

Guatemala Human Rights *UPDATE*

Guatemala Human Rights Commission/USA

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POLITICAL RIGHTS

Colom Sworn in as President of Guatemala

01.14.08 Álvaro Colom Caballeros was sworn in as the new President of Guatemala on January 14, 2008. Some sectors applauded Colom as the first social democratic leader to lead the country in over half a century, while others remained skeptical of classifying Colom as a leftist president. In his inaugural address, Colom reiterated his campaign promise to institute a government with a “Mayan face.” He emphasized that his greatest challenges will be to address the endemic violence that kills on average sixteen Guatemalans a day, improve living conditions for more than half of the population living in extreme poverty, and end discrimination against the indigenous populations.

After promising to “tirelessly work” for “national unity” and to promote social changes that will benefit the poor majority of Guatemala, he announced that his government would be a “social democratic government with a social focus.” He added that the social policies of his administration would be the principal tool to “promote harmony and reconciliation in the country.” Colom voiced his support for a justice system that will “triumph over the impunity” prevalent in the country and stated that he would fight against the “globalized mafias” and clandestine groups that have infiltrated Guatemala. Colom insisted that his administration’s programs will be inclusive of women and will work to eliminate racism against indigenous peoples.

After the ceremony ended, representatives from all twenty-three Mayan communities, including the almost extinct Xincas from the Pacific coast, and the Garifuna communities greeted the new president. For the first time in the history of modern Guatemala, the Mayan Elders carried out a

ceremony for the change of office. Guacatel Itiu, a representative of the Elders, gave a speech in which he emphasized that in the Mayan calendar, the day of the presidential inauguration coincides with wisdom, the ‘spirit of intelligence.’ After his speech, Itiu swore in Colom and handed over the staff of authority used by the Council of Elders to identify a leader, which has the names of the twenty-three Mayan groups inscribed on it. The president announced the creation of an “Indigenous Peoples’ Embassy” to promote communication with the other indigenous peoples of the Americas.

The new president also met privately with the presidents of Venezuela, Colombia, Brazil, and Mexico, who were all invited to the inauguration ceremony.

Activists Question Colom’s Cabinet

01.12.08 Some of Álvaro Colom’s appointments to his Cabinet have generated concerns, doubts, and surprise from different sectors of Guatemala’s civil society. Activists and analysts questioned the political inexperience of some Cabinet members, the lack of women and indigenous representation, and the general lack of public information about the majority of the Cabinet’s prior work experience.

Mario Polanco, director of the Mutual Support Group (GAM), commented that political inexperience could lead to corruption and could hinder Colom’s ability to govern. Gabriel Medrano, former president of the Guatemalan Bar Association; Carmen Aída Ibarra, from the Myrna Mack Foundation; and Hilda Morales, from the Network for No Violence Against Women; agreed that Colom’s cabinet choices contrast with his campaign promises to establish a Cabinet with a “Mayan face” and gender equality. Minister of Education Ana Ordóñez de Molina was the only woman named to

the Cabinet, while Minister of Culture and Sports Jerónimo Lancerio was the only indigenous representation on the Cabinet.

Members of the Mayan Defense Office also criticized the President's Cabinet choices as one more example of exclusion and marginalization in Guatemala. The Mayan Defense Office called on organizations, coalitions, and indigenous communities to boycott the presidential inaugural celebrations taking place in the municipalities.

Juan Tiney, a leader for the National Indigenous and Campesino Coordinating Committee (CONIC), also criticized the lack of indigenous representatives in Colom's Cabinet and commented that Colom won the elections because of the rural, primarily indigenous vote. Tiney added that sixty-eight percent of the Guatemalan population is indigenous and continues to face sharp discrimination.

Another notable appointment was that of the Minister of the Interior, Vinicio Gómez. Gómez replaced Adela Camacho de Torrebiarte, who held the position since March 2007 under the Berger administration. She was the first woman to serve at that post and it was rumored that she would remain in that position during Colom's administration.

In response to the criticism regarding his choices, Colom argued that the lack of women and indigenous in his Cabinet will be "balanced out" by the appointments of different vice ministers, where women and indigenous peoples will have more representation.

The following is a complete list of Colom's Cabinet: General Marco Tulio García, Minister of Defense; Vinicio Gómez, Minister of the Interior; Haroldo Rodas, Minister of Foreign Affairs; Juan Alberto Fuentes, Minister of Public Finances; José Carlos García, Minister of the Economy; Carlos Meany, Minister of Energy and Mining; Ana Ordóñez, Minister of Education; Eusebio del Cid, Minister of Health; Raúl Robles, Minister of Agriculture; Luis Alejos, Minister of Communications; Edgar Rodríguez, Minister of Labor; Luis Ferraté, Minister of the Environment; and Jerónimo Lancerio, Minister of Culture and Sports.

RIGHT TO LIFE AND HUMANE TREATMENT

Berger Reports Decrease in Crime

01.10.08 Outgoing Guatemalan President Óscar Berger announced that the rate of crime had substantially decreased during his last year in office. According to Berger, the most recent data shows a reduction in the most common crimes committed in Guatemala, including homicides, femicides, kidnappings, car thefts, and bank robberies. He acknowledged that while crime levels have decreased, the rate of violence in Guatemala is still too high and unacceptable.

Berger's statements starkly contrasted with figures from several different national and international sources. While preliminary figures for 2007 are still being analyzed, the United Nations Population Fund (UNPF) recorded 4,213 homicides in 2007, including the murder of 253 minors. The Presidential Secretariat on Women (SEPREM) reported the murder of 536 women, up from their record of 429 killed in 2006. The National Civil Police (PNC) and the Public Prosecutor's Office (MP) reported more than 17,000 cars stolen in 2007, a one percent increase from 2006. Rates of extortion, especially extortion committed by prisoners and gang members, increased in the last year.

In fact, the only figures that supported Berger's claim came from the Minister of the Interior, Adela Camacho de Torrebiarte, who indicated that the homicide rate declined by 1.5% during her short time at the helm of the Ministry. Camacho de Torrebiarte's data, collected from the National Security Council, was provided as part of the transition to the new administration.

Nery Rodenas, director of the Human Rights Office of the Archdiocese of Guatemala (ODHAG), stated that violence in Guatemala has increased, not decreased, in the last few years. A fact, he added, that is supported by several reports from the most affected sectors of society. Rodenas also commented that high levels of impunity accompany the violence, further undermining the rule of law.

Despite these discrepancies, President Berger maintained that crime is on the decline and attributed

it to the efforts of his administration and security forces.

CHILDREN'S RIGHTS

Adoption Council Sworn in and Swamped

01.11.08 Amidst controversy over the constitutionality of the new Adoption Law, the members of the National Adoption Council (CNA) were sworn in and began the task of overseeing all adoptions in Guatemala. The new Adoption Law requires the CNA to provide protection and supervision for all children and adolescents cleared for adoption. The CNA's goal is to make the adoption process more transparent. A family judge will then be able to determine whether or not a child should be eligible for adoption.

The CNA has already received more than 2,000 cases, although they do not yet have an office in which to work. Members of the Council include Anabella Morfín, appointed by the Ministry of Foreign Relations, as well as Nery Soto Ovalle and Hilda Morales Trujillo, appointed by the Supreme Court of Justice as its representative and alternate, respectively. Mynor Rabanales, with Byron Alvarado as his alternate, will represent the Presidential Secretariat for Social Well-being.

However, Attorney Susana Loarca announced that she filed a motion on behalf of the lawyers who previously oversaw the adoption process to block the new law, asserting that the new protocols are unconstitutional. The international adoption market in Guatemala has been called a "large network of lawyers, notaries, and thieves whose job it is to convince young mothers and poor women to give up their children for adoption." According to the Center for Justice and International Law and Covenant House Guatemala, 97% of all adoptions were previously carried out through notaries, who work without any supervision. The Adoption Law was debated in Congress for more than five years while hundreds of people who participate in the international adoption networks of Guatemalan children tried to block its ratification.

INDIGENOUS RIGHTS

Historical Land Rights Recognized

01.11.08 The forty-five families that make up the

indigenous community of Santa Cruz in Poptún, Petén recently made history as the first group in Guatemala whose historical land rights were officially recognized. The community will be issued deeds to the communal land that they previously rented from the municipality. Martín Caal, one of the leaders from Santa Cruz, said that this move allows them to be better organized. They will continue to work for the titles for the rest of the land that traditionally belonged to them, he added.

Indigenous Leaders Take Office in Sololá

01.10.08 José María Julajuj, a Mayan Kaqchikel, took office as the Mayor of the Municipality of Sololá in a ceremony that took place on January 1, 2008 in front of five thousand people from nearby communities. Julajuj will be assisted by two indigenous men and two indigenous women to ensure that both men and women are represented in his administration. During the ceremony, Julajuj promised to work for the benefit of the Mayan Kaqchikel people. The indigenous leaders also commented that they would apply Mayan traditional laws when necessary, especially in utilizing conflict mediation to avoid going to court.

AGRARIAN CONFLICTS

Land Occupied by Former Guerillas

01.01.08 Sixty campesinos peacefully occupied the Champericón finca (plantation), located in Champerico, Retalhuleu, demanding that the government turn over the land to approximately 1,500 families of former guerrillas. The campesinos immediately built provisional shelters that they say will house more than one thousand people arriving from the departments of Huehuetenango, Quiché, San Marcos, and Retalhuleu. Francisco Vicente Tobar, the group's leader, identified himself as a former guerilla commander. He commented that Champericón is a subsection of the Ixtán plantation that contains more than seven caballerías (roughly 800 acres) of land. Tobar stated that he holds a document issued by the General Property Registry dated August 2, 1910 that cites the land as municipal land, although more recent records indicate that it is registered to a person named, Otto Callejas.

One of the principle factors that led to the near four decade long civil conflict was the unequal distribution of land in Guatemala, something that has

yet to be resolved. Of Guatemala's 42,042 square miles, nearly 30,000 are owned by 2% of the population. Today, more than one million people are considered landless.

MIGRANT RIGHTS

Remittances Make up 10% of GNP in 2007

01.11.08 Remittances sent by relatives of Guatemalans living abroad are on the verge of surpassing exports to become the principle source of income for the Central American nation. Guatemalans living abroad sent their families a record \$4.128 billion in 2007, only \$91 million behind Guatemala's income earned from exports: \$4.219 billion. The impact of remittances on the Guatemalan economy, representing more than 10% of the Gross National Product, is huge, creating a very strong dependency on remittances, according to Fritz Thomas, dean of the Economic Science Department at Francisco Marroquín University.

According to the Bank of Guatemala, remittances in 2007 rose by \$518 million over the \$3.6 billion sent home in 2006, an increase of 14.4%. This is despite the fact that more than 23,000 Guatemalans were deported from the US, translating into an economic loss of \$200 million a year. The International Organization for Migration (IOM) estimates that 962,000 Guatemalan homes benefit from remittances. IOM points out that this migratory phenomenon has a negative impact as well on Guatemala, including the loss of educated and skilled laborers to other countries, family disintegration, and the creation of a strong dependency on remittances for some.

SOCIAL, ECONOMIC, AND CULTURAL RIGHTS

Inflation Reaches 8.75% in 2007

01.08.08 The Consumer Price Index (IPC), which measures the price fluctuations of 424 staple goods and services in Guatemala, registered an inflation rate of 8.75% in 2007. This is the highest rate since 2004, according to the National Statistics Institute (INE) in Guatemala. The two most important categories of the IPC, "food and drink" and

"transportation and communication," registered even higher increases, 11.86% and 10.8% respectively.

Staple goods for a family of five rose to Q1664.81 per month (US \$221.97) during 2007, an increase of Q162.53 (US \$21.67) from 2006. The same food items in 2003 cost families Q1293.87 (US \$172.52). These figures mean that the average Guatemalan family had to spend Q1950 (US \$260) more last year than in 2006 to purchase the same quantity of food. The most common staple goods, such as bread, tortillas, pasta, and milk, suffered even greater price hikes, more than 30%, dealing a serious blow to low income families and contributing to the high level of malnutrition in Guatemala.

The cost for vital goods and services, which includes transportation, education, and housing in addition to food, rose to Q3037.98 (US \$405.05) per month during 2007, meaning that a typical family had to pay an additional Q3559.20 (US \$474.56) more to access to the same goods and services than in 2006.

In 2003, prior to the beginning of President Berger's administration, the same goods and services cost a total of Q2361.08 (US \$314.81) per month. The situation for most families has worsened due to the fact that wages have not kept up with inflation. Although President Berger approved an increase in minimum wages for 2008, the increase was less than 6%.

Food Security Plan Presented

01.09.08 Outgoing Vice President Eduardo Stein and Delfina Mux Caná, the head of the Secretariat for Food Security, presented their "Strategic Plan for Food Security" to Juan Aguilar, who will head the Secretariat under Álvaro Colom's administration. According to Mux Caná, Q11 billion (US \$1.5 billion) will be invested in programs related to food security. This amount represents a quarter of the national budget.

Willem van Milink, the UN's World Food Program (WFP) representative in Guatemala, explained that this issue should be the priority for Colom, since "half of all malnourished children in Central America reside in Guatemala." Manuel Manrique, a representative of the United Nations Children's Fund (UNICEF) in Guatemala, stated that the country needs to understand that it cannot

develop if half of all its children suffer the intellectual consequences of chronic malnourishment. Chronic malnutrition is one of the most serious problems in Guatemala, yet one of the least recognized, he said. Manrique affirmed that decisive actions need to be taken, by working harder at the local level and increasing the budget to fight malnutrition.

IGSS Ordered to Treat HIV/AIDS Patients

01.12.08 The National Social Security Institute (IGSS) was ordered by the Second Courtroom of the Appeals Court to provide medication to patients with HIV/AIDS, after Human Rights Ombudsman Sergio Morales filed a petition on behalf of IGSS affiliates who were denied access to treatment.

HIV/AIDS Treatment Not a National Priority

01.14.08 The Marco Antonio Foundation's Hospital for HIV/AIDS patients may be forced to close its doors due to lack of funds. The Foundation has already been forced to lay off half of its employees. The hospital serves 343 inpatients per year as well as 715 outpatients who had previously received medical attention through the now obsolete Doctors without Borders program. The Ministry of Health had approved a budget of Q10 million (US \$1.3 million) for health groups, however the money was divided up in Congress among four different non-governmental organizations unrelated to HIV/AIDS treatment. The National AIDS Program also asked for their budget to be increased to Q95 million (US \$12.67 million) but was appropriated only Q40 million (US \$5.3 million).

RIGHT TO JUSTICE

Officers Denied Amnesty for Disappearances

01.02.08 Eduardo Cojulún, the eleventh judge of the First Criminal Court, ruled that military officers Salomón Maldonado Ríos and Gabriel Álvarez Ramos cannot hide behind the National Reconciliation Law, which provides amnesty for political crimes committed during the internal armed conflict. The officers are currently imprisoned, awaiting trial for their alleged participation in the kidnapping and disappearances of seven people during the conflict. Their lawyers asked that the case to be thrown out under the National Reconciliation Law, however Judge Cojulún argued that the crimes

allegedly committed by them are not political in nature and therefore the law is not applicable.

On October 19, 1981, Jacobo Crisóstomo Següen, Inocente and Valentín Gallardo Crisóstomo, Antolín and Santiago Crisóstomo Rivera, and Miguel Ángel and Raúl Següen Crisóstomo were forcibly disappeared. The special investigation that was initiated by the Human Rights Ombudsman's Office (PDH) linked Salomón Maldonado Ríos, Gabriel Álvarez Ramos, and Domingo Ríos Maldonado to the crime, all of whom were military commissioners in the 1980s. Colonel Marco Antonio Sánchez was also linked to the incident. The four are being processed for the crimes of kidnapping, illegal detention, and human rights violations.

43% of Prisoners Never Face Trial

01.09.08 According to a comparative analysis of penitentiary systems in 216 countries carried out by the International Center for Prison Studies in Britain, 43% of all Guatemalan prisoners never go to trial. According to Guatemalan prison authorities, those 43% are imprisoned for preventive measures and spend an average of four years in jail awaiting the resolution of their legal situation. The slow justice system contributes to the problem of warehousing prisoners. Currently, 3,139 of a total of 7,300 prisoners are awaiting trial. Margarita Castillo, director of the penitentiary system, said that this problem contributes to the overcrowding of the prisons. She added that according to her data, prisons are 17% over capacity. Guatemala has an average of fifty-seven prisoners per 100,000 inhabitants and women represent 5.2% of the overall prison population.

CICIG Officially Inaugurated

01.11.08 The International Commission Against Impunity in Guatemala (CICIG) was formally launched in Guatemala City by the Guatemalan government and the United Nations. Carlos Castresana, head of the CICIG, announced that the Commission would open two headquarters: a public office and a center of operations. The public office will receive corruption cases and information from Guatemalans, where as the center of operations will investigate the cases that the CICIG undertakes. Access to the latter office will be restricted.

Castresana added that the CICIG's forty

employees include twenty women and 40% of the team is Guatemalan. Castresana said that the CICIG would not be a financial drain on the country since the US \$20 million budget comes from the international community.

The CICIG is an innovative effort to help Guatemala investigate and dismantle violent criminal organizations believed responsible for widespread crime and the paralysis in the country's justice system. During its two-year mandate, the CICIG will collaborate closely with the Public Prosecutor's Office (MP) and the National Civil Police (PNC) to dismantle and prosecute those responsible for the crimes committed. In order to accomplish that goal, the CICIG will be granted the status of a co-plaintiff (querellante adhesivo) in any relevant trials.

Government Apologizes for Massacre in Peten

01.12.08 On behalf of the Guatemalan government, Frank La Rue, head of the Presidential Human Rights Commission (COPREDEH), officially apologized and asked for forgiveness from the relatives of the victims of the 1982 massacre of Los Josefinos, in La Libertad, Petén, in which more than fifty indigenous people were killed. Aura Elena Farfán, from the Families of the Detained and Disappeared of Guatemala (FAMDEGUA), expressed her satisfaction at the outcome, saying that the apology is a sign of good will from the government.

Institute to Analyze Attacks on Activists

01.14.08 Minister of the Interior Adela Camacho de Torrebiarte presented human rights activists with the accord establishing the Institute for the Analysis of Attacks against Human Rights Defenders. The Institute has a four-year mandate and will work to guarantee that human rights organizations have the freedom and security to carry out their efforts, fulfilling a vital role in Guatemalan society. It will also analyze the different cases that are investigated and provide important feedback to create public policies to prevent such attacks.

The Minister said that the Institute will analyze cases using scientific methodology in order to establish patterns in the attacks against human rights defenders. The Institute will include representatives from the Ministry of the Interior, the General Directive for Civil Intelligence, the Division of

Criminal Investigation, and national and international human rights organizations. One representative from the Public Prosecutor's office will also participate.

Amilcar Mendez Holds Hunger Strike

01.14.08 Human rights activist Amílcar Méndez and his wife began a hunger strike in front of the official residence of the Guatemalan President on January 12, to demand that authorities properly investigate the death of their son, José "Pepe" Méndez Dardón, who was gunned down in Guatemala City's zone 13 in August 2007. The Méndez family also demanded justice for the thousands of other victims of violence in Guatemala.

To mark the solemnity of the protest, they dressed in black and hung posters, newspaper clippings, and photos of their son in front of the residence. The clippings document the many acts of violence that have gone unpunished in Guatemala.

They committed to holding the hunger strike until President Colom and Vice President Espada met with them about their son's case. The strike ended two days later on January 14, after Vice President Espada met with the family outside the President's residence and agreed to hold a meeting with them in the upcoming week.

LEGAL CASE UPDATES

More Arrests Made in Assassination Case

01.03.08 Police arrested Carlos Alberto Gutiérrez Arévalo, known as "Montaña 3," in the village of La Laguna in Jalpatagua, Jutiapa, in connection with his alleged role in the assassination of three Salvadoran members to the Central American Parliament (PARLACEN) and their driver in February 2007.

Prosecutor Álvaro Matus, in charge of the investigation, said that thirteen different searches were carried out to locate Gutiérrez Arévalo and Congressman Manuel de Jesús Castillo Medrano. Castillo Medrano, also implicated in the crime, is currently at large. An appeals court stripped Castillo's political immunity as a legislator and his title of Mayor-Elect of Jutiapa, while another court ordered him to stay within the borders of

Guatemala.

Both Castillo and Gutiérrez are tied to the case through a series of phone calls exchanged with the alleged material and intellectual authors of the crime. Authorities have published Castillo's picture on the INTERPOL website.

Groups Oppose Decision in Genocide Case

01.15.08 Organizations representing relatives and survivors of genocide publicly manifested their opposition to the Constitutional Court's (CC) recent decision to deny the extradition of Guatemalan military officials and civilians to Spain, on trial for genocide, war crimes, and crimes against humanity.

"Through this decision, the CC has become an accomplice of those accused of genocide," said a statement issued by human rights organizations. Those criticizing the CC's decision stated that the ruling side steps universal jurisdiction, which has been recognized by the Guatemalan government in several treaties, and allows Guatemalan military officers and civilians off the hook for committing the most egregious crimes in the history of Guatemala and Latin America. Relatives and survivors demanded that the Fifth Sentencing Court for Criminality, Narcotrafficking, and Environmental Crimes amend the proceedings and continue with the respective paperwork for each of the extradition requests.

The organizations also urged the Supreme Court of Justice's Chamber of Legal Protection to rule against the motion filed by Ríos Montt's defense that would exclude military documents that allegedly prove the massacres were calculated. Organizations asked the CC to "recognize that military documents should be included in the criminal proceedings."

RIGHT TO A HEALTHY AND SUSTAINABLE ENVIRONMENT

Mayors Want Mining Licenses Revoked

01.10.08 The mayors of Nentón and San Sebastián Coatán, Huehuetenango asked the Executive Branch to revoke the mining licenses for exploration issued in their communities, fearing that mining will pollute their ground water. Esteban Santos Pérez, mayor of San Sebastián Coatán, commented that

residents are extremely concerned about the many forests in the region and the springs that supply water to the villages. Jorge Antonio García, the MEM's vice minister, stated that the mining licenses only allow for the exploration and detection of precious metals in the area and will therefore have no environmental impact.

Carlos Guárguez, director of the Guatemalan Association of Indigenous Mayors and Authorities, reported that eighty-three grassroots referendums were held in the two municipalities in which 17,594 people over the age of eighteen participated. Guárguez stated that the people unanimously voted against the mining of metals in the region. The referendums were held after the Ministry of Energy and Mines (MEM) notified them that companies had issued licenses to perform mineral exploration in the region.

OTHER INFORMATION

FRG to Head Human Rights Commission

01.11.08 In a move classified as "absurd and laughable" by human rights activists and analysts, the Guatemalan Republican Front (FRG) was given leadership of the Congressional Human Rights Commission and the Congressional Honor Commission. The FRG was founded and is led by former General Efraín Ríos Montt, currently under investigation for genocide, war crimes, and crimes against humanity. Ríos Montt is serving as a congressman, along with his daughter, Zury Ríos Sosa, wife of US Congressman Jerry Weller (R-IL).

"It is paradoxical that the FRG gets the Human Rights and Honor Commission. The FRG party is led by a person that has been accused of crimes against humanity and furthermore, his presidency in the 1980s has been called the most corrupt in the history of Guatemala," said Carmen Aída Ibarra, analyst from the Myrna Mack Foundation.



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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Insert: An Open Letter from CONIC to President Colom