

Guatemala Human Rights *UPDATE*

Guatemala Human Rights Commission/USA

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RIGHT TO LIFE AND HUMANE TREATMENT

Campesino Community Leaders Attacked

07.02.08 Two women community leaders in Cobán, Alta Verapaz, were illegally detained and threatened by Carlos Withman and Guillermo Urrutia, managers of the company Chabil Utzaj S.A., and their security guards. The Campesino Unity Committee (CUC) reported that on the day that the women were apprehended, campesino and indigenous leaders had staged a protest against another recent attack on the Los Recuerdos plantation during which one protester was injured. Daniel Pascual, a campesino leader, indicated that Withman and Urrutia's body guards detained María Martín Domingo and Fabiana Ortiz Sales for more than six hours. Only after CUC lawyers filed a motion in the court in Panzós, Alta Verapaz, for the women to appear before the judge, were they released. The two hostages reported that in addition to being detained, the guards pointed their weapons and threatened to kill them if they did not stop protesting. During the melee, the guards also fired into the crowd and shouted that they would kill Aparicio Perez and Rafael Gonzales, two other protest leaders.

Chabil Utzaj, S.A. is a bio fuel agribusiness that has cut down forests since 2005 in order to plant large extensions of sugar cane used to produce ethanol. Locals are concerned about the plantation's environmental damage and recently attempted to replant the land at Los Recuerdos. Paramilitary groups fired at those who entered, forcing them to flee. Cristobal Coc Cuc, 35, was shot and subsequently hospitalized for his injuries.

Violence Towards Bus Drivers Continues

07.04.08 According to data from the National Civil Police (PNC), forty-one drivers and eleven assistants have been killed so far in 2008, only nineteen of whom were slain in Guatemala City itself. It is believed that the killings occur when drivers refuse to pay the so-called "territorial tax" imposed by local gangs. Authorities have not been able to stop the killing spree: the PNC crime investigation unit has yet to order an arrest warrant for any of the nineteen cases although it has conducted 125 searches. The International Commission against Impunity in Guatemala (CICIG) has pledged to contribute to the investigation.

According to the Association of Urban Transportation Companies, 200 buses are threatened or assaulted each day, the majority of attacks taking place in Guatemala City's zones 6, 7, and 18. Roberto Mazariegos, interim president of the Suburban Passenger Transport Union, reported that 30% of all buses are out of circulation. The insecurity has made it almost impossible to recruit new bus drivers, a job that has now been labeled as high risk. Protests in certain areas in and around Guatemala City continue to interrupt service.

20 People Kidnapped Each Month

07.10.08 Although the Public Prosecutor's (MP) chief of the Unit Against Organized Crime insisted that kidnapping cases have not increased in 2008, security forces have registered an average of twenty cases of kidnapping per month. Guatemala City and the western region of Guatemala report the highest rates. The head of the Organized Crime Unit, Jorge Luis Donado, commented that although 140 cases have been registered "some are simulated crimes or self-kidnappings." Donado insisted that the number is not higher than last year when more than 200

cases were reported. He added that at the present time, the MP has not received a single case in which the National Civil Police (PNC) has been accused of being the perpetrator or accomplice.

Public Prosecutor Murdered

07.15.08 Public Prosecutor Juan Carlos Martínez Gutiérrez was killed several miles away from his home in El Guayabo, Oratorio, Santa Rosa, as he traveled towards Guatemala City to begin his work in the Public Prosecutor's Homicide Unit (MP). Martínez Gutiérrez had been working in the MP for the last twelve years, but was assigned to the Homicide Unit a year and a half ago in order to investigate the case of the police agents detained in the assassination of the three Salvadoran members of the Central American Parliament (PARLACEN) and their driver. In addition, Gutiérrez played an active role in the detention of the members of the municipal council in Jutiapa, arrested for confirming Manuel de Jesús Castillo Medrano as mayor while he was wanted by local officials. Castillo has been accused of implicit involvement in narcotrafficking and has an outstanding arrest warrant. Martínez Gutiérrez was also investigating the death of Víctor Rivera, the former consultant to the Ministry of the Interior.

POLITICAL RIGHTS

Jiménez Names Minister of Interior

07.02.08 Following the helicopter crash that killed Interior Minister Vinicio Gomez and his Vice Minister Edgar Hernandez on June 26, President Álvaro Colóm appointed Fransisco José Jiménez Irungaray as the new Minister and Emilio Arnoldo Villagrán Campos as the new Vice Minister. Jiménez received a doctorate in philosophy from the Gregorian University in Rome before beginning his work with Vinicio Gomez at the General Civil Intelligence Agency (DIGICI). He also coordinated the Guatemalan Network for Democratic Security and was a professor of political and social philosophy at the Rafael Landívar University in Guatemala City. Emilio Arnoldo has been an investigator, consultant and political analyst for Democratic Impact (IDem) as well as a representative for the National Electorate of the New Nation Political Alliance (ANN).

BASIC FREEDOMS

Information Access Bill Presented in Congress

07.03.08 The Guatemalan Congress heard the first reading of a bill that would make the management and execution of public resources and public administration more transparent. It would obligate all public, autonomous, decentralized, and private entities that receive public funds to report on the allocation of their money. In addition, it would establish sanctions for functionaries who obstruct public access to information or provide incomplete information in an arbitrary or unjustified manner. Two additional congressional sessions will be held in July to continue the debate.

The Organization of American States (OAS) recommended the Public Access Law as a part of the implementation of the InterAmerican Convention against Corruption. The committee's report considers that the law, also known as *hábeas data*, would be the most effective mechanism to stimulate civil society discourse and prevent corruption. Members of the National Peace Accords Council (CNAP) made similar recommendations that Congress should pass a law granting open access to information and the classification and declassification of files. CNAP also suggested that the retention and leaking of information without authorization, the partial or total destruction of public information, the undue classification of information and the collection of illegal files of political information about Guatemalan residents be classified as criminal acts under the new law.

WOMEN'S RIGHTS

Violence Against Indigenous Women Increases

07.03.08 Domestic violence affects a striking percentage of women in Guatemala. Statistics provided by Juana Celestina Sot, an assistant at the Office for the Defense of Indigenous Women (DEMI), indicated that they have received more than 800 reports of domestic violence so far in 2008. According to DEMI's records, Alta Verapaz and Huehuetenango report the highest number of cases, two regions with high concentrations of indigenous groups. The departments are also the ones most affected by extreme poverty and lack of access to

education, a situation that has a more profound effect on women than men.

DEMI offers psychological, legal, and social support to women affected by domestic violence or sexual and psychological harassment in the workplace. The group offers assistance in different Mayan languages as well.

CHILDREN'S RIGHTS

Minors Used by Organized Criminals as Hit Men

07.10.08 Evidence gathered by the Public Prosecutor's Unit's (MP) Homicide Unit in the forty-one cases involving murdered bus drivers indicates that organized crime units use minors as hit men because the sanctions for juvenile offenders are less severe. Álvaro Matus, the head of the MP's Homicide Unit, affirmed that it is difficult to accuse a minor of a crime since the MP cannot solicit an arrest warrant for a child, but instead has to ask for a hearing before a Justice of the Peace or a Child and Family Judge. Matus added that only in one case has a minor been caught in flagrante, at which point the child admitted that he had been ordered to kill a bus driver "because he had not paid the tax."

Article 138 of the Law for Integrated Protection for Children and Adolescents establishes that crimes committed by thirteen-year-old minors will not be tried in the adult courts. Sanctions for adolescents older than thirteen are also milder than for adults and vary according to the age of the juvenile offender. From thirteen to fifteen there is a maximum sentence of two years in a juvenile detention center, and from fifteen to eighteen there is a maximum of six years.

LABOR RIGHTS

Factory Closings Aggravate Unemployment

07.05.08 Unemployment in Guatemala has increased due to several business closings and factory layoffs, particularly in the textile industry. In the first two weeks of July three factories closed, leaving 1600 people without jobs. Alejandro Ceballos, the president of the Clothing and Textile Commission (VESTEX), stated that in 2004 there were 225 textile factories operating in Guatemala that generated 113,200 jobs, but in 2007 the number of positions dropped to 68,400. In 2008, only 165

factories have been left in operation to employ some 50,000 individuals. In four years, the industry has discontinued 63,000 jobs.

LAND RIGHTS

Negative Effects of Free Trade Become Clear

07.03.08 According to a study conducted by the Institute of Agricultural and Rural Studies (IDEAR), two years after the implementation of the Free Trade Agreements with Central America and the Dominican Republic (CAFTA-DR), one can see the "the negative effects most clearly in issues related to national agriculture and food sovereignty." Data from the IDEAR shows that incentives have grown for the importation of essential food products to the commercial opening of borders and the reduction of tariffs, which has slowed national production and created a dependence on the international markets. The combined effects have produced exorbitant price increases; wheat prices rose 213%, rice by 341% and corn by 236 between April 2006 and April 2008, and trends have continued. The price of wheat increased another 60% between March and May 2008.

Communities Affected by Biodiesel Production

07.15.08 The high price of petroleum and the increasing demand for biodiesel have fueled the race to buy land capable of cultivating African palm used in the production of vegetable oil and biodiesel. The scarcity of marketable arable land has caused businessmen to look to more remote regions of the Ixcán in Quiché, the southern area of Petén, the Polochic valley in Izabal, and the Northern Transversal Strip. The lands have become highly desirable due to their price, availability, and agricultural potential.

Geovanny Tzin, the coordinator of the Land Discussion Group in the southern Petén, said that the increase in African palm cultivation has led to the disappearance of entire communities in the region due to poverty and coercion to sell their lands. In 2007 Guatemala cultivated 65,000 hectares of African palm, a figure that is estimated to rise to 100,000 hectares by 2010.

The US company Green Earth Fuels, owned by the investment company The Carlyle Group; Riverstone Holdings and Goldman Sachs, who bought more than 25,000 hectares in the Petén, Alta

Verapaz, and Quiché departments in order to produce biodiesel; the Campollo Group; and Hame Agroindustries (OLMECA) which has installments invested in Sayaxché, Petén, are among the firms that have acquired properties for African Palm plantations.

MIGRANT RIGHTS

Eight Out of Ten Migrants are Raped

07.14.08 The American Dream has turned into a nightmare for many immigrant women. According to the latest report by the Immigration Forum produced in 2008, eight out of every ten Central American women who cross the southern border with Mexico are raped including girls, teens, and elderly women, many of whom are Guatemalans. Faced with this reality, Salvadoran women have begun to organize themselves and travel in groups, but the technique is more difficult for Guatemalan women to employ.

Information in the report was obtained through a series of interviews in immigrant shelters located along international borders. Mary Galván from the immigrant shelter Madre Assunta Institute, said that sexual abuse cases are registered in both the northern and southern borders of Mexico. “Central American women are more vulnerable because often they pass as the wives of immigrants in order to cross the border, and are therefore taken advantage of,” Galván indicated. She commented that last year three sisters wanted to cross the border and assailants forced them to strip. The youngest sister, who was mentally delayed, refused and was immediately grabbed by her hair and taken her away. No one knows what happened to her. Galván added that many women do not dare to report the abuse: “There was a time when women without papers, instead of asking for clothing or food, asked for birth control. This means that they are prepared to do whatever it takes in order to have a better chance of reaching the US.”

Catholic priest Pedro Pantoja of the Posada Belén shelter located in Saltillo, Coahuila, México, told the story of Marisa, a Central American woman who was raped by twelve men. “After passing through Tapachula, she was walking through the underbrush in order to reach a train when twelve men assaulted her, robbed everything,

and then raped her.” Just days before, a police officer had also sexually abused her.

Jorge Bustamante Fernández, the United Nations Special Rapporteur for Immigrant Rights, told reporters from the Mexican newspaper *El Universal* that immigrant rights are more frequently violated in Mexico than are Mexican immigrants in the US. Ana María Méndez, from the Immigrant Defense Office in the Human Rights Ombudsman’s Office (PDH), confirmed Bustamante’s claim and added that in the last week they have received thirteen reports of people who were deported and sexually abused by immigration police in Mexico.

SOCIAL, ECONOMIC, AND CULTURAL RIGHTS

Illiteracy and Drop Outs Continue

07.01.08 According to the organization “Transitions to Adult Life,” the illiteracy and elementary school drop out rates in Guatemala continue to be among the highest in Latin America. A recent testimonial released by the news agency Center of Informative Reports on Guatemala, CERIGUA, reported the findings.

The principle educational problems in Guatemala revolve around late entry into the school system, repetition of courses and school desertion, especially among girls. Indigenous groups are overwhelmingly less educated and all indicators show that educational inequalities inspired by race continue. Mayan women are without a doubt the most disadvantaged group, with only 39% of all individuals aged fifteen to sixty-four years professing literacy. The data from the National Survey of Living Conditions (ENCOVI) show that the majority of Mayan girls cannot finish elementary education due to poverty, domestic work, and cultural barriers.

More and More People Slip Into Poverty

07.01.08 The cost of living and the rising prices of staple goods—a consequence of the increasing petroleum costs in the world market—will cause 700,000 Guatemalans living in a precarious socio-economic condition to slip into poverty and 500,000 more who are already poor to fall into extreme poverty, according to the projection from the United Nations Development Program (UNDP). The country faces an enormous challenge to

prevent poverty rates from reaching irreversible levels, particularly as individuals and families find it increasingly difficult to afford staple food products like beans and corn.

Cost of Living Up 13.56% in 2008

07.07.08 According to a report presented by the National Statistical Institute (INE), the cost of living rose 13.56% in June 2008. This marks the highest jump since May 1994 when it rose 14.14%, according to information from the Bank of Guatemala (BANGUAT).

Prices for twenty-six basic food items rose Q55.82 (US \$7.44) from May to June, and now cost a total of Q1875.43 (US \$250.06). The rise contrasts sharply with the Q159 per month (US \$21.20) earned by 1.9 million Guatemalans living in extreme poverty, and the Q360 per month (US \$48) earned by 4.6 million poor Guatemalans, documented in the 2006 National Survey of Living Conditions (ENCOVI) carried out by INE. In effect, 6.6 million Guatemalans—more than half of the population—cannot afford the basic food items needed to survive even if all five members of an average family pool their income. When other basic expenses are taken into consideration such as clothing, transportation and housing, a family of five must spend at least Q3422.32 per month (US \$456.31). María Antonieta del Cid de Bonilla, the president of BANGUAT, reiterated that it is also necessary to readjust expectations and make sure that speculation does not drive up inflation, and that fiscal and currency policies need to be better coordinated in order to control price increases.

RIGHT TO JUSTICE

Supreme Court Backlogged

07.02.08 An assortment of petitions for political immunity and other legal shelters have accumulated in the Supreme Court of Justice in Guatemala (CSJ). Fernando Linares Beltranena, a constitutional lawyer, commented that although the volume of work has increased for the CSJ, the number of personnel has not. Furthermore, a congressional proposal for reforms to the Law for Immunity and Legal Shelters has floundered since 2005. Litigation lawyers agree that the internal organization of the CSJ is “inefficient” and more than half the motions filed lose their relevance because of the length of

time it takes to receive a ruling. The CSJ had at least 1500 motions awaiting decisions in the beginning of 2008, some of which were filed in 2006.

Human Rights Cases Turned Over to MP

07.04.08 Some 1460 cases of human rights violations from the internal armed conflict were turned over to the Public Prosecutor’s Office (MP) by the National Reparations Program (PNR). According to César Dávila, the head of the PNR, this was the first transference of the more than 38,000 cases that have been documented in different PNR headquarters all over the country.

Orlando Blanco, the Secretary of Peace (SEPAZ), stated that the majority of the cases are related to extrajudicial executions, forced disappearances, and massacres in indigenous communities. Blanco added that the files turned over to the MP correspond to incidents registered in twelve departments, the majority of which occurred in Huehuetenango, Quiché, and Alta Verapaz. In these cases, the alleged perpetrators are members of the army and the Civil Defense Patrols (PAC). He added that duplicate files will be sent to the Spanish National Audience (ANE) because the ANE is also investigating genocide, torture, and illegal detentions committed in Guatemala between 1978 and 1986.

High Court Orders Better Attention for Retirees

07.08.08 In a definitive ruling by the Constitutionality Court (CC), the Center for Integrated Medical Attention for Retirees (CAMIP) must provide better attention to its patients. The ruling came after the Human Rights Ombudsman (PDH) filed a motion last year following an inspection that revealed that clients had to wait for several hours and were often refused medication due to shortages or had to wait for several months before filling their prescriptions. The ruling benefits retirees in the public and private sector by obligating authorities to provide medicine, improve the quantity and quality of human resources, and to grant medical attention in a reasonable period of time.

Switzerland Will be in Charge of Police Archives

07.09.08 Authorities from the Human Rights Ombudsman Office (PDH) and representatives

from the Swiss Embassy in Guatemala signed an agreement that will allow the Federal Archives in Switzerland to take charge of the preservation and storage of the files recovered from the National Police offices. Gustavo Meoño, the coordinator of the Archives project, confirmed that 6,300,000 documents have been digitalized from the period between 1975 and 1985. These files may serve as documentary evidence that will help initiate judicial processes against those who committed human rights violations during the internal armed conflict.

LEGAL CASE UPDATE

Court Confirms Sentence in Gerardi Case

07.03.08 The Constitutional Court (CC) confirmed that Captain Byron Lima Oliva will serve twenty years in prison for the assassination of Bishop Juan José Gerardi. The Captain had filed a motion against the Attorney General, also the head of the Public Prosecutor's Office (MP), for allegedly hiding evidence in the case. The appeal was denied when the CC decided that the allegations needed to be presented in a court with more immediate jurisdiction.

Gangs Absolved in Police Murders

07.10.08 The Sentencing Court of Cuilapa, Santa Rosa absolved thirteen gang members who were placed on trial for the murders of four policemen from the Division of Criminal Investigation (DINC) who were killed in prison. The police officers had been accused of the assassination of three Salvadoran Central American Parliament members (PARLACEN) and their driver, a crime that occurred in February 2007. The court ruling indicated that the judges decided unanimously to absolve the gang members based on the contradictory evidence presented by the key witnesses. Additionally, evidence presented in a document from the Penitentiary System dated April 17, 2007 and signed by Augustín Rojo Chávez, established that four of the thirteen accused were not yet in prison on the day the police officers were killed. The court rejected the majority of the rest of the evidence presented as well.

OTHER INFORMATION

Bush Signs the Merida Initiative

07.01.08 President George W. Bush signed an

agreement that will provide \$465 million to ten countries in Latin America as part of the Merida Initiative, a three-year plan designed to combat narco-trafficking and organized crime in Mexico, Central America, the Dominican Republic, and Haiti. Bush said that the initiative presented "another one of our critical national priorities" when he approved the Supplementary Appropriations Law 2008, legislation that also sent \$162 billion to military campaigns in Iraq and Afghanistan. México will receive \$400 million and the remaining \$65 million will be divided between Nicaragua, Guatemala, Honduras, El Salvador, Costa Rica, Belize, Panamá, Dominican Republic and Haiti.

US to Send up to \$20 Million to Guatemala

07.02.08 US Ambassador to Guatemala, James Derham, reported that Guatemala would receive a significant part of the funding granted in the Merida Plan. Derham stated that "although the final details have not yet been worked out, it seems that between the direct bilateral aid and the regional programs Guatemala will receive between \$10 million and \$20 million of the money destined for Central America this year as part of the Merida Initiative." Guatemalan Vice President Rafael Espada insisted that it did not make sense to assign resources before discussing the problems that each country faces with respect to narco-trafficking and organized crime.

Security Operation Turns Up Little Evidence

07.06.08 Security forces comprised of one thousand National Civil Police officers (PNC), one thousand soldiers and five hundred investigators from the Public Prosecutor's Office (MP), carried out an operation in Guatemala City's zone 25, an area known as Canalitos. After conducting 203 searches they captured two gang leaders accused of several homicides and extortions on buses and in businesses. During the search, the military forces discovered two 9-millimeter pistols, a revolver with fifty bullets, a sawed off shotgun, six cartridges and a cell phone. The investigation also included the inspection of the local PNC substation in response to reports of illicit activities.

State of Prevention Suspended

07.06.08 President Álvaro Colom confirmed that the State of Prevention, a decree limiting certain constitutional guarantees, has been lifted in San Juan Sacatepéquez. Colom warned, however, that if other disturbances occurred in the region he would not hesitate to reinstate the measure. The government declared the State of Prevention after a group of people detained four persons, one of whom was killed, in part of an ongoing series of protests over the installation of a cement factory in the region. The factory has created serious internal divisions in local communities.

CICIG Asked Spain to Investigate Death

07.07.08 More than ten days after the fatal helicopter accident in which the Minister of the Interior, Vinicio Gómez, his Vice Minister, Édgar Hernández, and the pilot and co-pilot lost their lives, President Álvaro Colom said that the International Commission against Impunity in Guatemala (CICIG) asked for technical assistance from the Spanish government. The General Directorate for Civil Aviation “is waiting for a report from a group of experts who were kindly sent from Spain at the bequest of the CICIG,” Colom indicated during a press conference held in San Juan La Laguna, Sololá. In addition, a technical team from the Guatemalan Air Force has already concluded their investigation and determined that it seems to have been an accident. Colom affirmed that “so far, there has been no evidence that would indicate that this was anything other than an accident.”

COPREDEH Asks for Ratification of Law

07.11.08 The Presidential Human Rights Commission (COPREDEH) and the UN High Commissioner’s Human Rights Office in Guatemala urged the Guatemalan Congress to ratify the Convention on Forced Disappearances that would, among other things, recognize that forced disappearances are considered to be crimes against humanity and therefore subject to international criminal prosecution. In order for the Convention to be converted into a universal law, it must be approved by twenty countries. At this time only Argentina, México, Honduras and Albania have ratified the measure.

Guatemala Joins Petrocaribe

07.14.08 Guatemala agreed to join Petrocaribe, a program in which Venezuela provides fuel to poorer nations with preferential conditions, including long term loans and the option of making partial payments with goods or services such as rice, plantains, and sugar. Under the agreement, Guatemala will receive 20,000 barrels of diesel per day on credit. Forty percent of the loan must be paid within ninety days of the shipment, while the rest can be financed for twenty-five years with an interest rate of 1% annually. Guatemala marks the eighteenth country to sign on to the measure.

Government figures show that three years after the creation of Petrocaribe, the majority of countries still receive less than their assigned quota due to storage and transportation problems. Chávez announced that Venezuela would increase the petroleum supply to Petrocaribe members and rejected accusations that he is giving away Venezuelan oil.

President Álvaro Colom thanked Venezuelan president Hugo Chávez “in the name of the government and all the poor families that live in remote mountain regions who were abandoned for years but will now receive attention, since this agreement allows us to use Q400 million per month (US \$533,333) to finance social projects as well.” Colom mentioned that the installation of a train system and improvements made to urban transportation, infrastructure, energy sources, and the construction of a highway along the Northern Transversal Strip will specifically benefit Guatemala as a result of its inclusion within Petrocaribe. Carlos Meany, the Guatemalan Minister of Energy and Mines, added that Guatemala would not ask for the full 20,000 barrels per day that was originally offered. The Executive office hopes to soon present a bill for congressional ratification.



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 ghrc-usa@ghrc-usa.org



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3321 12th Street NE
Washington, DC 20017

- **Public Prosecutor Murdered– PG 2**
- **Minors Used by Organized Crime as Hit Men– PG 3**
- **Negative Effects of Free Trade Become Clear– PG 3**
- **Eight out of Ten Immigrants are Raped– PG 4**
- **Court Confirms Sentence in Gerardi Case– PG 6**