

Guatemala Human Rights *UPDATE*

Guatemala Human Rights Commission/USA

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POLITICAL RIGHTS

President Colom Addresses the Nation

01.24.08 During an address to the nation, President Álvaro Colom explained that his administration had encountered “serious problems” during its first ten days in office because of the “generalized disorder” left by the out-going Berger government. The president focused on the high debts, wasteful spending, and abuses of power handed down to him from the previous administration.

Colom pointed out that his government had inherited several financial commitments, including a debt of more than two billion quetzals (US \$266 million) to the Ministry of Communications, Infrastructure, and Housing. The repayment of the debt could impact the national economy, according to Colom and the Minister of Public Finance, Juan Alberto Fuentes Knight. Colom stated that he would urge Congress to approve five loans for the 2008 budget. If the loans are not approved, he added, the government would be forced to look for private or foreign loans.

Colom reported that he came across incidences of excessive spending and abuses of power during the Berger government. As an example, Colom cited the fact that the Presidential Secretariat of the Executive purchased more than 270 cars in the last two years, an expense that was both unusual and wasteful. Other questionable expenditures included large amounts of money spent on cell phones and gasoline in certain Ministries. The president committed to cutting back on superfluous expenses.

In terms of security, Colom assured Guatemalans that his administration would work to root out “niches of corruption and crime” throughout the country. To accomplish that, during his first week in office, Colom fired more than 150 corrupt police officers and issued arrest warrants for

those officials that had committed illegal activities.

The president concluded his address by saying, “Let’s give Guatemala the opportunity to move forward. Let’s work together in this new period of solidarity.”

RIGHT TO LIFE AND HUMANE TREATMENT

Neighborhood Watch Group Accused of Murder

01.22.08 Villagers from Pajoquez and Loma Alta in San Juan Sacatepéquez are afraid of their own Neighborhood Watch group and have registered complaints of extortion, murder, and abuse with the Human Rights Ombudsman’s Office (PDH). The latest incident reported in this municipality was the murder of Irineo Raxón and his two sons, Ervin, 17, and Florentín, 19. Witnesses say that they were killed by members of the Neighborhood Watch Committee, whom they referred to as a “group of bandits.” According to villagers, they are forced to pay an extortion fee of Q30 (US \$4) per day if they don’t want to participate in the civilian security patrols. They have even been threatened and beaten for not cooperating with the Neighborhood Watch group. Locals also claim that there is a clandestine grave where the Neighborhood Watch group has buried the bodies of alleged gang members who were lynched.

The PDH’s Sergio Morales met with a representative of the Public Prosecutor’s Office (MP) and the Vice Minister of the Interior’s Community Section to request that a police station be opened in the region to deal with these issues. More and more villages have formed volunteer civilian security patrols or “Neighborhood Watch Committees” in order to protect themselves from gang-related violence and delinquency. The job of these committees is to patrol the communities at

night, but in some cases, the patrols have been cited for excessive violence and vigilante justice.

2007 Homicide Statistics Reported

01.26.08 The National Civil Police (PNC) reported that 5,191 men and 590 women were murdered in 2007. The statistics reflect a slight decline in the homicide rate from 2006, when 5,282 men and 603 women were killed. Despite the minimal decrease from last year, human rights organizations cited that the number of homicides rose by 36.4% during Berger's four-year term – increasing from 4,237 murders in 2003 to 5,781 homicides in 2007, totaling more than 21,511 people killed in four years, including 2,355 women and girls.

The Mutual Support Group (GAM) stated that Berger's government was not capable of combating violence and the problem only became worse as members of the security forces committed egregious crimes themselves. GAM asserted that the homicide rate of today is higher than during the internal armed conflict. Even more unbelievable, impunity levels also increased during Berger's four years in office. The Human Rights Office of the Archdiocese of Guatemala (ODHAG) reported that only six of the murder cases in 2007 were resolved.

170 Murdered in Colom's First Two Weeks

01.28.08 President Álvaro Colom deployed National Civil Police (PNC) agents to "critical zones" throughout the country, where authorities began to round-up known criminals. During the sweeps, officers detained between ten and twelve people at a time, although, the overwhelming majority had to be released because of a lack of evidence. Despite the increased police presence in the streets, 170 murders were registered throughout the country in the first two weeks of Colom's presidency.

Security experts criticized the police sweeps, calling them "useless and a waste of money." Helen Mack, from the Myrna Mack Foundation, commented that the round-ups have not followed a coherent strategy. "The government needs to act out its slogan of 'security with intelligence,'" Mack commented. Iduvina Hernández, from Security in Democracy (SEDEM), stated that it is too early to analyze the effectiveness of the government's actions to improve security, although she added that the Colom's plan is not very clear.

WOMEN'S RIGHTS

38 Women Killed in January

01.30.08 Thirty-eight women were murdered in Guatemala during the month January. Despite the fact that in recent years, the government has charged specific offices with addressing cases of femicide, the murders of women have not decreased. According to National Civil Police (PNC) data, 590 women were killed in 2007. The PNC and the Public Prosecutor's Office (MP) attribute the murders to gang violence, organized crime, domestic violence, a lack of social values, and poverty, all of which the government has failed to address. Human rights organizations believe the passage of a new law against femicide would help to curb the high rate of gender-based violence.

CHILDREN'S RIGHTS

Gangs Vandalize School

01.17.08 At least two hundred preschool students from the María Luisa Ramírez School in San Miguel Dueñas, Sacatepéquez have yet to begin classes because they suffered threats from gangs members. Shortly before the academic year began, gangs broke into the building, destroyed desks, painted graffiti on the walls, and vandalized the school. The principal of the school, Nitza Monzón, reported that the beginning of the school year has been postponed in order to repair the damage.

Increased Effort Needed to Combat Malnutrition

01.20.08 The World Food Program (WFP) urged Guatemalan President Álvaro Colom to work hard to reduce the chronic malnutrition suffered by Guatemalan children. Guatemala has the highest level of child malnutrition in all of Latin America and the Caribbean, stagnant at 49%. "Of the 350,000 children born each year in Guatemala, at least half of them are at risk of suffering from nutrition-related, stunted growth. Efforts need to be undertaken in order to prevent the chronic malnutrition of more than a half a million children in the next three years," according to the WFP's written report. The Secretariat for Food Security and Nutrition (SESAM) reports that malnutrition levels reach 80% in largely indigenous

municipalities.

In order to tackle this problem, the Ministry of Public Health and Social Assistance have been appropriated Q153 million (US \$20.4 million) to implement a nutritional recovery program. Vice Minister of Health Ludwin Ovalle said that Q45 million (US \$6 million) are earmarked to attend to cases of malnutrition in children, while another Q20 million (US \$2.6 million) will be allocated to hire more personnel in the national health care system. The remainder of the funds will be used to purchase medication, equipment, and to improve the infrastructure of the health care system.

62 Children Die from Pneumonia

01.25.08 Health officials in Totonicapán reported that sixty-two children died in December 2007 as a result of pneumonia and other respiratory infections. They added that six out of every ten children infected with these types of illnesses could die. The majority of those sick are from rural areas in-and-around Momostenango and San Andrés Xecul. Ministry of Health statistics documented 1,591 cases of acute respiratory illnesses in January 2008. Due to the high number of cases, the Ministry of Health authorized the direct purchase of medications as long as the amount did not exceed Q29,000 (US \$3867). Normally, medications would be bought through a bidding process among pharmacies.

LABOR RIGHTS

New Mayor Fires Employees

01.16.08 More than seventy-five teachers, administrators, and maintenance staff were laid off by René Marroquín, mayor of Zaragoza, Chimaltenango, shortly after he took office. The workers were barred from entering their offices by padlocks placed on the doors and two armed men guarding the municipality with orders to not let anyone enter the building. Marroquín defended his decision by saying that he was reorganizing the municipality.

Suit Filed Against Berger and Leiva

01.16.08 More than nine hundred employees of the Ministry of Defense filed a lawsuit in the Guatemalan Supreme Court against former Defense

Minister José Cecilio Leiva Rodríguez and former President Óscar Berger Perdomo. The suit alleges that employees had not received their bonus pay since the Portillo administration, which had been authorized by the Constitutional Court (CC).

CAMPESINO RIGHTS

Campesinos Demand Dialogue with Colom

01.18.08 Campesino leaders called on the new government to take immediate action to fulfill Colom's campaign promises. Daniel Pascual, leader of the Campesino Unity Committee (CUC), stated that the campesino organizations are open to dialogue, but they want steps to be taken to improve development in the rural areas of the country. Rafael González, leader of the National Coordinating Committee of Campesino Organizations (CNOC), said that the groups would organize protests to oppose the government's decision to implement Daylight Saving Time. Campesinos contend that Daylight Saving Time disrupts the farmers schedule as well as the feeding and/or milking time for livestock. The campesino groups also demanded an end to the mining exploitation and concessions on indigenous lands when citizens have opposed it.

INDIGENOUS RIGHTS

Mayans Demand Respect for Sacred Sites

01.17.08 Representatives from the National Conference of Mayan Spiritual Ministers, "Oxlajul Ajpop," demanded that indigenous sacred sites be respected. The Conference is working on introducing a bill in Congress that will respect and care for identified, Mayan sacred sites.

José Ángel Zapeta, the Conference leader, said that it is very difficult to determine the exact number of sacred sites, but estimated that there are between twenty to forty such sites in each of Guatemala's 332 municipalities. The sites are located on public, private, and communally owned lands. Zapeta commented that the most vulnerable sites are those located on private and governmental lands. Businessmen traditionally do not respect the sites' historical and spiritual value, because they think in commercial and economic terms, while the government defines them as tourist or educational sites.

Mayans Demand Inclusion in Government

01.28.08 Approximately 1,500 members of the Western Indigenous and Campesino Front blocked the highway near the village of San José Los Encuentros, in Sololá, to protest the lack of indigenous Cabinet members in President Álvaro Colom's administration. The group met with the Governor of Sololá, Carlos Cumatz Pecher, and handed over a letter to be delivered to President Colom, asking him to end the government's exclusive, racist, discriminatory, and patriarchal practices. The National Conference of Mayan Spiritual Ministers, "Oxlajul Ajpop," also expressed their concern for the ethnic exclusion in Colom's government. During his campaign, Colom promised to establish a government

MIGRANT RIGHTS

PDH Lobbys for Better Treatment of Deported

01.23.08 In light of the massive deportations of Guatemalans from the US, the Human Rights Ombudsman's Office (PDH) announced that random interviews would be conducted with deported Guatemalans this year to establish how they were treated by authorities in both countries during the deportation process. The PDH will use this information to lobby for better conditions nationally and internationally on behalf of those who are deported. During the first three weeks of 2008, 922 Guatemalans were deported.

SOCIAL, ECONOMIC, AND CULTURAL RIGHTS

Social Cohesion Council Created

01.21.08 The Council for Social Cohesion (CCS) was recently created to oversee the spending of Q2.19 million (US \$292,000) in social programs. The CCS consists of representatives from the Presidential Secretariat on Social Well-Being (SOSEP), the Secretariat for Food Security, and the Ministries of Education, Health, and Energy and Mines. The new Council answers to the president and will be coordinated by First Lady Sandra Torres de Colom. Torres de Colom said that the CCS would begin its work by making conditional cash transfers to the poorest forty-one

municipalities in Guatemala. Vice President Rafael Espada said that by the end of the administration's four-year term, he hopes to have reduced poverty, illiteracy, and malnutrition rates by 10%.

Congresswoman Roxana Baldetti, a member of the Patriot Party (PP), stated that opposition parties within Congress would audit the CCS's spending, verifying which projects are given priority, and confirming how resources are being used. She commented that one difficulty in ensuring transparency in the CCS is that Congress cannot hold the first lady accountable because she does not hold a government office.

Lack of Support for Social Programs

01.23.08 The Coordination of NGOs and Cooperatives (CONGCOOP) presented their analysis of the Ministry of Agriculture's 2007 expense report. CONGCOOP indicated that even though Guatemala has the highest level of chronic malnutrition in Latin America, affecting 49% of all children under the age of five, Q27.7 million (US \$3.7 million) was cut from the "Food Security Program" and the "Food for Progress Program." CONGCOOP also criticized the fact that Q130.7 million (US \$17.4 million) was cut from programs to aid small and medium-sized agricultural projects, as well as three trust funds designed to improve the quality of local coffee production. The audit of the Ministry of Agriculture also unveiled that former president Óscar Berger's administration did not prioritize access to land, since the Land Fund's budget was reduced by Q66.6 million (US \$8.88 million). In contrast, members of the former Civil Defense Patrols (ex-PACs) received Q356 million (US \$47.5 million) for programs such as the "Water and Forests for Peace" program.

RIGHT TO JUSTICE

New Authorities Tackle Prison Overcrowding

01.28.08 The General Management for the Penitentiary System plans to evaluate the prison system's infrastructure to determine the conditions of the national jails and to avoid overcrowding in Guatemala's prisons. Álvaro Arreaza Sánchez, head of the Penitentiary System, stated that the lack of infrastructure has on occasion provoked riots among prisoners, due to their overcrowded living conditions.

Spokesperson for the Penitentiary System, Rudy Esquivel, explained that the judicial system's inability to quickly resolve the legal situation of prisoners is the principal cause of overcrowding in the system. The Prevention Center, located in Guatemala City's zone 18, is over capacity by 24%, while the Rehabilitative Prison "Pavon" is over capacity by 19%.

Henry López, Adjunct Director of the National Civil Police (PNC), said that the most common reasons for detentions in 2007 were extortions (2,108 arrests), car theft (329), kidnapping (64), carrying knives (318), drug related charges (1,464), and homicide (264). The most arrests occurred in Guatemala City, with 698 arrests made for carrying firearms and 1,384 for theft. Many prisoners must wait several years before their cases to go to trial.

Police Archives Establish Chain of Command

01.19.08 Documents recently found in the archives of the now-defunct National Police (PN) show that agents made arrests during the internal armed conflict without corresponding judicial orders. The Human Rights Ombudsman's Office (PDH) created a diagram of the PN's structure during the bloodiest years of the conflict, in which the PN's actions directly corresponded with government policies. The PDH also discovered indications that a selective elimination strategy was used. The diagram establishes the chain of command in the actions taken against civilians and will allow charges to be filed against those responsible for the crimes.

Sergio Morales, the head of the PDH, stated that almost five million of the estimated eighty million files have been reviewed and that Q12 million (US \$1.6 million) per year are still needed in order to review and preserve all the files. The restoration and review could take at least ten more years. Morales added that the declassified archives could be available for public viewing by November, 2008. The PDH's technical team, in conjunction with international governments and organizations, are trying to digitalize, safeguard, and preserve the archives for the future.

Night Courts Expedite Cases

01.24.08 Francisco de Mata Vela, president of the Supreme Court's Criminal Branch, reported that night courts in Guatemala have expedited many cases because they operate twenty-four hours a day,

365 days a year. In the nearly two years that the first night court has operated in Guatemala City, 4,474 cases have been heard. De Mata said that expanding the functions of these courts has allowed paperwork to be processed in an expedient manner, since search warrants and arrest warrants can be issued for other departments. Now prosecutors do not have to travel to the location where the crime was committed in order to solicit search and arrest warrants.

CONIC Demands that Leaders be Freed

01.26.08 The National Indigenous and Campesino Coordinating Committee (CONIC) reported that the cement company Cementos Progreso bribed authorities to have several community leaders sent to prison, where they have been held since 2007. CONIC urged President Colom to intervene in San Juan Sacatepéquez, in the department of Guatemala, where the community has been at odds with Cementos Progreso. Community members assert that they are defending their lands and the environment by protesting the opening of a factory there. CONIC also demanded that the people involved in repressive actions towards the community be brought to justice and that Cementos Progresos compensate the community for the material, economic and psychological damages caused by the conflict.

LEGAL CASE UPDATES

Genocide Victims to Testify in Spain

01.29.08 Thirteen witnesses will travel to Spain to testify before the Spanish Federal Court (ANE) on cases of genocide, state terrorism, torture, and other crimes committed during Guatemala's thirty-six year civil war. The witnesses responded to a call by Judge Santiago Pedraz, a member of the ANE, for any witnesses to acts of genocide committed against indigenous peoples in Guatemala to come forward and provide testimony in the original case. The original case against five former Guatemalan generals and two civilians was presented to the ANE by Nobel Peace Prize recipient Rigoberta Menchú Tum, who is acting as a co-plaintiff in the Spanish judicial system. Because the Guatemalan Constitutional Court (CC) ruled in mid-December that Spain did not have jurisdiction over crimes committed in Guatemala, the witnesses have

decided to travel in order to give their testimonies. The CC's ruling overturned the local arrest warrants that had been issued to extradite the seven accused. The CC also ordered two of the seven accused, that had been awaiting extradition, to be released from jail.

Nonetheless, Judge Pedraz confirmed that the international arrest warrants for all seven individuals accused of committing genocide in Guatemala in the 1980s are still in effect. This includes a warrant for Congressman Efraín Ríos Montt, although Ríos Montt has political immunity as a result of his position as a legislator.

The Spaniard justified the ANE's involvement in the case, stating that the Guatemalan judicial system had demonstrated an unwillingness to investigate, had delayed the proceedings several times, and had ruled in favor of the defense on numerous occasions. He added that the CC's recent decision clearly demonstrates that the Guatemalan government "accepts and condones the violation of its international obligations and of its own national laws." The decision was also a violation of the Extradition Treaty signed by Spain and Guatemala, according to Pedraz. Baltasar Garzón, another ANE judge, also criticized the Guatemalan Court's decision, which he qualified as "shameful."

Co-plaintiff Rigoberta Menchú filed suit against the members of the Constitutional Court in reaction to the December ruling. However, the Sixth Court in the Criminal Branch decided to reject the petition filed by Menchú. The Court argued that the magistrates could not be put on trial for their ruling because all judges are granted legal protection under the law. The suit claimed that the CC's ruling was discriminatory since it did not recognize that the majority of the victims during the armed conflict were indigenous and indicated that the evidence was deliberately misinterpreted by the CC's magistrates in order to exclude the ANE from investigating genocide in Guatemala. "The resolution violates international laws and commitments that Guatemala has made to the international community because it denies the rights of all Guatemalans to obtain justice," Menchú stated.

In addition to filing her complaint in court, Menchú met with Human Rights Ombudsman (PDH) Sergio Morales and asked him to investigate the possible motives behind the CC's ruling in favor of

the accused. Morales guaranteed that the PDH would "do all that is necessary to protect the rights of the victims and their relatives of state sponsored violence."

The other plaintiffs in the genocide case also filed a complaint to the PDH against the CC, saying that the Court violated their right to justice. The document was supported by fifteen social organizations and emphasized that the CC's ruling has negative consequences on a national and international level. The plaintiffs stated that the CC's decision slows down the process and effectively blocks the work of the ANE, violating the right to justice for thousands of victims and surviving relatives of genocide and other crimes against humanity. Those who signed the complaint asked the PDH to publicly censure the CC's ruling and investigate the magistrates.

Spanish Embassy Witnesses to Testify

01.31.08 The Eleventh Court of the First Criminal Branch has decided to hear the testimony of eleven witnesses in the case of the burning of the Spanish Embassy on January 31, 1980 that killed thirty-seven people. A date to hear testimony has not yet been set. The victims were remembered on the anniversary of the massacre by relatives and friends in a Mayan ceremony held in Kaminal Juyú in Guatemala City. In addition, protesters gathered in front of the Constitutional Court (CC) to protest the CC's recent decision to overturn the arrest warrants that were part of an extradition process for several military commanders implicated in the genocide.

OTHER INFORMATION

First Lady Stirs Up Adoption Council

01.17.08 Sandra Torres de Colom, wife of President Alvaro Colom, triggered the first scandal of the Colom administration by removing four of the six members of the newly formed National Adoption Council (CNA), recently appointed by different sectors of the out-going Berger government. In an unprecedented move, just days after Colom was sworn in as president, Torres de Colom had her spokesperson send a memo informing the CNA of the changes, without an explanation as to why the appointees were being removed. Claudia Rivera, director of Covenant House-Guatemala, stated that

child welfare organizations supported the original CNA appointees and that Torres de Colom did not take into account the opinions of civil society. President Colom defended his wife's actions by explaining that he wanted to ensure that the CNA was established with "his" people at the helm. His comments resulted in more criticism since the idea behind the new Adoption Law and the CNA was to create a group independent of politics.

Members of the CNA accused the new administration of "interfering" with the Council's work. In a press conference, the CNA appointees stated that they considered their removal an abuse of power by the Executive Office. In accordance with the Adoption Law, the CNA's six representatives (a member and alternate member) are to be appointed by three government entities, including the Supreme Court, the Presidential Secretariat of Social Well-being (SOSEP) and the Ministry of Foreign Relations. Torres de Colom removed the members that had been named by the out-going Berger administration from the Presidential Secretariat for Social Well-being and the Ministry of Foreign Relations, since both offices are part of the Executive Office.

Constitutional lawyer Anabella Morfín, who had been appointed to the CNA by the Ministry of Foreign Relations, said that the actions by Colom's government "violate the autonomy of the CNA," because the CNA has a legal standing independent of the Executive Office. "The Law does not establish a procedure for substitution or removing appointed members and the CNA had already been legally established," said Marvin Rabanales, another member of the CNA who was substituted by Colom.

270 Police Fired for Corruption

01.15.08 Vinicio Gómez, the new Minister of the Interior, announced that 270 members of the National Civil Police (PNC) were fired from their posts after being accused of corruption. This latest phase of internal purging is the fourth in a series of attempts to root out and release corrupt police officers from the force. A total of 2,514 agents have been fired in the last six months. Minister Gómez stated that part of President Colom's "100 Day Plan" included deploying police officers in "conflict zones" with the goal of taking them back from criminal control.

Respect for Human Rights "Slid Backwards"

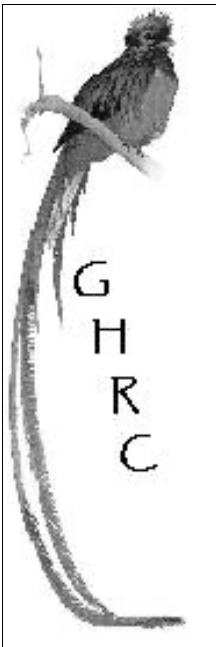
01.23.08 In his annual report to Congress, Human Rights Ombudsman (PDH) Sergio Morales stated that Guatemala has "slid backwards" instead of moving forward in its respect for human rights during 2007. He commented that the indicators for security are dismal, citing that on average, sixteen people are murdered each day, including women and children. Morales added that the economic and social conditions in Guatemala have also worsened and he called on the new government to invest more resources in health care, education, and housing.

The head of the PDH stated that he reported twenty-five mayors, auxiliary mayors, police officers, and state authorities, with corresponding evidence, to the Public Prosecutor's Office (MP) for their ties to organized crime and narco-trafficking. Morales complained that security forces have become part of the problem instead of the solution. "Institutions are not being strengthened, and this demoralizes the people, who no longer trust authorities," he said. Morales added that impunity is another obstacle to guaranteeing respect for human rights, since 97% of all homicides go unpunished.

The Ombudsman asked Carlos Castresana, head of the International Commission against Impunity in Guatemala (CICIG), to investigate eleven murders that occurred in San Juan Sacatapéquez, where agents of the government and local security councils are suspected of being involved. Also in his report to Congress, Morales cited 5,781 homicides; 1,074 disappearances; seventy-four kidnappings; and 349 dead bodies that showed signs of torture during 2007.

Ex-PACs to Form New Political Party

01.30.08 Some 8,000 former members of the Civil Defense Patrols (ex-PACs) from all over Guatemala came together in El Tejar, Chimaltenango to discuss the creation of a new political party to participate in the next presidential elections. According to leaders, there are 820,000 registered members of the ex-PACs. They hope to register as a political party within the next two months under the name of the National Confederation.



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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