedoms.

Now is the time to provide a convincing response to the increased levels of violence committed against some sectors of society with which unscrupulous groups, illegal armed groups, clandestine security organisations and parallel powers increase the vulnerability of certain sectors of society that, through their activities, contribute to the development of democracy, justice, peace and respect for Human Rights. Thus, the many responsibilities of the Guatemalan state include the obligation to prevent and pursue crime within a framework of respect for Human Rights and a commitment to combating hidden or invisible forces.<sup>4</sup>

Given this situation, it is important to develop constitutional and ordinary legal norms that recognise the fundamental rights of the Guatemalan population and establish new mechanisms for their protection.

While it is the case that the Prevention and Protection Policy has established national mechanisms for the protection of Human Rights, these do not comply with international standards established under International Human Rights Law.<sup>5</sup>

Consequently, the aim of this Catalogue is to:

1. Strengthen the institutional capacity of the state and of society to implement a Prevention and Protection Programme and, as a result, increase the guarantees and respect, promotion, and protection of Human Rights, and hold the Guatemalan state accountable for the effective fulfilment of the protection measures requested by the UN Rapporteurs, Special Representatives and Special Mechanisms and by the Inter American Court and Commission of Human Rights.
2. Ensure inter-institutional coordination and cooperation between the existing mechanisms and programmes for the protection of threatened sectors, optimising the response and avoiding duplication between the different national protection mechanisms.
3. Offer preventive and protection measures to vulnerable individuals and groups that are threatened as a consequence of their activities and in exercise of their rights; protecting and guaranteeing their right to life, physical integrity, other universal freedoms and their ability to continue carrying out their activities.
4. Instil confidence in these vulnerable populations in the state institutions responsible for guaranteeing their protection and safety through the implementation of the State Prevention and Protection Programme.
5. Combat and reduce levels of insecurity, vulnerability and risk faced by these groups in pursuit of their activities and in exercising their rights, including the right to protect and defend Human Rights and to fight impunity.
6. Provide a standard prevention and protection service in accordance with the seriousness of each particular case, tailored to the needs of the beneficiaries, free of discrimination and guaranteeing equal treatment.
7. Contribute to the functioning of democracy, promoting and strengthening the Rule of Law, protecting vulnerable sectors from the groups and individuals that attack them and, as a consequence, imperil social harmony and democracy.

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4 In *The Future of Democracy*, Norberto Bobbio defines Invisible Powers as those which act at the margins of democratic and jurisdictional controls, that resist and refuse to respect, legality and which, when they do not manipulate or corrupt them, pressure political institutions, by the use of force if necessary, in order to produce environments that enable them to preserve their privileged political space and pursue interests contrary to the national. p. 21

5 Protection for witnesses, trade unionists, journalists and others involved in legal processes (witnesses, victims, the aggrieved, experts, consultants, co-accusers, etc) is covered by the *Ley para la Protección de Sujetos Procesales y Personas Vinculadas a la Administración de Justicia* (Law for the Protection of Parties to Trials and Persons Involved in the Administration of Justice); Criminal Legislative Decree No 70-96; *Ley Orgánica de la Procuraduría General de la Nación: Decreto Legislativo Número 67-2002* (Law Creating the Office of the Solicitor General: Legislative Decree No 67-2002); *Ley contra la Delincuencia Organizada: Decreto Legislativo número 21-2006* (Law to Combat Organised Crime: Legislative Decree No 21-2006); *Código Procesal Civil y Mercantil: Decreto Ley Número 107* (Civil and Commercial Code; Decree Law No 107); *Reglamento de Organización de la Policía Nacional Civil, y Acuerdo Gubernativo 662-2005, 9 de diciembre de 2005- del Decreto Legislativo Número 11-97 Ley de la Policía Nacional Civil* (Regulation covering the Structuring of the National Civilian Police and Governmental Agreement No 662-2005, 9 December 2005 of the Legislative Decree No 11-97villian Police Law. See also the prevention and protection measures developed by the Legal System and the Prosecuting Authorities.

## 2. Guiding principles

All the protection measures contained in the Prevention and Protection Programme, the Plan of Action, this Catalogue, and the Programme it presents will be governed by the following principles:

### 1. Prevention.

The institutions responsible for providing protection will adopt effective and exhaustive strategies to prevent attacks, intimidation or acts committed against HRDs, judges, prosecutors, lawyers, witnesses, and others implicated in legal proceedings, journalists and other communications professionals and trade unionists. In development of these responsibilities they will take into account the periods of greatest vulnerability, and develop early warning systems.

### 2. Efficiency.

All the government and state bodies responsible for the different prevention and protection programmes established under national and international legislation will coordinate and cooperate between themselves in order to avoid duplication in their procedures and maximise material and human resources. In order to guarantee the hoped-for results, the scope and responsibilities of the centralised authorities will be clearly defined, guaranteeing their coherence, the budgets and logistical support they require and the implementation of the protection measures, while avoiding victimising the beneficiaries or their family members a second time.

### 3. Appropriateness.

Given the particular urgency and extreme seriousness of the situations confronted, and the need for protection measures, including precautionary, provisional or other security measures and calls for urgent action, the procedures governing the coordination, adoption and implementation of protection measures should be simple, accessible, delivered according to the needs of the beneficiaries, and in compliance with national and international obligations.

### 4. Tutelary functions.

Except when ordinary legal procedures are followed, protection activities designed to comply with precautionary, provisional or other security measures including calls for urgent action, do not enter into detail concerning the causes of the situation but are adopted immediately in order to prevent attacks and permit the free exercise of Human Rights and universal freedoms, according to the pro persona principle.<sup>6</sup> This is because precautionary and provisional measures do not require the same rigour and procedural complexity that is prescribed in Guatemalan legislation.

Consequently, various administrative, legislative, political and other procedures need to be adopted if the legal protection measures to be implemented in the country are to be capable of regulating the actions of public servants and employees in cases where HRDs face immediate threats or risk that affect their ability to defend Human Rights. **These procedures should be inspired in principles of due process, being for example simple, administratively uncomplicated, and free to the user.**

### 5. The voluntary principle.

Without prejudice to the reasons for exclusion defined in the regulations governing the different prevention and protection mechanisms, acceptance in the protection scheme, and any decision to withdraw from it, should be voluntary, according to legal principal. Consequently, all precautionary, provisional or other security measures should only be adopted following consultation with the beneficiaries so that their appropriateness be guaranteed and beneficiaries are able to continue with their activities.

However, the reasons for exclusion and withdrawal from the protection mechanism should be clearly defined, and include cases where the beneficiary breaks the law or acts in ways that negatively affect the security of others. The state bodies must ensure that due process is guaranteed should prevention and protection measures be withdrawn.

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6 Translator's note [sic]: The term pro persona appears to refer to the pro homine principle, which in international law means that when applying domestic legislation passed in reference to international law, the norm is to adhere to the interpretation that most favours the respect for rights.

## **6. Equal treatment and non-discrimination.**

The national Human Rights bodies and the entities responsible for prevention and protection measures will, when responding to orders or requests for inclusion, acceptance, delivery and implementation of protection measures, must ensure equal treatment and non-discrimination. Consequently there will be no differential treatment or discrimination whatever in the provision of services for reasons of gender, ethnic origin, social or economic condition, sexual preference or orientation, language, nationality, religion, political opinion or any other reason. **However, special or specific procedures should be adopted for female beneficiaries because of the greater levels of risk and vulnerability associated with their gender.**

## **7. The principles of negotiation and consultation.**

Stable channels for respectful and constructive consultation and dialogue should be established between state bodies, beneficiaries and civil society (including Human Rights organisations, trade unions, journalists' associations and other vulnerable sectors) so that their needs may be analysed and appropriate protection measures offered.

## **8. Specialisation.**

All state institutions involved in the adoption and implementation of protection measures will ensure that security teams and bodyguards are fully trained so that they are able to offer adequate protection to vulnerable persons and those at risk.

Their recruitment, induction and re-training should be carried out with complete transparency and with the participation of the population for whom the programmes have been designed; they should, furthermore, be trained in good practice in Human Rights, the responsibilities of the state and International Human Rights Law.

## **9. Confidentiality.**

All aspects related to protection procedures – whether precautionary, provisional or other security measures – are to be developed according to strict criteria of confidentiality so as not to increase the levels of vulnerability of the beneficiaries.<sup>7</sup>

## **10. Timescale.**

Protection measures will initially be granted for a reasonable period of six (6) months, extendable for a further six (6) months on expiry. However, they will always be granted for a reasonable period that coincides with the duration of the risk that led to their adoption in the first place.

## **11. Incrementalism and proportionality.**

The prevention or protection offered, and the associated plan, will be implemented according to the degree or situation of threat, danger or risk to life, physical integrity, security or freedom of the beneficiaries identified in the analysis of risk and vulnerability.

## **12. Incorporation and the integral nature of the programme.**

All protection procedures are rooted in the connection between the threat, the danger or risk and the activity of the beneficiary (HRDs, servants of the legal system, others implicated in legal proceedings, victims of abuses of power, journalists, including communications professionals, trade unionists and other vulnerable groups). That is, their need for protection results from their activities.

This principle should inform all the actions and services offered by the national prevention and protection programmes, enabling coordination, cooperation, information exchange and monitoring of the investigations carried out by the prosecuting authorities and the National Civilian Police into the circumstances that led to protection being offered.

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<sup>7</sup> This right will be exercised according to articles 24, 28, 29, 30, 31, 44 and 45 of the Guatemalan Political Constitution. Should any reservation be lodged, clarifying information should be requested in accordance with the procedural rules according to which a Supervisory Judge of Guarantees (Juez Contralor de Garantías) will be responsible for dealing with it, especially in cases related to military or diplomatic affairs relating to national security or to matters raised by individuals covered by guarantees of confidentiality.

### 3. The prevention and protection programme

The Guatemalan government, in fulfilment of the recommendations of Treaty and Non-Treaty Mechanisms for the protection of Human Rights, has produced this Catalogue to present the Programme for the Prevention of Human Rights Abuses and Protection of HRDs, servants of the legal system, others implicated in legal proceedings, journalists, trade unionists, communications professionals, and other vulnerable groups.

#### 3.1 Target population of the prevention and protection programme

While the constitutionally enshrined duty to provide guarantees establishes that protection should be available to the whole population or every inhabitant of the country, these principles incorporate a principle of positive discrimination or affirmative action that responds to the urgency and vulnerability that characterises the professional activities of those who defend fundamental rights.

The programme forms a part of the Public Human Rights Policy and the associated National Action Plan and should be implemented proactively as a national mechanism, complementary and contributing to, the other prevention and protection measures defined in constitutional and ordinary legislation, statutory regulation or individualised legislation described in the Prevention and Protection Programme.

However, the programme should respond to requests for the adoption of security or protection measures required by supranational Human Rights protection mechanisms, including preventive or precautionary measures or calls for urgent action.

Thus, the prevention, protection, preservation and reestablishment of the rights of the reporting party are intended to respond to benefit sections of society whose lives, physical integrity, security or freedom are at risk because of their activities. These include:

1. Leaders and activists of Human Rights organisations.
2. Administrators and other servants of the Legal System.
3. Leaders and activists of social, civic and community organisations, interest groups, trade unions, peasants and ethnic groups.
4. Leaders and activists of political organisations, especially those in opposition.
5. Victims of crimes, the abuse of power and/or witnesses or experts in cases of Human Rights abuses and infractions of International Humanitarian Law (IHL), independently of whether the respective penal, disciplinary or administrative proceedings have been initiated.
6. Journalists and communications professionals who, in development of their professional activities, take on the dissemination, defence, preservation and re-establishment of Human Rights and the application of IHL.
7. Mayors, municipal councillors and representatives who, in the course of their activities, are exposed to risk.
8. In the case of population groups identified in numbers 2, 5 and 6 above, providing they are not already covered by a different protection system or beneficiaries of the "System for the Protection of Witnesses and Other Legal Servants involved in the Administration of Criminal Justice" as defined in Legislative Decree No 70-96

#### 3.2 Structure of the prevention and protection programme

##### 3.2.1 COPREDEH

The Presidential Coordinating Commission of Executive Branch Policies on Human Rights, or COPREDEH, is the body responsible for coordinating the actions of ministries and other dependencies of the Executive charged with ensuring the application and protection of Human Rights in the country.<sup>8</sup>

In 2004 the COPREDEH, in exercise of its responsibility for implementing the Executive's Human Rights Policy, created the Protection Coordination Unit (PCU), a specialised body that coordinates, adopts and monitors protection measures. The PCU is, furthermore, responsible for producing periodic reports on protection activities for the international and Inter-American Human Rights protection systems.

This Catalogue has been produced jointly by the state and civil society organisations in fulfilment of the recommendations of the international and/or regional Human Rights protection mechanisms.

8 According to Government Agreements Nos 404-91, 486-91, 468-91, 586-91, 549-91, 222-92 and 162-95.

### 3.2.1.1 The protection coordinatio unit –PCU-

The Protection Coordination Unit has the following objectives:

- A. **Overall Objective:** Ensure that the state guarantees effective compliance with the protection measures requested by the Inter-American Commission (Precautionary Measures) and the Inter-American Court (Provisional Measures) and the Calls for Urgent Action formulated by the United Nations and/or measures requested by the Programme's target population and included in the National System for Prevention and Protection. The PCU compiles information on the implementation, assessment and fulfilment of the Programme which is presented in periodic reports presented to supranational mechanisms for the prevention and protection of Human Rights.
- B. **Specific Objectives:** Develop a flexible and effective coordination of protection measures between the entities responsible for guaranteeing the security of the recipients of threats, taking into account the needs of victims, in order to avoid reprisals and/or Human Rights violations.

Ensure that security measures (calls for urgent action and/or Precautionary and Provisional Measures) are put into effective practice during the period demanded by the risks in question.

According to the terms of the Programme the prevention and protection schemes should be submitted to the Committee for the Assessment of Risks and Prevention and Protection Measures, so that the schemes adopted to fulfil international or regional Human Rights obligations, and those adopted as part of the National Programme, may be evaluated and monitored.

### 3.2.2 Committee for the assessment of risks and protection measures (CERPM)

The Committee for the Assessment of Risks and Protection Measures is created to establish the levels of risk and to evaluate, recommend and/or approve the prevention and protection measures required in each individual case.

The Committee will carry out assessments of risk, vulnerability or conflict levels at national regional and local level whose results will offer the best possibility of deciding on the establishment and implementation of national, departmental and municipal prevention policies. The regional assessments of risk will permit the adoption of more general and strategic measures suitable for a determined region.

As well as providing a mechanism for reaching agreements, the PCU will be authorised to specify the protection measures that have been requested; the delegates representing different sectors of the protected population will, jointly with state employees, present and analyse the cases, verify the information contained in them, and suggest and approve the protection measures to be adopted.

The Committee will play an essential role confirming the information provided and, in the final analysis, will determine who is to be included from among the target population, who will benefit from the scheme and under what conditions.

This form of participation permits, in principle, close collaboration between the different participants in the programme, facilitates the procedures to be followed, and guarantees the quality of the information available.

The PCU will have the following membership:

1. The Director of COPREDEH, who will act as chair of the Committee.
2. A delegate of the *Instancia de Análisis de Ataques Contra Defensores de Derechos Humanos en Guatemala* (Office for the Analysis of Attacks against HRDs in Guatemala) , a dependency of the Vice-Ministry for Security in the Ministry of the Interior (*Ministerio de Gobernación*).
3. A representative of the Judicial Branch or a delegate of the *Unidad de Seguridad* (Security Unit).
4. The Director of the *Dirección General de Inteligencia Civil* (General Directorate of Civilian Intelligence) or a delegate of the Director.
5. A representative of the *División de Protección a Personalidades* (Division for the Protection of Public Figures) and/or the *División de Protección y Seguridad Pública* (Division for the Protection of Public Safety) and/or the *Oficina de Derechos Humanos de la Policía Nacional Civil* (Human Rights Department of the National Civilian Police), as appropriate.
6. A representative of the *Unidad de Relaciones Internacionales del Ministerio de Trabajo y Previsión Social* (International Relations Unit of the Ministry of Labour and Social Security).
7. A delegate or representative of the prosecuting authorities (special invitation).
8. Two (2) national-level civil society delegates (drawn from Human Rights organisations, trade unions, interest groups and administrators and other servants of the justice system).
9. Two (2) national-level delegates in representation of journalists and the communications profession.



**Representatives of the public supervision bodies (*órganos de control*):**

10. A delegate of the Human Rights Ombudsman.
11. A delegate of the Solicitor General's Office (*Procurador General de la Nación*).

The CERPM will meet regularly, every two weeks, and extraordinarily as necessary in situations of extreme seriousness or urgency.

The CERPM will prepare its own internal regulations to ensure it functions efficiently and provides an acceptable service to its beneficiaries.

**3.2.2.1 Procedures for requesting national protection**

The implementation of the Prevention and Protection Programme at national level requires:

1. The presentation of a written application to the PCU. The original complaint lodged with the competent authority (legal body, prosecuting authorities, National Civilian Police or the Solicitor General's Office) should be annexed to the application.
2. The PCU will pass the application and annexed documentation to the CERPM as long as no national protection mechanism has previously been agreed, or an application is still pending, in which case responsibility will lie with a different state or governmental body.
3. The CERPM will analyse and evaluate the case and, depending on its urgency, make its decision within a reasonable period, not exceeding two calendar weeks.
4. If the Committee approves the application the decision should be formally noted; the committee will adopt the prevention and protection measures it considers pertinent according to the assessment of risk and vulnerability, and will decide which administrative body will be responsible for providing protection during a reasonable period of up to six (6) months, renewable up to a maximum of one (1) year.
5. In special and extraordinary cases the measures may be extended after a review of the evidence of risk provided by the victims, who should present documentation or provide the evidence requested of them in order to continue enjoying the benefits of the protection scheme.

All decisions or resolutions of the CERPM should be communicated to the applicants in writing.

**3.2.2.2 Criteria for accepting cases**

1. Applicants should belong to one of the target groups specified by the Prevention and Protection Programme.
2. They should present their complaint to the competent authorities and make the case known to the legal system.
3. If they belong to a target organisation they should have the backing of the organisation. In the case of journalists or communications professionals support may be provided by the Association of Guatemalan Journalists or another organisation or mass media operation.
4. They should demonstrate their leadership role, which should be ratified by a local organisation and/or entity. In the absence of such ratification there should be direct evidence of their involvement in the struggle for justice, against impunity, or in favour of civil, political, economic, social and cultural rights.
5. There should be a causal relation between the threat and the risk.
6. The competent local or regional authorities should be made aware of the situation of risk or the threat against the applicant.
7. The request for protection should have no other motivation beyond protecting the life, integrity, security or personal freedom of the applicant.
8. The protection requested should not be the responsibility of any other state body; if it is, the case will be passed on to the respective body for it to study.
9. The acceptance of a candidate for protection should not be such that it presents insurmountable obstacles to the security or protection scheme run by the Interior Ministry.
10. The results of the technical assessment of risks and the level of threat against the individual should be taken into account when a prevention scheme is adopted or when it implies protection of premises.

**3.2.2.3 Treatment of urgent cases**

When treating urgent cases the CERPM should observe the following procedure:

1. In the case of applications for protection presented by supranational Human Rights protection bodies the PCU will coordinate, adopt, and monitor the prevention and protection measures

according to the circumstances of the case. It will send a copy of the file to the Committee, which will review it and evaluate the risks and protection measures or schemes adopted. The PCU will contribute any information necessary for the production of reports; it will expedite procedures for the adoption or reestablishment of the protection scheme according to the needs of the beneficiaries and the level of risk the scheme is intended to combat.

2. In the case of applications presented by individuals or national organisations, and where the victims face actual or imminent risk (cases in which the National Protection System should be applied), the PCU will:
  - a) verify whether the person faces immediate risk to life, integrity and/or liberty;
  - b) whether the evidence demonstrates this to be the case – a decision requiring the backing or support of a civil society representative or a member of the CERPM competent to express an opinion (eg the Interior Ministry, the Solicitor General, members of the Early Warning System and COPREDEH);
  - c) coordinate and adopt the appropriate prevention and/or protection measures.

Initially, a phone call, e-mail, radio communication or fax sent to COPREDEH or the CERPM will be sufficient. The PCU will send a copy of the file to the CERPM, which will carry out the actions described in the previous section. Urgent national protection measures will be adopted for an initial period of two (2) months; if they are extended, they will be brought into line with the national procedure described above.

#### **3.2.2.4 Assessment or Re-assessment of Prevention and Protection Measures.**

In order to carry out these activities the PCU should:

1. Periodically interview beneficiaries.
2. Request contextualised or detailed reports of the preventive or protective security measures that have been offered.
3. contextualised information on advances in investigations and legal processes.
4. Determine whether new or repeated actions exist that might increase levels of vulnerability or risk.
5. The Committee should carry out intermediary assessments of risk and threat.

The implementation of these measures should guarantee that timely, true, detailed and trustworthy information is obtained to enable the evaluation or re-evaluation of the protection measures, in order to assess adequately the facts that motivated their adoption.

The results of this exercise will permit the objectives of the protection measures to be adapted and the components or resources adjusted in line with the prevention or protection measures agreed. If necessary, the security scheme should be redefined, leading to the **RESTRUCTURING OF THE SECURITY MODEL**.

The PCU will present a report of the proposed re-evaluation to the CERPM, which will evaluate the PCU's actions; the CERPM enjoys the ultimate authority of suspending the measures is incorporated in the national mechanism.

The evaluation is to be developed through a process monitoring the detection of any distortions in the prevention and protection measures that may be detected. It is important to carry out this exercise regularly so that the process is not discredited or delegitimized.

#### **3.2.2.5 Reasons for the Refusing or Withdrawing Protection**

The reasons for exclusion or withdrawal from the mechanism in the case of national or international measures are as follows:

When the beneficiaries:

1. Carry out or have carried out illegal acts or are subject to legal proceedings in the national justice system. This applies to individuals covered both by national and supranational protection. It does not cover people who have been deprived of liberty in circumstances constitute a threat to the right to life;
2. Conduct themselves in such a way that they endanger themselves or others;
3. Use the security measures they are offered for reasons other than those programmed;
4. Withdraw voluntarily from the proposed scheme;
5. Are no longer at risk or in danger;
6. Are no longer covered by supranational protection measures; or
7. Any other reason defined by the CERPM.

### 3.3 Early Warning System

In order to prevent attacks, acts of intimidation and threats against these sectors the CERPM should implement an Early Warning System (EWS), with the participation of state and government bodies and civil society organisations. The EWS will be developed with the participation and cooperation of the Vice Presidency, the Presidential Human Rights Commission, the Legal System, the Human Rights Ombudsman, and the Secretariat for Strategic Analysis, the Directorate General of Civilian Intelligence, the Ministry of Labour and Social Security, the Urban and Rural Development Councils and the Ministries of the Interior and of Defence.

**The principal function of the EWS is:** *to produce warnings that identify risks and threats faced by HRDs, judges, prosecutors, lawyers, victims, witnesses, trade unionists, journalists, communications professionals and other members of the vulnerable groups covered by the programme and who work in different regions of the country and under different social, political or cultural contexts.*

**The EWS is established to provide:** *Rapid and Effective Prevention of Risk and Confront threats, thereby diminishing the susceptibility to attack of persons, property or institutions.*<sup>9</sup>

While the function of the EWS is to provide the members of the CERPM with analysis of possible scenarios of risk and vulnerability and the outlines of a plan, **it should never act as a substitute for the State Intelligence Service, nor be used for ends other than those established in its objectives.**

#### 3.3.1 Basic Elements of the EWS

- a. Prevent abuses, ensuring that prevention or protection measures are taken at an early stage of events.
- b. Provide the information necessary for the effective coordination of prevention or protection measures.

#### 3.3.2 Specific Objectives

- a. Guarantee an early response to threats or risks, and implement emergency or urgent measures designed to protect the right to life, physical integrity, security, and other universal freedoms.
- b. Replace the existing culture of improvisation with a culture of prevention.
- c. Encourage a culture for the promotion, respect, guarantee and defence of Human Rights and peace.
- d. Strengthen the institutions of civilian power through cooperation and coordination for the prevention and reduction of risks and threats.
- e. Decentralise Human Rights prevention and protection mechanisms and develop local infrastructures in order to encourage joint responsibility between the state and civil society in safeguarding HRDs, servants of the legal system, others implicated in legal proceedings, journalists, trade unionists, communications professionals, and other vulnerable groups such as mayors, local representatives and municipal council members.
- f. Obtain the most accurate information possible on the events or circumstances that cause risk and threat.
- g. Contribute to governability, in order to increase the sense of security among those who have been threatened.

### 3.4 Elite Prevention and Protection Unit

With the aim of increasing the professionalism and specialisation of the security details and bodyguards provided by the Ministry of Government, a re-engineering process was carried out, involving various measures including winding up the Protection and Security Section and, establishing in its place, under the terms of Government Agreement No 662 of 2005, the Protection and Security Divisions, and the Division for the Protection of Public Figures, or DPP. These bodies constitute an elite protection force and are responsible for coordinating the implementation of the protection measures.

The members of these units have also received training in executive security, provided by the Presidential Secretariat of Administrative Affairs and Security in order to ensure that they are optimally trained to provide protection to people who are vulnerable or at risk.

There is also, however, a need to establish an Elite Security and Protection Corps (CESP) under the Ministry of Government, with as many members as is deemed necessary, who will be responsible for personal security (through the provision of bodyguards) and the protection of office buildings.

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<sup>9</sup> Author's personal formulation.

To achieve this there should be a process covering recruitment (involving polygraph tests), induction, training and re-training. This process should be conducted with the utmost transparency and count with the participation of representatives of the target population of the programme.

*The CESP should be a specialist service for the provision of bodyguards; it will exist with the sole aim of protecting people at risk; its members should belong to a state security body and be subject to its discipline. The role of the CESP should be clearly differentiated from that of the intelligence and counter-intelligence services. Its instructors, supervisors and security experts should therefore work exclusively for the CESP, which should have its own dedicated offices.*

If the beneficiaries should for valid reasons, decide not to accept protection from CESP agents or from the DPP they will receive support to contact their own bodyguards in whom they have full confidence privately. Should this occur, the state will instruct appropriate personnel to provide training for the privately recruited bodyguards and will provide them with the necessary weaponry to be able fully to carry out the activities for which they were contracted.

Privately contracted security personnel may be recruited in the following ways:

- a) As temporary security details employed by the CESP; in this case they are to be subject to the same terms of employment as permanent employees of the CESP.
- b) As private security personnel, employed by the CESP but responding to the beneficiaries of the programme. In this case, the security personnel will be subject to the laws and legal rules regulating the carrying of arms by individuals and private security firms. They shall also be entirely responsible for the arms they carry, which will be assigned them by the beneficiary.

In conclusion, in order to fulfil the Treaty and Non-Treaty recommendations made to it, the Guatemalan state should make sufficient resources available to guarantee adequate and effective protection measures for the target population, for as long as is necessary, when their personal security or their lives are in danger or when they are at risk.

### **3.4.1 Special Training by the CESP**

The CESP should provide Human Rights training, with an emphasis on state responsibility and International Human Rights Law.

The members of this elite corps should be capable of designing and implementing security strategies and actions based on the needs of the users, to elaborate diagnoses, propose the use of resources and research events that result in insecurity, to take decisions concerning security and elements of security strategy.

The CESP will carry out assessments of risk and implement the measures adopted, including those intended to provide security and protection to offices and private homes. The results will be passed on to the CERPM; if such studies do not exist, the reports prepared by the Office for the Analysis of Attacks against HRDs will be made available.<sup>10</sup>

The specialised training and capacity-building courses should include a presentation of the Cooper Color Code, described in the section on risk analysis in the Prevention and Protection Manual.

## **3.5 The Office for the Analysis of Attacks against HRDs**

The Office for the Analysis of Attacks against HRDs began operations in July 2007 under the terms of Ministerial Agreement No. 103 - 2008, signed by the Vice Minister of Security in the Ministry of Government and published on 23 January 2008 in the Central American Official Gazette.

The Office is established for a period of four (4) years.

### **3.5.1 Purpose**

The office is charged with investigating Human Rights violations and attacks on Human Rights activists. Its function is to analyse, in context, the patterns of attacks against observers and defenders of Human Rights, should they exist, by applying a scientific method defined, approved and agreed between its members.

### **3.5.2 Membership**

Article 2 stipulates that membership should be as follows:

- a) A representative of the Ministry of Government who will serve as coordinator;
- b) A representative of the General Directorate of [Civilian] Intelligence;

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<sup>10</sup> Christopher J. Simovich is Senior Vicepresident of U.S. Security Care, Inc., a member of ASIS International; his article "Protección de Ejecutivos: Servir y Proteger, published in the Foro de Profesionales Latinoamericanos de Seguridad listed the topics that should be covered by security details.

- c) The Director of the Human Rights Division of the Criminal Intelligence Division of the National Civilian Police;
- d) A representative of the prosecuting authorities, specifically from the Human Rights Section of the Public Prosecutor's Office;
- e) Two national-level representatives of civil society organisations; and
- f) A representative drawn from among international Human Rights organisations.

## 4. Medidas de Prevención y Protección

The Prevention and Protection Manual is *an instrument containing a minimum range of measures that, according to the context and reality, or situation, of the country. It is dynamic, currently still under construction, and important for prioritising prevention and protection measures.*

Along these lines, prevention and protection measures will be adopted according to the Security Plan. This process will involve Risk Mapping, a Contingency Plan and an Emergency Plan, which will be summarised in the Prevention and Protection Manual.

### 4.1 Prevention Measures

These measures include all actions intended to avoid situations of vulnerability or risk that might be faced by HRDs, communications professionals, administrators and other employees of the legal system, victims or others implicated in legal proceedings, victims of abuses of power, journalists, trade unionists and other vulnerable groups. They are also intended to prevent attacks against, and otherwise to help, individuals who have been subjected to direct threats, intimidation, persecution or any violent act committed against their person, who are in a situation of risk and/or where there are indications that they are in danger.

The Measures are classified as follows:

- A. General
- B. Promotion and Support
- C. Self-Protection
- D. Monitoring of Risk Situations

#### A. General Measures

##### a. Emergency Fund

In order to prevent disruption in the work of social or Human Rights organisations whose office premises are vulnerable to the theft of their equipment or work materials, the government should provide funds within COPREDEH's overall budget for the establishment of an Emergency Fund.

##### b. National and International Networks

An emergency response system should be established as part of the regular operation of the EWS to respond to situations of imminent risk; the situation should also encourage cooperation and support to Human Rights organisations and other vulnerable groups by strengthening accompaniment by national and international organisations.

When the accompaniment is provided by foreigners, the Ministry of Labour and Social Security and the Foreign Ministry should facilitate their stay in the country by providing special permits, as currently they are only offered tourist visas valid for 90 days, and frequently they will not have not been resident for the period of one year necessary to apply for such a permit.

Consequently, permanent national and/or international accompaniment mechanisms should be developed to provide backing to the legal and legitimate actions of the target groups and to reduce or prevent aggressions carried out by public servants or private individuals.

##### c. Directory of Contacts

Governmental and non-governmental organisations should jointly create a directory and an emergency network capable of responding immediately to attacks against HRDs and other vulnerable groups.

Various people or organisations – including colleagues in the zones of risk and in their office premises – will maintain an up to date list of emergency contacts.

The list should contain the telephones contact of organisations defending fundamental rights who are able to mobilise an international response when necessary.

## **B. Promotion and support**

Government and other state and non-governmental institutions will develop and promote a Human Rights culture that guarantees unequivocal public recognition of the fundamental role played by HRDs, administrators and other employees of the legal system, journalists and other communications professionals in guaranteeing democracy and the Rule of Law.

Actions that should be reflected in the activities of state, municipal, autonomous, semi-autonomous and decentralised bodies include:

- a. Campaigns, publicity and diffusion of information by television, radio and the written press.
- b. Public statements
- c. Training on the work of HRDs
- d. Scenarios for dialogue.

These actions will be developed in order to guarantee that the protection and promotion of Human Rights carried out by HRDs is recognised as a legitimate activity carried out by Human Rights organisations. Educational and communications campaigns or activities aimed at state agents and society at large should therefore be developed in the press concerning the individual or collective work of these vulnerable sectors.

Government and other state bodies and autonomous and semi-autonomous or decentralised agencies should, at the highest level, develop participatory scenarios for dialogue with Human Rights organisations in order to understand their views on the development of public policy.

They should also facilitate processes to reduce tension between civilian and military authorities and social or Human Rights organisations with the aim of preventing illegal or violent acts against them, especially in periods of heightened conflict or vulnerability that affect the exercise of civil, political, economic, social and cultural rights.

Administrative guidelines should also be established to avoid the excessive, irrational, disproportionate or inopportune use of force in public demonstrations, illegal or arbitrary intervention against the homes of vulnerable groups or in the offices of organisations, their correspondence, or communications.<sup>11</sup>

It is the responsibility of the state to promote and facilitate Human Rights education at all levels of the education system and ensure that the bodies responsible for the curriculums used in the training of lawyers, employees of the legal system, public servants and the armed forces ensure they include Human Rights education.

This training and education is particularly important in order to ensure that members of the armed forces respect HRDs and that high ranking officials affirm unequivocally the legitimacy and importance of the activities of HRDs and their organisations.

The training should emphasise state responsibility and international Human Rights law.

The state will guarantee and support the development of governmental and non-governmental institutions for the defence, promotion and realisation of Human Rights protection by rolling out the following programmes:

1. **Training Programme for Public Servants and Employees in the, Promotion, Protection and Realisation of Human Rights:** In order to communicate the importance of respect for Human Rights and assure that they are fully respected, a Human Rights education programme should be designed for public servants and employees; its organising principles should involve, among other focuses, publicising the role of administrative acts, freedom of expression, access to state archives and records, the right of assembly, to demonstrate and of association, action against violators, and the legitimacy of resistance in the context of civil, political, economic, social and cultural rights.
2. **Awareness-Raising Campaign for the Promotion, Protection, Defence, Guarantee and Respect for Universally Recognised Rights Guaranteed under International Law.** The campaign should legitimise actions to promote, protect, defend and guarantee respect for Human Rights that are advanced, in exercise of their rights, by individual or groups such as HRDs, journalists, judges, prosecutors, lawyers, and social, indigenous and community leaders.

<sup>11</sup> For example, according to Governmental Agreement No. 645-05 of 6 December 2005 the Executive Organ should create the norms governing access to information in conformity with international standards based on the principles of transparency and social audits. Articles 30 and 31 of the Constitution state that all other state bodies should develop ordinary, regulatory or individualised guidelines covering access to information.

3. **Programmes to provide Mechanisms or Scenarios to Reduce Tension between Individuals and Groups and Civil or Military Authorities.** These programmes should contribute to reducing the levels of conflict that affect the safety of HRDs, administrators and other servants of the legal system, journalists, and victims of serious crimes and abuses of power.

Through these initiatives it will be possible to reduce the climate of public accusations or defamatory statements by state employees and some press commentators who claim that the activities of these groups destabilises the state, and who contribute thereby to a general belief that the groups are linked to terrorist or former guerrilla groups.

4. **Information Programme for Legal Institutions:** According to article 30 of the Guatemalan Constitution, article 244 of the Code of Criminal Procedure and Legislative Decree No. 92-94, state institutions should provide information concerning Human Rights to prosecutors and judges whenever requested by HRDs in order to expedite legal investigations and trials; State Secrecy and National Security arguments should not be allowed to act as an obstacle or as mechanisms of impunity.

5. **Programme for the De-Classification of Intelligence Archives, Documents and Information:** In this connection it is important to note the declaration made on 25 February 2008 by the President of the Republic, Álvaro Colom Caballeros that the military archives would be opened in order to enable the clarification of events that occurred during the internal armed conflict. The President also signed the Chapultepec Declaration and promised to approve a freedom of information law.

The state is made vulnerable by those who abuse Human Rights and not by those who denounce their abuse.

Intelligence archives and reports compiled by the state security bodies on social and Human Rights organisations should be examined and clarified, rectified and/or destroyed, and the philosophy behind their compilation redefined.

Telephone lines or other means of communication used by Human Rights organisations and HRDs, administrators or servant of the legal system and victims of crimes and/or abuses of power should not be intercepted.

This rule does not apply to cases covered by the Law against Organised Crime (Legislative Decree No. 21-2006) and the Regulations Governing Special Methods of Investigation and Interceptions of Telephones and other Communications Media (Government Agreement No. 188 -2007) or the Law of the Directorate of Civilian Intelligence.

### C. Self-Protection Measures

The beneficiary population of the Prevention and Protection Programme should receive training in self-protection measures, especially as concerns their social and private lives, so as to reduce their levels of vulnerability. For example, self protection in social, public or private life covers the home, vehicle, family and social network, itineraries and transport, as well as the protection of correspondence. Therefore, the following Manuals should be developed:

- a. Manual on Self-Protection Measures.
- b. Self-Protection Courses

Everybody involved should develop prevention, protection and self-protection mechanisms, particularly in cases involving HRDs or where the protected person is a woman, leaving her vulnerable to verbal abuse, sexual harassment, rape, or abusive acts deriving from her gender.

In other words, an attack may consist of bringing a woman into disrepute or questioning her reputation or her moral integrity.

Consequently, the specific needs of women who face threats should be taken into account. This does not mean ignoring that men, too, face threats, but that they are more often faced by women, especially when they emanate from common criminality.

Maintaining contact means staying alive. At least one trusted individual should know the itinerary of the beneficiary so they can act if they fail to return when expected.

Sensitive issues or activities should not be discussed by telephone. Mafia or clandestine apparatuses have their own intelligence services – involving pedestrians, shopkeepers, taxi drivers, hotel receptionists and waiters; they also have access to interception equipment and remote listening devices.

These precautions also apply to the use of e-mail. It is recommended to use generic e-mail accounts such as yahoo or hotmail which are harder to trace. Personal names should not be used and previously agreed codes should be used in order to make communication more secure.

#### **D. Monitoring Risk Situations**

Protection and security measures should be monitored while the situation of risk demands them and the PCU, CESP and the CERPM should develop methods designed to systematise information. That is:

- a. Permanent Monitoring
- b. Periodic Evaluations
- c. Evaluation of Risk Criteria

#### **4.2 Protection Measures**

Protection measures are intended essentially to protect the life, physical integrity, personal security and freedom of threatened individuals or who are subject to intimidation as a result of their Human Rights activities or who have suffered attacks. These measures may be proactive (dissuasion or prevention) or reactive (security).

As basic protection Manuals recommend, these measures should be understood as a security system that is established in the immediate circle of a given individual or physical space and makes it possible to control immediate events in order to prevent attacks against the individual or their property.

The protection measures permit the effects of aggressive acts to be neutralised, removed or diminished and those responsible for them to be detained. The aim of any protection service is to surround the person with a protective curtain, or capsule, which impedes any act of aggression.

Consequently, the Protection and Security Divisions, the Division for the Protection of Public Figures and the Elite Security and Protection Corps are responsible – according to their areas of competence and according to risk levels – with creating protective curtains as follows:

- a. Watch and protect buildings and office premises as necessary.
- b. Ensure the protection and security of beneficiaries.
- c. Protect persons and property, as necessary.

The protection measures adopted may be: **Static or Dynamic**. The former refers to what is known in Guatemala as “fixed place” measures (de puesto fijo), put in place to protect buildings, offices or places of residence; the security agents in these cases remain in the vicinity of the point they are protecting.

Dynamic measures involve a team of protection agents responsible for the security of a person, whom they should accompany in all their movements.

There is a third mechanism - known as **counter-surveillance** – that requires a degree of awareness , or self-protection, on the part of the beneficiary and of the security detail and that is designed to confront the trailing of beneficiaries carried out on foot and/or in vehicles, using public transport, on major roads or in isolated areas, in urban, semi-urban, or rural areas.

For example, the beneficiaries should protect themselves and their families by recognising when they are being watched. Beneficiaries should engage in things as simple, for example, as observing an unknown car parked near the residence or office premises, or the arrival of a suspicious street seller in the neighbourhood.

The confluence of all these varied measures is usually known as **Integral Protection**, consisting of a permanent mechanism that is constructed around an individual to guarantee their safety. These mechanisms will involve dynamic, static and counter-surveillance activities.

This having been said it is important to clarify that Integral Protection extends to all aspects of the individual: their physical integrity, place of residence, image, family, activities, etc. It is impossible to guarantee 100% efficiency; but it is a utopia must not be renounced.

Integral Protection seeks to increase the effects of prevention and reduce reactive activities. It is therefore necessary to develop hypotheses that help understand the causes of an attack, be they political, ideological, psychological, racial, religious, personal, sociological or terrorist.



There is common tendency to think of attacks in generic terms; it is therefore important to differentiate between the different sources of risk. Different security measures need to be adopted in the face of murder, physical aggression, kidnap, acts committed by hostile groups or acts of negligence: routine kills.<sup>12</sup>

Consequently, protection measures are classified as follows:

- A. Immediate
  - i. Material
  - ii. Human Aspects of Protection
  - iii. Investigation
- B. Medium Term
  - i. Personal
  - ii. Investigation
  - iii. Institutional

#### **A. Immediate Measures**

##### **i. Immediate Protection Materials**

##### **1. Individual**

- a) Provision of communication equipment (cell phones, radios)
- b) Radios connected to police networks
- c) Bullet-proof vehicles
- d) Bullet-proof vests
- e) Evacuation by land, sea or air

##### **2. Place of residence or office premises**

- a) Metal detectors
- b) Video equipment at entrances
- c) Security doors and other protection systems including alarms
- d) Emergency telephone lines
- e) Call identification

##### **ii. The Human Element**

##### **Assigning Protection Personnel**

- a) Protection from designated agents – bodyguards
- b) Installation of “fixed place” security
- c) Mobile monitoring unit

In addition to the aspects already covered in the relevant sections, when fixed place or perimeter security is planned using a mobile monitoring unit the following factors should also be taken into account:<sup>13</sup>

- Emergency lighting
- Barriers placed at entrances
- Designated parking bays
- Pedestrian access
- Points for reception of goods and packages
- Traffic control

<sup>12</sup> For Luis Estupiñán Chaustre, it is possible to avoid routine if all interested parties adhere to, accept and implement established measures, if everyone fulfils the guidelines and no one is shy of commenting when someone fails to do so. The greatest difficulty with security schemes is maintaining their rigorous implementation. The ability of attackers to violate protection schemes resides in their patience. They are constantly on the prowl, waiting for some routine to emerge or exceptions to occur. Security questions are a whole; security is not the exclusive realm of specialists and no system or scheme of protection is infallible. The point is to maintain the scheme alive, and this can only be achieved through collective action.

<sup>13</sup> Factors recommended by Mark Lowers, Tony Raker and Jim Rodgers, in their article on Perimeter Security published in Security Management, December 2001.

- Visibility inside vehicles
- Stairways and lifts/elevators

### iii. Investigation

- a) Documentation of facts
- b) Initiation of the investigation

As is indicated in the Prevention and Protection Policy and in this Catalogue, if prevention and protection measures are to be successful it is important to establish specialised security and protection units - that is, the CESP. Units should also be created within the prosecuting authorities; these should count with the necessary resources and training to coordinate actions and respond with guaranteed quality to the events that led initially to the adoption of precautionary and provisional measures or urgent calls for action.

The best Preventive Measure is prompt, effective and exhaustive investigation into those responsible for the threats, intimidation and other acts which increase the level or degree of risk and are committed against these sectors by the groups responsible for the attacks.

It is therefore important that the Guatemalan state adopts the recommendations of the CICIG, in order to prevent *de facto* and *de jure* impunity generated by the violation of Human Rights, or infractions of IHL during the internal armed conflict and today.

## B. Medium Term Protection Measures

### i. Personal Measures

- a) Temporary relocation outside the area of risk
- b) Installation of security equipment.
- c) Requests for an processing of asylum or refugee status

When the risk or threat requires these measures to be implemented the government and other state bodies will ensure the provision of a certificate of risk that may be used when requesting asylum or refugee status. Human Rights and IHL strategies should be developed to make this possible, as should a network of safe houses located outside the area of risk where threatened individuals will be assured of protection.

### ii. Investigation

- a) Monitoring complaints
- b) Impartial and exhaustive investigation, and
- c) Punishment for perpetrators

The strengthening of legal institutions and security bodies, and fulfilment of article 245 of the Constitution, requires that the groups, clandestine security bodies and parallel structures that attack the target population should be investigated, pursued and combated.

It has been shown that these groups are responsible for operations against the political opposition, Human Rights activists, administrators of justice and other legal servants, others implicated in legal proceedings, trade unionists, and social, indigenous and peasant leaders when they criticise government decisions, or encourage and lead the struggle against impunity, corruption and the fight against organised crime.

The state will conduct rapid and impartial investigations or ensure the necessary enquiries are carried out, when there are rational motives for believing that a violation of fundamental freedoms has occurred.

### iii. Institutional

The implementation of official protection measures will respond to the following objectives:

- a. Strengthen the COPREDEH with human, financial and logistical resources, facilitating as a result greater autonomy of action for the PCU, or Defenders' Unit.
- b. Strengthen and implement the programme for the protection of witnesses and others implicated in legal proceedings, linked to the administration of criminal justice and that also benefits journalists, other communications professionals and trade unionists; the Protection Council should be created, and the regulations observed.
- c. Approval of the Law for the Integral Attendance of Victims of Crime.
- d. Approval of the the Ministry of Government's Prevention and Protection Manual
- e. Develop and systematise the Programme for the Protection of Judges, Magistrates and other Servants of the Administration of Justice developed by the legal authorities.

- f. Develop the actions set out in the National Human Rights Plan along with its Sectoral Operational Plans defined in the State Human Rights Policy.
- g. Training for investigators in the National Civilian Police and the Prosecuting Authorities.
- h. Establish the Ministry of Government's Office for the Analysis of Attacks against HRDs as a permanent body.
- i. Create the Elite Security and Protection Corps within the Ministry of Government.
- j. Dismantle illegal groups and clandestine security apparatuses.
- k. Contribute to or collaborate with the CICIG.
- l. The Ministries of Government and Defence should publish ministerial guidelines covering the respect and protection of HRDs, employees of the legal system, journalists and other communications professionals and trade unionists.
- m. Develop a model of preventive security to advance the mission and vision of a democratic, preventive, investigative and communitarian model of society.
- n. Government and state bodies should count with the human, budgetary and logistical resources necessary to guarantee the implementation of adequate and effective protection measures when the personal security and lives of the sectors referred to in this Catalogue are at risk.