

# Guatemala Human Rights *UPDATE*

Guatemala Human Rights Commission/USA

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## **RIGHT TO LIFE AND HUMANE TREATMENT**

### **More Bus Drivers Attacked**

06.03.08 Sandro Alfredo López Estrada, 34, an urban bus driver, was fatally shot while driving his bus in Guatemala City's zone 6. In a separate incident on the same day, another bus driver, Erick Alfredo Maldonado, 27, was wounded in the Primero de Julio neighborhood in the outskirts of Guatemala City. The volunteer firemen brought Maldonado to Roosevelt Hospital, where he later died. His fellow bus drivers suspended services in protest of his death and said that this is the third attack on a driver covering that route. The week before, two other drivers were injured in attacks. In recent years, bus drivers and companies have increasingly come under attack by youth gangs and other criminal entities extorting "tax" payments for safe passage through certain neighborhoods.

### **Union Leader Seriously Wounded**

06.08.08 Freddy Morales Villagrán, a member of the Aguas Salvavidas Workers' Union, was shot and seriously wounded in Guatemala City's zone 18. Members of the union, as well as other human rights organizations, believe the attack was perpetrated because Morales Villagrán and other colleagues were successful in legalizing the workers' union. The Union has been involved in an ongoing labor dispute with Aguas Salvavidas company owners for several months. Recently, riot police, taking sides with the company, beat workers striking in front of the factory and used tear gas against them. The Union has called on the Public Prosecutor's Office (MP) to identify and try both the material and intellectual authors of the attempted homicide.

### **Alleged Thief Beaten by Crowd**

06.10.08 Residents from the Sesibche village in San Juan Chamelco, Alta Verapaz, tied up and then beat a man accused of stealing from a house. The alleged thief, identified as Lisandro Caal, 28, was tied to a post for five hours while members of the mob tried to convince the crowd to burn him alive. In the end, he was turned over to agents of the National Civil Police (PNC) to be prosecuted. As Guatemalans continue to lose faith and confidence in the justice system, disenchanted by a 98% impunity rate for all crimes, they are resorting to higher rates of vigilante justice and incidents of lynching.

### **OHCHR Concerned About Activists Under Fire**

6.10.08 The United Nations' Office of the High Commissioner for Human Rights (OHCHR) expressed concern about the increasing threats and attacks against human rights defenders in Guatemala and urged the Guatemalan government to investigate the acts of aggression and try those responsible for the crimes. In recent months, the Foundation for Forensic Anthropology in Guatemala (FAFG), as well as other human rights organizations supporting the victims of the armed conflict, have received increased threats and attacks. The OHCHR stated that "international standards and principles recognize that victims of serious human rights violations may seek truth, justice, and integrated reparations for the harm that they suffered." The OHCHR emphasized that the FAFG anthropologists and other human rights defenders "play a legitimate and important role" in the promotion of victims' rights, therefore, their "liberty and safety must be guaranteed by the Guatemalan government." The UN office also called on the government to begin "exhaustive and efficient investigations in order to identify those responsible for the threats."

### **President of Congress Accused of Corruption**

6.11.08 A recent scandal has erupted in the Guatemalan Congress after the President of the Legislature, Eduardo Meyer, was accused of investing Q82.5 million (US \$11 million) of Congressional Funds in a high-risk stock market venture called the Mercado de Futuros (MDF). Meyer has stated that he was unaware that his former personal secretary, Byron Sánchez Corzo, had been previously accused of fraud, and affirms that Sánchez Corzo made the transaction without his authorization. In the wake of the scandal, Meyers has taken a two month leave of absence while he undergoes investigation for abuse of authority, fraud, cover-up and failure to fulfill his duties, among other charges. Congressional leaders from the Patriot Party (PP) filed a petition with the Supreme Court of Justice (CSJ) calling for Meyer's resignation or removal from Congress, as well as his loss of immunity from prosecution.

### **Confusion Over Evidence in Police Case**

6.13.08 On June 8, the National Civil Police (PNC) arrested PNC Commissioner Elías Lemus Guerra, Assistant Inspector José López Hernández, and officers Jorge García Ortiz and Dennys Gueiry Godínez for aggravated robbery and illegal detentions. The Public Prosecutor's Office (MP), in conjunction with the International Commission Against Impunity in Guatemala (CICIG), has been investigating the officers and their alleged illicit activities for the last six months.

According to the MP, the officers are accused of illegally detaining Eleázar Rodas in Guatemala City's zone 1 and stealing from him Q10,000 (US \$1333) that Rodas was heading to deposit at his local bank. The MP have accused Commissioner Lemus Guerra of planting ninety-three grams of marijuana on Rodas and calling Rodas' wife demanding that she pay the police Q5,000 (US \$667) in exchange for her husband's freedom.

Nonetheless, according to Judge Patricia Gámez, the judge overseeing the case, the MP hasn't produced sufficient evidence for the case to move forward. Judge Gámez argued that the MP has to broaden the evidence presented saying, "There must be an exhaustive investigation, and there are important elements that the MP needs to hand over." The Judge called for evidence from the phone call made to Rodas' wife demanding the extortion

payment, depositions from the other police officers and on-call judge at the Eleventh Precinct where Rodas was allegedly held, and more evidence pertaining to Rodas employment at the Antigua Hotel. Judge Gámez allowed the MP until July 1, 2008, to hand over the remaining evidence against the four officers. Attorney General Juan Luis Florido stated that there were "confusions" in this case and that the MP did not know what evidence that the PNC had collected that tied the officers to these crimes.

### **Cases of Discrimination Cited**

06.14.08 The Human Rights Ombudsman's Office (PDH) has registered more than 300 cases of discrimination in the first six months of 2008, with accusations ranging from discrimination in the work place, religious intolerance, and prejudice against physical and mental disabilities. Given that there is no specialized unit within the Public Prosecutor's Office (MP) to investigate reports of discrimination, only three out of the more than 300 cases have resulted in a conviction, although not all cases documented by the PDH have been filed with the MP.

## **CHILDREN'S RIGHTS**

### **Juveniles Denied Rehabilitation Services**

06.01.08 The Law for the Integrated Protection of Juveniles establishes that minors who have committed a crime must be held in a detention center that provides rehabilitation services and intensive psychosocial care. The reality, however, is very different. The majority of youth detained are denied the possibility of rehabilitation and frequently return to prison soon after their release. A study conducted by the Institute of Comparative Studies in Criminal Sciences (ICCPG) revealed that 65% of minors in 2007 were detained for physically harming someone, 28% for stealing or vandalism, 2% for drug use, and 5% for other reasons. Approximately 7,000 youth were incarcerated last year and more than 60% were sent to juvenile detention centers by judges.

According to the Presidential Secretariat for Social Welfare (SBS), responsible for the supervision of juvenile detention centers, it is difficult to find personnel suitably trained for working with violent youth. Many of the detention

centers' staff and directors have received death threats from the young detainees, motivating the SBS to hire former military personnel to serve as security guards. There is currently a bill pending authorization in Congress that would transfer incarcerated youth to the adult penitentiary system when they turn eighteen, a change the ICCPG has criticized for denying youth the possibility of rehabilitation.

### **Over One Million Minors Work**

06.13.08 Minister of Education Ana Ordóñez de Molina recently reported that almost 1.2 million children and youth between the ages of five and eighteen years old do not go to school because they are involved in agriculture work, pesticide fumigation, fishing, mining, or firecracker production, among other labors. Ordóñez de Molina indicated that child labor, as well as absenteeism, desertion, deficient infrastructure in public school buildings, and marked poverty levels continue to have a severe impact on the performance of both primary and secondary level students attending school.

According to the Guatemala Constitution, minors under the age of fourteen cannot be forced to work. Data has revealed that thousands of minors are also working in dangerous jobs or criminal activities like drug trafficking, participation in armed conflicts and sexual exploitation. Noé Boror, the vice minister of Labor, reported that the National Commission to Prevent and Eradicate Child Labor has been working intensely to curb child labor in “the most affected departments of Huehuetenango, San Marcos, and Quiché.”

## **LAND RIGHTS**

### **Arable Lands Underutilized**

06.04.08 More than thirty-eight percent of the land in Guatemala is underutilized, according to a recent study by the Coordinating Committee of NGOs and Cooperatives (CONGCOOP) titled, “The Potential Land for Self-Sufficient Corn Production in Guatemala.” Susana Gauster, an analyst with CONGCOOP, stated that if Guatemala maximized its land usage it would be able to produce 1.635 billion more tons of corn each year, enough to meet domestic corn demand without the need for corn imports. Gauster also indicated that policies must

address the redistribution of land, citing the 2% of residents that own 70% of the land. The report suggested several ways Guatemala could maximize production, including excising taxes on underutilized lands and implementing land expropriation, as stipulated in Article 40 of the Guatemalan Constitution. In addition, the study recommended that land should be sold according to the official appraisal price or rented to the campesino population with the option to buy at a prefixed price.

### **Groups Demand Land Titles**

06.10.08 More than fifty residents from settlements in Guatemala City staged a sit-in in front of the National Palace demanding that President Álvaro Colom guarantee the legalization of their lands. When their voices were not heard for a week, eleven women from the Guatemalan Population Movement declared a hunger strike and asked to meet with high-level functionaries. The women also requested that social organizations stand in solidarity with their message and the homeless. At the same time, congressmen from the Guatemalan National Revolutionary Union (URNG) urged authorities to continue to promote public housing projects and to transfer the funds promised to the Guillermo Toriello Foundation, a move that would ensure the reconstruction and rehabilitation of four communities located in Santa Lucia Cotzumalguapa, Escuintla, an area affected by Hurricane Stan in 2005.

### **Plantation Forcibly Evicted**

06.13.08 Some 600 members of the National Civil Police (PNC) and 150 soldiers armed with small tanks forcibly evicted sixty occupants of the Ixtán finca (plantation) in Champerico, Retalhuleu. The families on the finca had been there since January 2007. Security forces burned and destroyed the families' homes when they refused to leave.

### **Eviction Suspended in the Ixcán**

06.13.08 Congressmen Héctor Nuila and Walter Félix from the Guatemalan National Revolutionary Union (URNG) convinced the Guatemalan government to suspend the planned eviction of twenty-five families in Playa Grande Ixcán, Quiché. The Public Prosecutor's Office (MP) accused the families of trespassing, basing the case on legislation which defines land occupation as a criminal act. The law was not designed to resolve agrarian conflicts,

however, and Nuila and Félix asked the MP to reframe the case as an issue of land access. The Office agreed to halt the eviction for sixty days, allowing the government to first seek resolution with local groups and the Secretariat for Agrarian Affairs.

### **Guatemalans Flee to Mexico**

06.14.08 A group of Guatemalan families fled from their home country to Tenosique, Tabasco, Mexico, after being violently evicted from the community of Nueva Esperanza by the Guatemalan army in mid May. Nueva Esperanza was burned and all of the residents' possessions were destroyed. The Human Rights Commission of Tabasco, the Jesuit Immigration Service, and other organizations in Mexico reported that the Guatemalans had been forced into homelessness following the eviction and were suffering from malnutrition and other illnesses. The activist groups urged the Mexican government to intervene and prevent the families' deportation back to Guatemala.

## **MIGRANT RIGHTS**

### **US Immigrants Die in Work-Related Accidents**

6.10.08 A recent study conducted by the Center for Disease Control (CDC) revealed that 782 Guatemalans died in work-related accidents in the United States between 2003 and 2006. During this same period, a total of 11,303 Latin American immigrants died on the job in the US. The report, compiling information from death certificates, police reports and workman's compensation information, indicated that 34% died from lesions related to construction work and that the most common injuries resulted from falls. Ben Monterroso, the director of the National Labor Union in Los Angeles, calculates that 12% (461) of those affected in construction accidents are Guatemalan. Eleven percent of the total deaths are related to agricultural work, and some 30% (321) of these were Guatemalans.

"The report mentions that the majority of immigrants have died in California, Florida, and Texas," stated Monterroso, noting the high levels of Guatemalan immigrants living within those areas. He added that because the majority of Guatemalans do not have legal immigration status, they are

forced to accept jobs in places that do not guarantee the minimal safety conditions or pay living wages. Language barriers, illiteracy, inadequate training, and lack of supervision are all factors that also elevate work-related death rates for immigrants.

There are also a significant number of immigrant workers who suffer job-related disabilities, but there has yet to be official documentation of this issue. From 2005 to 2008, the Minister of Foreign Relations has repatriated 581 bodies of Guatemalans who have died in the US.

## **SOCIAL, ECONOMIC, AND CULTURAL RIGHTS**

### **Thousands Participate in Hunger March**

06.01.08 In order to raise awareness about the nutritional problems in Guatemala, thousands of citizens participated in a hunger march supported by the World Food Program (WFP) and the TNT International Courier group. Guatemalan Vice President Rafael Espada urged people to call on the government to work to eradicate hunger and malnutrition. He added that by the end of the year, the Colom administration hopes to provide food security programs to forty-five municipalities and expand the program to 110 by the end of administration's four year term. If completed, Espada estimated that the programs would reduce the rate of malnutrition by 10%.

### **Millions in Guatemala Lack Electricity**

06.01.08 Electricity has not yet been installed in 3,300 communities throughout Guatemala, making it difficult to provide social services and implement other economic development projects that would be helpful for those communities. According to the National Electricity Commission (CNEE), 85% of all Guatemalans have access to electricity, up from 45% in 1990. Nonetheless, Carlos Colom, the president of CNEE, indicated that the Rural Electricity Program (PER), a support program that provides energy to 800 communities, needs \$70 million in order to continue its initiatives. This figure does not take into account the 3,300 communities that still lack electricity. According to Colom, those communities fall under the jurisdiction of the National Electrification Institute (INDE). Millions throughout Guatemala are still

awaiting electricity services, especially in the departments of Huehuetenango, Quiché, Petén, and Chiquimula.

### **Minimum Wage Loses Half its Value in 8 Years**

06.02.08 The buying power for Guatemalan families earning the minimum wage has been reduced by half in the last eight years as a result of inflation. In April 2008, the inflation rate reached 10.37%. The real minimum wage—the rate excluding inflation—for non-agricultural workers is Q26.40 (US \$5.52) per day, while the nominal value is Q48.58 (US \$6.47). Investigators from the Economic and Social Research Association (ASIES) said that the real minimum wage has reached its lowest point since 2002. The nominal wage for agricultural work is Q47 (US \$6.27) but the real buying power is only Q25.60 (US \$3.41) per day. The monthly agricultural wage is now Q1410 (US \$188), equivalent to a buying power of Q768 (US \$102).

### **Unions Demand Solutions to Economic Crisis**

06.02.08 The General Confederation of Guatemalan Workers (CGTG), the National Coordination for Syndicates and Grassroots Groups, and the Syndicate of Guatemalan Labor Unions (UNSITRAGUA) urged the Guatemalan government to implement integrated solutions in order to alleviate the current economic crisis for working class families. The groups recommended that the government work to decrease the price of gasoline, propane gas, electricity and basic staple goods, and increase the minimum wage.

Bus fares have increased and the business sector has refused to modify salaries, ignoring warnings that instability could lead to social unrest, according to the unions. Union leaders have refused to participate in the dialogue initiated by the government and the Coordinating Committee of Commercial, Agricultural, Industrial, and Financial Associations (CACIF), and instead called upon the general population to organize peaceful protests.

### **Transportation Crisis Worsens**

06.04.08 The public transportation crisis in Guatemala intensified when drivers from nine major routes suspended their services, demanding that fares increase in order to compensate for the rise in fuel prices. Although no official fare increase has been approved, drivers have been charging Q2 (US \$0.26)

or more — double the authorized fare — while municipal transit officials work to control prices. Those who depend on public transportation are urging officials to implement a prepaid ticket service in order to avoid the arbitrary price increases made by drivers.

## **RIGHT TO JUSTICE**

### **Corrupt Migration Employees Reported**

6.10.08 Family Court judges have filed a motion against employees from the General Directorate of Immigration for failing to carry out orders that would have prevented four children from leaving the country before their adoption process had been completed. When the judges called the minors in court, they discovered that the children had already been sent to the United States. In 2007, another four children were allowed to leave the country despite orders to retain them until their paperwork had been completed. Renato Durán, the Director of Immigration, said that those who are responsible for corruption or anomalous procedures would be investigated and prosecuted.

### **Drastic Sanctions Sought for Human Traffickers**

6.12.08 The US State Department recently released a report citing Guatemala as both a transit point and a destination for human trafficking, indicating that children are forced to work and beg and men and women are required to do agricultural labor along the Mexican border. The report recommended legislative reforms to ensure that traffickers – and government authorities that aid the process – are investigated, pursued, and convicted.

The Institute for Victims of Human Trafficking, Exploitation, and the Disappeared (IPTED) has also urged Guatemala to enforce sanctions for the most egregious cases of human trafficking. IPTED's Executive Director, Patricio Atkinson, affirmed that the current sentence of six to twelve years in prison and the maximum fine of Q15,000 (US \$2000) for traffickers is not sufficient. Bill 2360, which modifies several articles in the Penal Code to provide more drastic sanctions, has yet to be approved by the Guatemalan Congress. The bill was introduced by Congresswomen Nineth Montenegro and Olga Camey over six years ago, and has already received the approval of four congressional commissions.

## LEGAL CASE UPDATE

### **Guevara Files Complaint Against Judge**

06.15.08 Former General Ángel Aníbal Guevara, currently under investigation in Spain for genocide, revealed that he will file a complaint against Spanish judge Santiago Pedraz for violating his rights, promoting injustice and disregarding Guatemalan national sovereignty. Judge Pedraz, who has accused Guevara of ordering the massacres of several communities in 1982, announced in January 2008 that he would no longer work with the Guatemalan justice system because local authorities refused to collaborate. Guevara's defense attorney, José Toledo, holds that Guevara had already begun his tenure as Minister of Defense in 1981 and had therefore retired from the military by the time of the massacres.

## RIGHT TO A HEALTHY AND SUSTAINABLE ENVIRONMENT

### **Water Conservation Program Launched**

06.04.08 In collaboration with local governments in Guatemala, the United Nations has launched a program that will work to establish democratic processes in the communities most affected by climate change. The program will be financed by the Spanish Agency for International Cooperation and will focus on water conservation and management in areas suffering from chronic drought.

### **Justice System Must Protect the Environment**

06.05.08 Yuro Meleni, the director of the Center for Legal, Environmental, and Social Action (CALAS), reported that the Guatemalan justice system is practically inoperative when it comes to crimes against the environment. Of the 1,500 crimes reported against the environment, only twelve went to trial and only five of those ended in convictions. Environmental activists and students urged authorities to arrest and prosecute those responsible for illegal logging, water pollution, contamination, and environmental degradation of natural resources.

### **Groups Ask for Retraction of Mining Licenses**

06.09.08 Members of the Departmental Round Table for the Protection of Natural Resources in Huehuetenango called on the Ministry of Energy and Mines (MEM) to cancel the mineral exploration

licenses that were issued within the region. Congressman Walter Félix from the Guatemalan National Revolutionary Union (URNG) said that MEM had approved twelve exploration licenses for an area covering 401 square kilometers, and twenty-three permits involving another 214 square kilometers. He added that the licenses awaiting authorization would affect the municipalities of San Sebastián, Chiantla, Ixtahuacán, Aguacatán, San Pedro Necta, Todos Santos Cuchumatán, Jacaltenango, Concepción Huista, and Colotenango – all located in the department of Huehuetenango. Óscar Rosales, a spokesperson from MEM, argued that MEM is unable to annul or prevent the distribution of licenses, but rather that it is the responsibility of Congress to implement these type of “drastic” policy changes if they so desire.

The Director of the INAB, Luis Ernesto Barrera Garavito, commented that high rates of unlicensed logging is causing a land conflict. He added that the last logging license was issued in 2004 in Baquixax, part of Juchanep, in Totonicapán; however, Totonicapán is one of the few areas of the country in which the majority of the mountains and water springs belong to the communities.

### **Call for Respect of Mining Referendums**

06.12.08 Representatives from various indigenous groups and Community Development Councils (COCODES) accompanied residents of the San Juan Ixcoy municipality, in the department of Huehuetenango, to call on Congress to respect local opinions and decisions regarding mining activities in their respective communities. The residents requested that the government stop approving mining licenses without first consulting those who live in the region and urged Congress to make local referendums legally binding.

In the municipality of Chiantla, Huehuetenango, 247 communities are preparing to hold public referendums on proposed or current mining activities in their communities. It is expected that the people will overwhelmingly oppose mining in the region. In the same token, some two thousand residents of communities in Tajumulco, San Marcos, held a protest in order to oppose the establishment of strip mines within their municipality. Municipal leaders supported the

objections presented by the community, issuing a statement that outlined their opposition to mining.

## OTHER INFORMATION

### **Army Suspends Annual Military Day Parade**

06.09.08 Orlando Blanco, the president of the Secretariat for Peace, announced that the Guatemalan government would cancel the annual public military parade to be held on June 30, 2008 in conjunction with the Day of the Military at the request of groups of victims affected by the internal armed conflict. Instead, the military will carry out its parade within the confines of the Mariscal Zavala military base. Colonel Jorge Ortega, the spokesperson for the Ministry of Defense, said that the army made the decision in order to cut back on costs. The human rights group Sons and Daughters for Identity, Justice and Against Forgetting and Silence (H.I.J.O.S), one of the organizations that demanded the cancellation of the public parade, said that the celebration of the Day of the Military affirms the message that societal militarization and impunity for past crimes in Guatemala are acceptable.

### **Guatemala Prepares for Merida Initiative**

6.12.08 The US House of Representatives recently approved initial funding for the Merida Initiative, a program designed to distribute up to \$1.6 billion to Mexico and Central America over the next three years to combat organized crime and narco-trafficking in the region. The plan was approved by a vote of 311-106. Although it is still not clear when the funds will be disbursed, the House announced that it would most likely allocate \$400 million to Mexico and \$61.5 million to Central America, the Dominican Republic and Haiti for the first year.

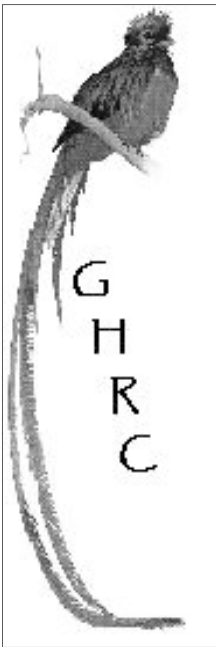
Vermont Democratic Senator Patrick Leahy denounced the initiative back in May, stating that “the White House reached a secret agreement with foreign governments and only then went before Congress to ask for a blank check.” John Negroponte, the US State Department’s Deputy Secretary, traveled to Guatemala prior to the House vote in order to promote the Merida Initiative.

According to anonymous sources within the Guatemalan Ministry of the Interior, the Merida

Plan will include the formation of seven anti-narcotic teams distributed throughout Guatemala with thirteen members on each team. The US-based team will also train a special assembly from the Presidential Guard in order to centralize the intelligence apparatus.

The Merida aid is conditional on the ability of each country to make legal and judicial reforms and to guarantee that if police and military forces violate human rights, they are investigated and prosecuted. Members from the Mexican government, as well as civil society, criticized the initiative because the conditions infringed on Mexican sovereignty. Guatemalan Minister of the Interior Vinicio Gómez affirmed, “If this is to improve the fight against drugs, then we are not against it. If this will improve the police force, then that is fine.”

The Merida Initiative has been defended by President Colom but has raised concerns among social organizations that it will impose US doctrine rather than improve security issues in Mexico and Central America. Vice President Rafael Espada called the plan “congruent, intelligent, doable, and necessary.” He mentioned, however that the plan will necessitate further study since it calls for legislative reforms. Other US initiatives carried out in Guatemala to combat drug trafficking, such as the Maya Jaguar Plan and New Horizons, did not live up to initial expectations.



*Founded in 1982, the Guatemala Human Rights Commission/USA is a nonprofit, nonpartisan, humanitarian organization that monitors, documents, and reports on the human rights situation in Guatemala, advocates for and supports survivors of the abuses, and works toward positive systemic change.*

*Information in the UPDATE that is not gathered directly is culled from various sources, including the Comisión de Derechos Humanos de Guatemala, Casa Alianza, Albedrío, Amnesty International, Associated Press, Reuters, and Guatemalan news sources, such as Cerigua, Centro de Estudios de Guatemala, Incidencia Democrática, Prensa Libre, El Periódico, La Hora, and Siglo Veintiuno.*

*Research Coordinator: Carmen Carney, Editor: Shannon Lockhart, (ghrc-usa@ghrc-usa.org), Additional Assistance: Marty Jordan, Rebecca Van Horn, and Amanda Martin.*

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3321 12th Street NE Washington DC 20017      Tel - 202-529-6599      Fax - 202-526-4611  
[www.ghrc-usa.org](http://www.ghrc-usa.org)      [ghrc-usa@ghrc-usa.org](mailto:ghrc-usa@ghrc-usa.org)



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Washington, DC 20017

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