

# Guatemala Human Rights *UPDATE*

Guatemala Human Rights Commission/USA

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## RIGHT TO LIFE AND HUMANE TREATMENT

### Security Forces Use Torture

06.26.08 The use of torture was classified as a crime in Guatemala in 1995. According to the Human Rights Ombudsman's Office (PDH), however, government security forces continue to use torture techniques, the police routinely neglect to conduct full investigations into incidents of torture, and not one person has been convicted of using torture since it became a crime. As a result, the PDH is now calling for torture cases to be tried in international courts.

Articles appear daily in the Guatemalan press describing cadavers showing signs of torture: dismembered hands and arms, fractures, burn marks, or serious internal injuries caused by blunt force trauma. Nonetheless, these cases are not thoroughly investigated; state security force policies have not been scrutinized; and those responsible for using torture within the police, military, or clandestine death squads have not been held accountable. According to the PDH, the Guatemalan justice system each year rejects efforts to raise awareness about and stem the use of torture and is reluctant to implicate security forces and end impunity for the perpetrators.

Torture used in prisons has become another common occurrence and is rarely investigated by authorities. In the penitentiary system, the abusers are often prisoners who have obtained an elevated level of power, implicating the complicity of prison officials. Physical injuries, isolation, and the threat of leaving a prisoner unprotected represent only a few of the many tactics used by inmates. The majority of these cases are either ignored or presented without the necessary corroboratory

evidence. The lack of expediency among torture cases offers further evidence that prosecutors and judges are tolerant of these practices.

Nery Rodenas, from the Human Rights Office of the Archdiocese of Guatemala (ODHAG), reported that there were at least 112 documented incidents of torture thus far in 2008, several of which were perpetrated in juvenile detention centers and state prisons throughout the country.

### H.I.J.O.S. Member Attacked

06.25.08 The organization Children for Identity and Justice Against Forgetting and Silence (H.I.J.O.S.) reported that on June 21, one of their members was stopped on the street by two unidentified individuals, physically assaulted, and then questioned about his involvement with efforts to end military impunity. According to the victim, one of the assailants said, "I just want you to do me a favor and tell those H.I.J.O.S. to stop being ridiculous because they're going to infuriate us and we'll have to kill them," adding, "We already have you taped."

H.I.J.O.S. believes the attack is a result of their grassroots campaign to cancel the public military parade in commemoration of the National Day of the Guatemalan Army celebrated on June 30, and honor in its place a Day of Heroes and Martyrs. The proposed Day of Heroes and Martyrs – to be celebrated in place of the National Day of the Guatemalan Army – would pay tribute to the thousands of victims of massacres, executions, kidnappings, torture, and forced disappearances at the hands of government forces during the internal armed conflict.

In addition, H.I.J.O.S. is working to bring those responsible for abuses committed during the internal armed conflict to justice and to demand the demilitarization of indigenous and campesino communities throughout Guatemala. H.I.J.O.S.

believes that former or active members of the Guatemalan military were responsible for the attack, and called for a serious investigation into this attack and a recent illegal search carried out in their offices, both of which were reported to the authorities.

### **GHRC Monitors Attacks Against Activists**

06.30.08 The Guatemala Human Rights Commission/USA (GHRC), headquartered in Washington D.C., recently led (June 21-29) a fact-finding delegation of nine concerned US-citizens to Guatemala to investigate the increase in threats and attacks against human rights defenders and activists since the year 2000. The delegation noted that those individuals that are promoting and defending the rights of Guatemalans – indigenous leaders, community organizers, environmentalists, justice officials, journalists, union representatives, women’s rights advocates, and church leaders – have suffered these increased abuses. GHRC’s delegation found that many activists have been verbally threatened and physically assaulted, had their phones wiretapped and been followed, had their offices raided and important equipment and files stolen, and have been killed in cold blood.

Marty Jordan, director of GHRC, cited that the number of threats and attacks against activists sharply rose by 370% from 2000 to 2006, totaling 278 in 2006. He indicated that while threats and attacks have slightly decreased in recent years, totaling 195 in 2007 and 109 in the first half of 2008, the Guatemalan government still has not shown the will nor the ability to stem the assaults. In fact, authorities have failed in investigating the attacks and prosecution of the perpetrators has occurred in less than 1% of the cases.

The participants of the delegation interviewed dozens of human rights defenders that have suffered threats and attacks, as well as government officials responsible for analyzing the patterns of assaults, investigating the cases, and prosecuting those responsible. According to GHRC’s delegation, government officials in the Ministry of Interior and Public Prosecutor’s Office (MP) were unable to identify certain patterns and discern which groups were responsible for particular attacks. Activists, on the other hand, quickly pinpointed the entities responsible: clandestine groups, made up of former or active members of the State security apparatus (i.e. police officers, military, ex-PACs), mayors,

municipal councils, business owners and managers, drug cartels, and other illicit individuals or groups that are attempting to silence activists opposing a particular government policy or trying to end impunity.

The delegation also tried to set up a meeting with President Colom to deliver to him 2,100 signed postcards that GHRC had collected from US citizens expressing their concern over the increase in threats and attacks since 2000 and calling for the protection of defenders, the investigation of attacks, and the prosecution of the assailants. Due to scheduling conflicts, Colom was unable to meet with the delegation.

## **POLITICAL RIGHTS**

### **Grassroots Social Coalition Formed**

06.21.08 Representatives from grassroots social organizations celebrated the formation of the Popular Front for Sovereignty, Dignity, and Solidarity, a coalition designed to usher in urgent political and social changes in Guatemala. Alfonso Bauer Paiz, a recognized revolutionary leader, indicated that the Front is not a new political party but rather a more effective means through which activist groups can collectively react to and transform the shortcomings of the current system.

Bauer asserted that Guatemalans have a social responsibility to rescue youth facing difficult challenges and limited solutions to their problems. Rafael Piedrasanta, the former dean of the Economic Sciences Department in San Carlos University (USAC), stated that the Popular Front would also work to end strip mining in San Marcos and provide a quick, effective response to the food crisis. He commented that more than half of all Guatemalan children suffer from malnutrition and hunger, despite the existence of extensive tracks of arable land available for crop cultivation on the southern coast. Piedrasanta added that region is currently being used to grow sugar cane and African palms for exportation rather than for local food production.

Óscar Barrios Castillo, president of the Congress during the Juan José Arévalo’s democratic revolutionary government (1945 – 1951), commented that the new Front is crucial for the country and urged all grassroots social organizations to participate.

## BASIC FREEDOMS

### **Commission Supports Freedom of Information**

06.23.08 Nine of the fifteen members of the Guatemalan Congressional Legislative and Constitutional Commission signed a document supporting the Freedom of Information Act in Guatemala which would provide public access to information on legislation, statistics, institutional results, and other government documents. Congresswoman Rosa María de Frade from the *Encuentro por Guatemala* (EG) political party and one of the primary authors of the bill, affirmed that Congress had taken the first step in obliging authorities to provide citizens with free and open access to public information. The bill includes sanctions for those within the government that do not comply. It is still unclear whether the legislation will pass, with many groups expressing doubt that public officials would agree to or have the political will to improve transparency.

## WOMEN'S RIGHTS

### **PDH Urges Women to Report Discrimination**

06.21.08 The Human Rights Ombudsman's Office (PDH) urged pregnant and breastfeeding women who are unjustly fired by employers to come forward and report their cases. The PDH has found that several factories in Guatemala have fired pregnant or lactating women in order to avoid complying with the labor code and granting the employees maternity leave and reduced hours in order to breastfeed their children. Particularly in textile factories, women are subject to long hours, elevated production quotas, crowded working conditions, poor lighting, and noise pollution. Several Central American social organizations brought this situation to the attention of the Inter American Human Rights Court (IAHRC) in 2007.

## CHILDREN'S RIGHTS

### **Urban Babies Also Malnourished**

06.23.08 Recent reports have indicated that childhood malnutrition extends beyond the rural areas of Guatemala, where the media and relief programs have been focused. According to officials at San Juan de Dios, one of the two public hospitals

in Guatemala City, the hospital receives at least five cases of severely malnourished babies each week. In many cases, the babies are under six months of age and have not been breastfed. Mothers living in the urban slums of Guatemala City often work outside the home or take care of other children, opting to feed their babies grain drinks, rice water, or diluted baby formula instead of milk. Although the majority of programs designed to fight malnutrition concentrate on rural areas, Ricardo Blanco, head of the nutrition center in the Roosevelt Hospital, said that it is necessary to provide nutritional education and support in the metropolitan area as well.

## INDIGENOUS RIGHTS

### **Indigenous Council Resigns**

06.24.08 All members of the Consultation Council on Plurality and Indigenous Peoples (CAPIP), resigned from their posts within the government, citing the lack of attention by both the previous and current administrations. Andrés Cuz Mucú, CAPIP's president, indicated that the group has still not had a single meeting with President Álvaro Colom, or spent any of the Q900,000 (US \$120,000) granted in the 2008 budget. Cuz Mucú stated that the Berger administration created the Council as a part of the Ministry of Culture and Sports, but that Colom has not ratified the Council's formation since he was sworn in as president.

## LABOR RIGHTS

### **Dialogue on Part-Time Work Recommended**

06.23.08 As a result of the economic crisis in Guatemala, dialogue over whether or not to ratify the International Labor Organization's (ILO) Convention 175, which supports part-time employment with benefits and legal standing, has once again recommenced and intensified. Under the current system, Guatemalans may work part-time but they are not protected by a contract and do not receive benefits. Business owners and leaders in the industrial sector are urging Congress to ratify the changes, but union organizers are afraid they will lose labor rights that they have struggled to obtain. Others have asserted that the proposal is unconstitutional.

## AGRARIAN CONFLICTS

### **Campesinos Pressured to Sell Communal Land**

06.19.08 Almost two thousand families have been forced to migrate to a nature reserve in the northern department of Petén after being pressured to sell their lands. Representatives from the National Land Pastoral Ministry Office, a part of the Guatemalan Catholic Bishops' Conference, reported that the campesinos were coerced into selling by businessmen eager to cultivate African palms and build hydroelectric dams. Approximately 900 *caballerías* of land, just over 100,000 acres, have been sold in the municipality of Sayaxché alone. The families that have migrated to a nearby natural reserve and now risk being evicted by government forces for trespassing.

## MIGRANT RIGHTS

### **CONAMIGUA Requires Activation**

06.19.08 Guatemalan Congressional representatives from the Immigration Commission met for the first time with Haroldo Rodas, the minister of Foreign Relations, in order to urge him to activate the Council for Attention to Guatemalan Immigrants (CONAMIGUA). Congress developed CONAMIGUA in October 2007 as a means through which the government could safeguard the rights of Guatemalans living abroad. However, according to Rodas, because Congress has yet to appoint an executive secretary for CONAMIGUA, the Ministry of Foreign Relations has been unable to activate the Council. Congressman Julio López has requested that party leaders propose candidates for the positions of executive secretary and assistant secretary in order to expedite the process.

### **Immigration Crackdown in Europe**

06.20.08 The Guatemalan Minister of Foreign Relations, Haroldo Rodas, called on his Central American counterparts to discuss immigration in any future negotiations with the European Union (EU). The need arose after the European Parliament recently approved a measure that legalizes the deportation of immigrants who do not have proper documentation. In addition, the law establishes that immigrants without appropriate

paperwork can be detained for up to eighteen months before being deported to their native countries. Unaccompanied minors and families with children can also be held.

Miguel Ángel Ibarra, the vice chancellor, stated that the new EU policy violates human rights and that Latin American countries should unite in opposition and encourage changes to the law. Sergio Morales, the Guatemalan human rights ombudsman (PDH), also criticized the measure. It is estimated that some 20,000 Guatemalan immigrants currently reside in Europe, the majority in Spain and France.

## SOCIAL, ECONOMIC, AND CULTURAL RIGHTS

### **Disabled Protest Lack of Services**

06.25.08 Dozens of physically disabled persons met in front of the Guatemalan National Palace to protest the lack of public policies and services taking their needs into account. According to protesters, the executive branch has not offered programs that allow them to fully engage in civic life. They called for more recognition in social and political circles, and an increase and improvement in services provided.

### **Campesinos Demand Development Law**

06.24.08 In a paid advertisement in *La Hora*, one of Guatemala's most prominent newspapers, the National Coordinating Committee of Campesino Organizations (CNOC) urged the Guatemalan Congress to approve the Law for Integrated Rural Development in order to develop long term strategies to address the current food crisis, particularly impacting indigenous and campesino populations. The add stated: "The world crisis, created by the high food prices, will last longer than what was predicted. In the last nine months the price of staple goods has risen 45% throughout the world, according to the UN Organization for Food and Agriculture, and there is no telling when it will stop."

The CNOC pointed to the unequal distribution of food and wealth, price speculation by large supermarkets, structural adjustment policies and the imposition of free trade agreements as factors perpetuating the problem. In addition to

encouraging the passage of the Integrated Rural Development Law as an issue of national urgency, the CNOC demanded that Congress implement actions to control prices for staple goods, promote social unity, support small farmers in the diversification of national products, and forgive the loans of impoverished campesino families that have acquired land through government credits.

### **Groups Protest Food Costs**

06.26.08 Hundreds of people throughout different departments (Quetzaltenango, Mazatenango, Sololá, Suchitepéquez, Jalapa, Totonicapán, Quetzaltenango, Escuintla, Retalhuleu, Alta and Baja Verapaz, Santa Rosa, Chiquimula, and Jutiapa) in Guatemala took to the streets to protest the rising price of staple goods. In addition, protestors spoke out about other issues like the State of Prevention recently declared in San Juan Sacatepéquez (See State of Prevention in San Juan Sacatepéquez Article – PG. 6).

## **RIGHT TO JUSTICE**

### **PDH Calls for Mechanism to Find the Disappeared**

06.23.08 Human Rights Ombudsman (PDH) Sergio Morales called on the Guatemalan Congress to pass a bill that would create the National Commission to Search for Victims of Forced Disappearances during the Internal Armed Conflict. Morales made his request on June 21 in commemoration of the National Day against Forced Disappearances. He urged the victims' families to demand that the government fulfill its legal, political, and moral obligations to the disappeared. The Guatemalan government still has not made any substantial move towards searching for the thousands of disappeared persons, despite the existing information about those who were detained by state security forces, said Morales.

According to studies carried out by the United Nations' Historical Clarification Commission (CEH), during the internal armed conflict approximately 45,000 people were forcibly disappeared. The majority was disappeared at the hands of the now defunct National Police, the army, and other governmental organizations that gained political power through the military governments. Nevertheless, politically-motivated kidnappings and state sponsored repression continues to be a problem, according to Filiberto Celada, a member of the

survivors group Children for Identity and Justice against Forgetting and Silence (H.I.J.O.S). Human rights activists are concerned that violent acts are still committed by governmental forces, in part because the Public Prosecutor's Office (MP) is unable or unwilling to investigate and prosecute those responsible.

The Day against Forced Disappearances marks the day when twenty-seven union leaders were disappeared in 1980. To honor the occasion, members of the Syndicate of Guatemalan Labor Unions (UNSITRAGUA) placed flowers in front of what was once the headquarters of the National Workers Headquarters.

### **Relatives of War Victims Receive Reparations**

06.27.08 Relatives of the victims from the burning of the Spanish Embassy in 1980 received between Q20,000 and Q24,000 (US \$2,667 and \$3,200, respectively) as part of the restitution efforts of the Guatemalan government. César Dávila, the director of the National Reparations Program (PNR) in charge of administering the payments, reported that the PNR also provided reparations to relatives of the murdered San Carlos University students (USAC) and leaders from the Coca Cola union. The PNR is attempting to compensate family members that lost loved ones at the hands of government security forces or paramilitary patrols during the internal armed conflict.

## **LEGAL CASE UPDATE**

### **Ríos Montt Loses Jurisdiction Battle**

06.20.08 The Supreme Court of Guatemala (CSJ) confirmed that the Second Instance of the Criminal Court does have the jurisdiction to continue investigating the genocide case filed against Efraín Ríos Montt and other high-ranking military officers. Ríos Montt's defense team filed a motion in June 2007 against the decision of the Tribunal for Jurisdictional Conflicts, which determined that the court could hold proceedings in the genocide case even though the massacres had occurred in several different departments in Guatemala. The CSJ ruled that Ríos Montt's motion was unfounded.

## RIGHT TO A HEALTHY AND SUSTAINABLE ENVIRONMENT

### **Mining Law Declared Unconstitutional**

06.16.08 Environmental groups have claimed victory over the recent Constitutional Court (CC) decision regarding seven articles within the Mining Law. The CC, the highest court in Guatemala, ruled that the articles were partially unconstitutional, leaving open the possibility of developing new mining regulations. The CC argued that mining activities may have a serious impact on natural resources, some of which are not renewable, and therefore the environmental impact of a mine must always be taken into account when granting concessions. Yuri Melini, the director of the Center for Legal, Environmental, and Social Action (CALAS), stated that after three years of studying the proposed law, CALAS filed a motion regarding its unconstitutionality in 2007. The CC handed down its ruling in April 2008, although the parties were not notified of the decision until mid June.

### **Peaceful Protest Held Against Mining**

06.18.08 For over a week, some 150 residents of communities in the municipality of San Miguel Ixtahuacán, San Marcos peacefully protested against the Marlin mining activities carried out by the Montana Exploradora company. According to community members, in mid June “The National Civil Police (PNC) acted with repression against women, children, and men who had demanded security. The community members were threatened and exploited by the company’s actions.” In order to apply pressure to Montana Exploradora, the locals held their protest within two kilometers of the mine and cut off the electricity to the mills that grind the ore to extract gold.

This is not the first time that residents have protested the environmental effects of the mine. After the opening of the mine in 2005 in San Miguel Ixtahuacán, where 85% of the work is concentrated, and the municipality of Sipacapa, communities have shown their disapproval by holding public referendums in opposition to mining exploration and exploitation. Residents have comment that the soil, air, and water have all been contaminated by the 28.75 grams of cyanide needed to extract each ounce

of gold. The use of explosives and the installation of high-tension electric cables over homes in three communities have also had an impact. Those openly opposing the company have faced threats and acts of intimidation at the hands of mining personnel.

### **Mine Fined for Operating Without Study**

06.23.08 For several months, communities near the Cahabón river have noticed that the water was turning a strange color. After reporting the findings to environmental groups and the Ministry of the Environment and Natural Resources (MARN), residents were able to establish that the mining company, Maya Níquel, S.A., is one of the main groups responsible for the pollution. Further investigations revealed that Maya Níquel has been conducting mining explorations near the riverbanks for months without having first having completed an environmental impact study.

Maya Níquel concentrates its work in the Marichaj and Chatalá communities, located in the municipality of Santa María Cahabón in Alta Verapaz, one of the most ecologically diverse regions in Guatemala and home to the indigenous Q’eqchi group. More than 60% of the territory is used for forestry, and the rivers are used to irrigate the land. The Cahabón river basin is surrounded by coffee, chili pepper, and cardamom plantations, which all run the risk of becoming contaminated.

Residents living near the mining concession presented a formal complaint to MARN in 2007. The sub delegate of MARN for the region, Édgar René Cruz Mus, accompanied by personnel from Maya Níquel, confirmed that the river was polluted. MARN levied two Q100,000 fines (US \$13,333) on the company for not having done an environmental impact study in either the Marichaj or the Chatalá community.

## OTHER INFORMATION

### **State of Prevention in San Juan Sacatepéquez**

06.28.08 On June 21, residents from the San Antonio Las Trojes community blocked vehicular and pedestrian access to the community in order to protest the installation of a cement factory located on the San José Ocaña plantation. Later, the National Civil Police (PNC) reported disturbances

within the crowd as four persons were taken hostage by the protesters. Three of them were later freed by security forces. The fourth, identified as Francisco Tepeu Pirir, died in the confusion, according to official sources at the time.

As a result, on June 22, President Álvaro Colom declared the second a State of Prevention in 2008, a two-week period in which individuals in San Juan Sacatepéquez are prohibited from assembling and holding public protests. It also prevents individuals from carrying weapons in the municipality, except for state security forces, and limits transportation. Those who travel outside the community may be subjected to searches or face questions concerning their itineraries.

One thousand PNC agents and soldiers were deployed two days later to San Antonio Las Trojes. The following day, the Judge from the First Criminal Court in Mixco ordered the arrest of forty-three individuals charged with illicit assembly, resistance to authority, and public disorder.

Locals have protested the installation of a cement factory in the region since October 2007 due to concerns over the environmental damage the factory would cause. At least twelve communities in the area oppose the factory.

In response to the State of Prevention in San Juan Sacatepéquez, the National Coordinating Committee of Campesino Organizations (CNOO) issued a statement maintaining that President Colom had made a mistake. CNOO called on justice and human rights groups to establish a dialogue between the government and community leaders in order to avoid violence. The Campesino Unity Committee (CUC), as well as several other union, indigenous, and women's groups, also condemned the deployment of security forces to Las Trojes. María Eugenia Díaz, a representative from the Women's Sector and the Center for Legal Action on Human Rights (CALDH), said that the most affected by the State of Prevention are the women who cannot obtain food for their families because they are prohibited from leaving their homes. The Presidential Human Rights Commission (COPREDEH) and the Secretariat of Peace (SEPAZ) attempted to initiate a dialogue between relevant parties.

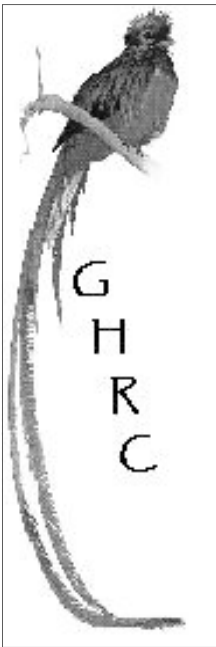
Relatives of Francisco Tepeu Pirir, the campesino killed during protests, said that a soldier,

three indigenous lawyers and the Nobel Peace Prize winner Rigoberta Menchú are the intellectual authors behind this crime. They indicated that the National Indigenous and Campesino Coordinating Committee (CONIC) manipulated communities during a time in which the Association for the Integrated Civil Development of the Indigenous People for Environmental Control and Prevention in San Juan Sacatepéquez promoted an investigation into whether the cement factory would bring benefits to the communities or environmental destruction. Tepeu Pirir was a steadfast activist against the implementation of the cement factory, and more recently started supporting dialogue with the factory owners.

### **Guatemalan Minister Dies in Helicopter Crash**

06.27.08 The helicopter carrying Guatemalan Minister of the Interior, Vinicio Gomez, Vice Minister Edgar Hernandez, the pilot, and one other passenger crashed over a farmhouse in Purulhá, Baja Verapaz, killing all four passengers on board. Army spokesperson Jorge Ortega revealed that authorities lost contact with the aircraft approximately one hour after its departure from Flores, Baja Verapaz. Although the cause of the crash is still unknown, a report from the National Meteorological Institute (INSIVUMEH) indicated that heavy rains and fog blanketed the Baja Verapaz region around the time of the crash.

President Álvaro Colom was attending a regional summit in Mexico when he heard of the minister's death. Press Secretary Ronaldo Robles stated that, "The president is distraught and regrets the death of a key minister who had done such good work with only a few months in office." Vinicio Gomez became the Minister of Interior five months before when Colom promoted him from Vice Minister. President Colom returned to Guatemala immediately, arriving in time for the Sunday morning memorial service.



*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.*

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