

Guatemala Immigration Detention Data Profile



Quick Facts	
Immigration detainees (2015)	563
Detained minors (2017)	Not Available
Immigration detention capacity (2015)	100
International migrants (2019)	80,421
New asylum applications (2019)	491

NOTES ON USING THIS PROFILE

- Sources for the data provided in this report are available online at: <https://www.globaldetentionproject.org/countries/americas/guatemala>
- "Observation Dates" indicate the timeframe statistical data correspond to or other data were last validated. More than one statistical entry for a year indicates contrasting reports.

STATISTICS

Detention, expulsion, and incarceration statistics

		Observation Date			Observation Date
Total number of immigration detainees by year	563	2015	Total number of detained minors	Not Available	2017
	526	2014			
	341	2013			
	308	2012			
Estimated total immigration detention capacity	100	2015	Number of dedicated long-term immigration detention centres	1	2015
Estimated capacity of dedicated long-term immigration detention centres	100	2015	Criminal prison population	21,642	2017
				16,336	2013
				11,140	2010
				7,143	2007
				8,698	2004
				7,303	2001
				7,849	1998
				5,814	1995
				5,592	1992
Percentage of foreign prisoners	3.2	2017	Prison population rate (per 100,000 of national population)	128	2017
	3	2013		105	2013
				77	2010
				53	2007
				70	2004
				63	2001
				73	1998
				58	1995
				59	1992

Demographics and immigration-related statistics

		Observation Date			Observation Date
Population	17,900,000	2020	International migrants	80,421	2019
	16,343,000	2015		76,400	2015
	16,100,000	2012		72,800	2013
International migrants as a percentage of the population	0.5	2015	Refugees	408	2019
	0.5	2013		390	2018
				370	2017
				295	2016
				226	2015
				160	2014

Ratio of refugees per 1000 inhabitants	0.02	2016	Total number of new asylum applications	491	2019
	0.01	2014		128	2016
	0.01	2012		120	2014
				18	2012
Refugee recognition rate	87.5	2014			

DOMESTIC LAW					
LEGAL TRADITION					
Legal tradition	Name			Observation Date	
	Civil law				
LAWS AND REGULATIONS					
Constitutional guarantees?	Yes/No	Constitution and Articles		Year Adopted	Last Year Amended
	Yes	Constitution of Guatemala, articles 6-12.		1985	1985
LAWS AND REGULATIONS					
Core pieces of national legislation	Name			Year Adopted	Last Year Amended
	Decreto No. 44, Código de Migración			2016	
	Migration Law (Ley de Migración, Decree 95-98)			1998	
LAWS AND REGULATIONS					
Regulations, standards, guidelines	Name			Year Published	
	Migration Regulation (Reglamento de Migración)			1999	
GROUNDS FOR ADMINISTRATIVE IMMIGRATION-RELATED DETENTION					
Immigration-status-related grounds	Name			Observation Date	
	Detention to effect removal			2016	
	Detention for unauthorised entry or stay			2016	
	Detention to establish/verify identity and nationality			2016	
CRIMINALIZATION OF IMMIGRATION-RELATED OFFENCES					
Does the country provide specific criminal penalties for immigration-related violations?	Fines	Incarceration		Observation Date	
	No	No		2015	
LENGTH OF DETENTION					
Maximum length for administrative immigration detention in law.	Number of Days			Observation Date	
	No Limit			2015	

PROCEDURAL STANDARDS

Provision of basic procedural standards	Name	In Law	In Practice	Observation Date
	Information to detainees		Yes	2015
	Right to legal counsel		Yes	2015
	Access to consular assistance		Yes	2015
	Access to asylum procedures		Yes	2015
	Independent review of detention		No	2014
	Access to free interpretation services		No	2010

NON-CUSTODIAL MEASURES (ALTERNATIVES TO DETENTION)

Types of non-custodial measures	Name	In Law	In Practice	Observation Date
	Designated non-secure housing	No	Yes	2015

VULNERABLE PERSONS

Is the detention of vulnerable persons provided in law? Are they detained in practice?	Name	In Law	In Practice	Observation Date
	Accompanied minors	Not mentioned	Yes	2015
	Unaccompanied minors	Not mentioned		2015
	Refugees	Not mentioned	No	2015
	Asylum seekers	Not mentioned	No	2015
	Victims of trafficking	Not mentioned	No	2015

COVID-19 UPDATES

	Update Status	Observation Date
Latest Update	<p>The Guatemalan Migration Institute reports that more than 1,400 unaccompanied minors have been expelled by U.S. authorities to Guatemala since March. The deportations have often taken place before the children are given the opportunity to apply for asylum. In October alone, some 407 children were expelled. (By contrast, 385 unaccompanied children were deported to Guatemala in 2019.) This increase is due to new U.S. migration controls, announced in March in response to the pandemic. Citing the coronavirus, U.S. authorities have invoked laws that allow them to summarily deport people apprehended while trying to cross the border irregularly, without initiating deportation proceedings if there is a health risk (see the United States 10 November update on this platform.) On arrival in Guatemala, child deportees are reported to be placed under the care of the presidency's social wellbeing secretariat and housed in a shelter in Guatemala city, before being reunited with family members. Despite the dangers that deportations pose during the pandemic, thousands of Guatemalan nationals have been deported to the country from the United States, even though Guatemalan authorities have raised concerns about the arrival of infected deportees. (On one occasion in April, 70 of 76 deportees from Texas tested positive upon arrival in Guatemala City.) On 4 May, the Guatemalan Foreign Ministry reported that deportees accounted for more than 15 percent of all COVID-19 infections in the country (for more, see 10 June Guatemala update on this platform). As of 12 November, Guatemala had registered more than 113,000 COVID-19 cases, and 3,845 deaths.</p>	2020
	<p>Responding to the GDP Covid-19 survey, the Guatemalan Ombudsman office (Procuraduría para la Defensa de los Derechos Humanos or PDH) said that the Guatemalan Foreign Ministry has reported a notable reduction in the number of flights returning migrants to Guatemala. Guatemala has also suspended numerous deportation flights from the United States (see 19 June Guatemala update on this platform) and suspended the implementation of the ACA (Acuerdo de Cooperación y Asilo) agreement with the United States in March until further notice. Under the agreement, the United States transferred non-Guatemalan asylum seekers to Guatemala without allowing them to lodge asylum claims in the United States. In a report by Refugees International and Human Rights Watch (listed as a source below), the organisations showed that ACA did not meet the criteria in United States' law for a Safe Third Country Agreement that would enable Salvadorans and Hondurans to seek asylum in a safe country other than the United States. The PDH confirmed that currently, only Guatemalan nationals are being returned to Guatemala. The PDH said that only certain returnees were being tested for Covid-19 upon their arrival and that returnees were placed in quarantine in special reception centres, prior to being allowed to return to their local communities. However, in their response to the GDP survey, the PDH said that they were unable to provide information on whether persons in immigration detention had been released or give any information concerning measures taken to protect detainees from Covid-19. The information submitted to the GDP mostly focused on returns from the United States and did not provide specific answers as regards immigration detention in the country.</p>	2020
	<p>Responding to the Global Detention Project's Covid-19 survey, Guatemala's immigration authority (Instituto Guatemalteco de Migración) reported that no moratorium on new immigration detention orders has been established. The Guatemalan immigration authority also reported that currently only Guatemalan national residents and accredited consular diplomats are allowed to enter the country. Non-citizens are only allowed to leave the country and are prohibited from entering. The greatest impact of Covid-19 on the migration situation facing Guatemala has been U.S. deportations, which continued even after concerns were raised about infected Guatemalans being deported. According to news reports, on 20 April, more than 5,000 Guatemalan nationals were in the custody of the Immigration and Customs Enforcement Service (ICE) and the Office of Refugee Resettlement (ORR) in the United States. Of these, almost 4,000 were detained for immigration reasons and more than 1,000 were children. Deportations from the United States to Guatemala have not been suspended and from 29 March to 22 May, 1,200 undocumented migrants were deported. On 11 May, official statistics reported that 102 infected migrants had been deported back to Guatemala. The Guatemalan government has suspended several deportation flights and requested that the United States provide a health certificate for every deportee attesting that they are clear of Covid-19. However, according to the president of the "Cooperacion Migrante" organisation, migrants carrying the virus continue to arrive as the United States is only carrying out Covid-19 tests at random. In addition, Douglas Gonzales, an academic and political analyst, said that the main obstacle to controlling the importation of Covid-19 cases is not in deportations from the USA but rather that the country does "not have the capacity to control migratory flows on a land border as large as the one with Mexico." The Guatemalan Ombudsman (Procuraduría de Derechos Humanos Guatemalteca) criticised the government for the conditions in which returned migrants were held (in a makeshift reception centre located in the Guatemala City airport). The BBC reported that returnees were given mats to sleep on the floor of a room inside the airport (see image). Guatemalan prisons hold 26,160 persons with 52 percent of prisoners serving prison sentences and 48% placed on remand. On 5 June, the country's Ministry of Health confirmed the death of two prisoners from Covid-19 in the Centro de Detencion Preventiva para Hombres de la Zona 18, which currently has a population of 4,751 persons. On 28 May, the Ombudsman criticised the lack of protective equipment and sanitary products such as antibacterial gel, masks, and gloves in the country's 21 prisons.</p>	2020
	<p>Responding to the Global Detention Project's Covid-19 survey, Guatemala's immigration authority (Instituto Guatealteco de Migración) reported that no moratorium on new immigration detention orders has been established. The Guatemalan immigration authority also reported that currently only Guatemalan national residents and accredited consular diplomats are allowed to enter the country. Non-citizens are only allowed to leave the country and are prohibited from entering. According to news reports, on 20 April, more than 5,000 Guatemalan nationals were in the custody of the Immigration and Customs Enforcement Service (ICE) and the Office of Refugee Resettlement (ORR) in the United States. Of these, almost 4,000 were detained for immigration reasons and more than 1,000 were children. Deportations from the United States to Guatemala have not been suspended and from 29 March to 22 May, 1,200 undocumented migrants have been deported. On 11 May, official statistics reported that 102 contaminated migrants had been deported back to Guatemala. The Guatemalan government has suspended several deportation flights and requested that the United States provide a health certificate for every deportee attesting that they are clear from Covid-19. However, according to the president of the "Cooperacion Migrante" organisation, migrants carrying the virus continue to arrive as the United States is carrying out Covid-19 tests at random. In addition, Douglas Gonzales, an academic and political analyst, said that the main obstacle to controlling the importation of Covid-19 cases is not in deportations from the USA but rather that the country does "not have the capacity to control migratory flows on a land border as large as the one with Mexico." The Guatemalan Ombudsman (Procuraduría de Derechos Humanos Guatemalteca) criticised the government for the conditions in which returned migrants were held in a makeshift reception centre located in the Guatemala City airport. The BBC reported that returnees were only given mats to sleep on the floor of a room inside the airport (see image). Guatemalan prisons hold 26,160 persons with 52 percent of prisoners serving prison sentences and 48% placed on remand. On 5 June, the Ministry of Health of Guatemala confirmed the death of two prisoners from Covid-19 in the Centro de Detencion Preventiva para Hombres de la Zona 18, which currently has a population of 4,751 persons. On 28 May, the Ombudsman criticised the lack of protective equipment and sanitary products such as antibacterial gel, masks and gloves, in the country's 21 prisons. On 13 May, Prensa Libre reported that the National Preventive Mechanism (the national office for the prevention of torture) conducted visits in the Quetzaltenango prisons, hospitals and "migration centres" which hold returned migrants. According to the national office, the Cantel Prison has 2,312 prisoners and is vastly overcrowded, running at around 200% of its capacity. There are very few sanitary measures in place and there is a lack of hygienic products.</p>	2020
	<p>On 19 April 2020, Guatemalan President, Alejandro Giammattei, stated that a total of 50 migrants deported by the United States to Guatemala have tested positive for Covid-19. Human Rights advocates had been warning for weeks that deportation flights from the United States, the country with the largest known number of Covid-19 cases, could spread the virus to other nations. Amnesty International's advocacy director for the Americas stated that the situation was "as predictable as it is horrifying ... It was just a matter of time that this would happen." This situation had already occurred a few weeks before. At the end of March 2020, a Guatemalan man who was deported from the United States tested positive for Covid-19 although he was asymptomatic at the time of deportation.</p>	2020

INTERNATIONAL LAW

Relevant international treaties and date of ratification		
International treaties	Name	Ratification Year
	CRPD, Convention on the Rights of Persons with Disabilities	2009
	OPCAT, Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	2008
	CTOCTP, Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children	2004
	CTOCSP, Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime	2004
	ICRMW, International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families	2003
	CRSSP, Convention Relating to the Status of Stateless Persons	2000
	ICCPR, International Covenant on Civil and Political Rights	1992
	CAT, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	1990
	CRC, Convention on the Rights of the Child	1990
	ICESCR, International Covenant on Economic, Social and Cultural Rights	1988
	ICERD, International Convention on the Elimination of All Forms of Racial Discrimination	1983
	CRSR, Geneva Convention Relating to the Status of Refugees	1983
	PCRSR, Protocol to the Geneva Convention Relating to the Status of Refugees	1983
	CEDAW, Convention on the Elimination of All Forms of Discrimination against Women	1982
VCCR, Vienna Convention on Consular Relations	1973	
Ratio of relevant international treaties ratified	15/19	
Relevant international treaties and date of ratification		
Individual complaints procedure	Name	Acceptance Year
	CRPD, Optional Protocol to the Convention on the Rights of Persons with Disabilities	2009
	ICRMW, declaration under article 77	2007
	CAT, declaration under article 22 of the Convention	2003
	CEDAW, Optional Protocol to the Convention on the Elimination of Discrimination against Women, 1999	2002
ICCPR, First Optional Protocol to the International Covenant on Civil and Political Rights, 1966	2000	
Relevant international treaties and date of ratification		
Ratio of complaints procedures accepted	Number	Observation Date
	5/8	
	5/8	

Relevant international treaties and date of ratification				
Relevant recommendations issued by treaty bodies	Name	Recommendation Excerpt	Recommendation Year	
		Committee on Migrant Workers	§24.The Committee notes the information provided by the delegation of the State party on efforts to improve conditions at the shelter for migrants operated by the Directorate-General of Migration. Nevertheless, it is concerned at reports about inadequate conditions at the shelter, in particular the lack of open spaces and ventilation for migrants, as well as the limited access to basic social services. The Committee is also concerned about the limited information on the number of migrants housed in the shelter for violations of migration legislation, given the considerable number of migrants who transit through the State party every year. The Committee recommends that the State party continue its efforts to improve conditions at the shelter for migrants, ensuring the provision of basic social services, including food, health care and hygienic conditions. It also encourages the State party to expedite exit procedures and to ensure that men and women are duly separated. The Committee requests the State party to include in its next report data disaggregated by age, sex and nationality, as well as information on the number of migrants housed in the shelter run by the Directorate-General of Migration.	2011
Regional treaties, regulations, and directives				
Regional legal instruments	Name		Year of Ratification (Treaty) / Transposed (Directive) / Adoption (Regulation)	
	ACHR, American Convention on Human Rights		1978	
	IACPPT, Inter-American Convention to Prevent and Punish Torture		1986	
	IACFD, Inter-American convention on Forced Disappearance of Persons		1999	
	CBDP, Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Convention of Belem do Para)		1995	
	APACHR, Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights		2000	
Non treaty-based international human rights mechanisms				
Visits by special procedures of the Human Rights Council	Name		Year of Visit	Observation Date
	Special Rapporteur on the sale of children, child prostitution and child pornography		1999	2015
	Special Rapporteur on violence against women, its causes and consequences		2004	2015
	Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance		2004	2015
	Special Rapporteur on extrajudicial, summary or arbitrary executions		2006	2015
	Special Rapporteur on the human rights of migrants		2008	2015
	Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health		2010	2015
	Special Rapporteur on the sale of children, child prostitution and child pornography		2012	2015

Non treaty-based international human rights mechanisms

	Name	Recommendation Excerpt	Recommendation Year	Observation Date
Relevant recommendations by UN Special Procedures	Special Rapporteur on the human rights of migrants	<p>§128. El Relator Especial considera que el Estado debería garantizar que las víctimas de trata de personas, una vez hayan sido identificadas, no sean objeto de detención ni sean procesadas o sancionadas por el carácter irregular de su ingreso y permanencia en el país. En este sentido, es necesario fortalecer los mecanismos actuales para la lucha contra la trata de personas con el fin de que las víctimas reciban la asistencia y protección adecuada y se inicien las investigaciones que procedan contra aquellas personas responsables. §129. El Relator Especial recomienda que el Estado considere habilitar centros especiales para las víctimas de trata de personas, distintos de los centros de detención para migrantes, los cuales reúnan los requisitos necesarios para atender sus necesidades. §133. El Relator Especial recomienda que se respeten y apliquen a los migrantes que se encuentran en situación de detención administrativa, los principios internacionales para la protección de todas las personas que se encuentran privadas de su libertad, respetándose el derecho de establecer comunicación con el exterior, tener acceso a un representante legal y consular, y a sus familiares, y ser informado de ser posible en un idioma que comprenda, de los motivos de su detención y los derechos procesales que le asisten. §134. El Relator Especial insta a las autoridades a realizar las modificaciones pertinentes en su legislación nacional, con el fin de establecer un plazo máximo de detención que en ningún caso podrá ser indefinido ni tener una duración excesiva</p>	2009	2009

Non treaty-based international human rights mechanisms

	Recomendation Issued	Year Issued	Observation Date
Relevant recommendations of the UN Universal Periodic Review	No	2008	2017
	No	2012	

INSTITUTIONAL INDICATORS

Governing structures

Federal or centralized governing system	Federal or centralized governing system	Observation Date
	Centralized system	2016

Governing structures

Centralized or decentralized immigration authority	Centralized or decentralized immigration authority	Observation Date
	Centralized immigration authority	2015

Institutions responsible for immigration detention

	Agency	Ministry	Ministry Typology	Observation Date
Custodial authority	Direccion General de Migracion	Ministerio de Gobernacion	Interior or Home Affairs	2015
	Direccion General de Migracion	Ministerio de Gobernacion	Interior or Home Affairs	2005
	Direccion General de Migracion	Ministerio de Gobernacion	Interior or Home Affairs	2002

Institutions responsible for immigration detention															
Detention Facility Management	Entity Name				Entity Type				Observation Date						
	Direccion General de Migracion				Governmental				2015						
	Direccion General de Migracion				Governmental				2005						
	Direccion General de Migracion				Governmental				2002						
Institutions responsible for immigration detention															
Formally designated detention estate?	Formally designated immigration detention estate?				Types of officially designated detention centres				Observation Date						
	Yes				Dedicated immigration detention facilities				2016						
Institutions responsible for immigration detention															
Types of detention facilities used in practice	Immigration detention centre (Administrative)	Immigration field office (Administrative)	Transit centre (Administrative)	Reception centre (Administrative)	Offshore detention centre (Administrative)	Hospital (Administrative)	Border guard (Administrative)	Police station (Criminal)	National penitentiary (Criminal)	Local prison (Criminal)	Juvenile detention centre (Criminal)	Informal camp (Ad hoc)	Immigration detention centre (Ad hoc)	Surge facility (Ad hoc)	Observation Date
	Yes														2015
Detention monitoring institutions															
Authorized monitoring institutions	Institution				Institution Type				Observation Date						
	Procuraduría de los Derechos Humanos				National Human Rights Institution (or Ombudsperson) (NHRI)				2015						
Detention monitoring institutions															
Does NHRI carry out visits?	Does NHRI carry out visits in practice?				Observation Date										
	Yes				2008										
Detention monitoring institutions															
Does NHRI publicly release reports on immigration detention?	Does NHRI publicly release reports on immigration detention?				Observation Date										
	Yes				2008										

More information about immigration detention in Guatemala is available at the website of the Global Detention Project (www.globaldetentionproject.org)