

Guatemala Human Rights *UPDATE*

Guatemala Human Rights Commission/USA

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RIGHT TO LIFE AND HUMANE TREATMENT

Death Penalty Reinstated in Guatemala

02.13.08 The death penalty in Guatemala has been caught in a legal vacuum for the last seven years; however, the Guatemalan Congress recently adopted decree 6-2008, a law that gives the president power to pardon those awaiting capital punishment, therefore also reactivating capital punishment. The new law enables the condemned prisoner, when all ordinary and extraordinary appeals have been exhausted, to ask that the death sentence be commuted to the maximum prison sentence of fifty years. This request can only be made within fifteen days after the date when the death sentence was finalized.

The president will have thirty days to review all of the petitions and make his decision; otherwise, it will be assumed that the petitions have been denied. The decision cannot refer to the guilt or innocence of the prisoner, just as to whether or not the prisoner will be executed. Those prisoners who have already received a death sentence when the new law goes into effect will have one month to present their pleas. There are forty-one prisoners currently on death row, although most cases are still in the appeals process.

This law has reignited the controversy between those in favor of the death penalty and those against it. Defenders of the Constitution support the reinstatement of capital punishment because they believe that the law should be upheld now that the legalities of the presidential pardon have been resolved. Meanwhile, human rights groups reject the reactivation of capital punishment. Nery Rodenas, director of the Human Rights Office of the Archdiocese of Guatemala (ODHAG), said that this

law is a step backwards for Guatemala. "An appropriate way to face crime is through the application of justice and due process. This does not include one person deciding whether or not another should live or die," Rodenas added. Iduvina Hernández, from the organization Security in Democracy (SEDEM), said that the reactivation of the death penalty goes against international commitments undertaken by Guatemala.

Amnesty International (AI) asked President Colom not to reestablish the death penalty and to instead look for more efficient and long-term solutions to the security crisis in Guatemala. AI reminded Colom that Guatemala voted against executions two years ago at the UN and said that he must respect this commitment by turning his back on the death penalty and joining the nations that do not approve of capital punishment.

AI representatives stated that the death penalty is the most cruel, inhumane, and degrading form of punishment. Furthermore, it is an arbitrary and inefficient way to reduce crime. AI asked the Guatemalan government to undertake measures to investigate human rights violations, especially those that were carried out during the internal armed conflict, violence against women, attacks against human rights defenders, and the forced evictions of campesinos. AI also urged Colom to make Defense Ministry files public domain so that the cases of more than 20,000 homicides and forced disappearances during the war may be solved.

Army Base to Deter Armed Vigilante Group

02.06.08 Minister of the Interior Vinicio Gómez announced that an army base will be opened in San Juan Sacatepéquez, Guatemala, in response to killings in the area committed by an armed group of vigilante "neighborhood watch" members. According to an intelligence report published by the

Ministry of the Interior, locals patrolling the area in an effort to stop delinquency allegedly murdered three men who were supposedly gang members that supported the construction of a cement factory in the area.

This “neighborhood watch” group has allegedly killed at least five people, beginning in Cerro Alto with the lynching of two alleged gang members in September of 2007. The vigilante group has justified these murders as a means of deterring gang activity. The group has reportedly even held investigating lawyers hostage until they agreed to sign papers promising to discontinue their investigations. The forensic doctor who performed the autopsies on the lynched bodies was also threatened into stating that the official cause of death was “cirrhosis.”

FAFG Director and Family Threatened Again

02.10.08 Fredy Peccerelli, his brother Gianni, his sister Bianka, and his brother-in-law Omar Bertoni Girón are believed to be in great danger after receiving new death threats. After the press revealed that several witnesses in the Guatemala genocide case would present their testimonies in Spain, Fredy Peccerelli, director of the Guatemalan Forensic Anthropology Foundation (FAFG), and other members of the organization received numerous death threats. These threats come as a result of the FAFG’s work to exhume the clandestine graves of people who were murdered by the army and paramilitary groups between 1960 and 1996.

In 2002, the Inter-American Commission on Human Rights (IACHR) asked the Guatemalan government to take precautionary measures to protect Peccerelli, his family, and other FAFG members. In January 2006, the FAFG received more threats, just after the protective measures were reduced. Consequently, the Inter-American Human Rights Court reiterated its request to protect Peccerelli and the FAFG.

The FAFG has asked Guatemalan citizens and the international community to speak out and join them in demanding that Guatemalan authorities take immediate action to protect the people who have received death threats, as the Inter-American Court and Commission have requested.

Attacks Against Bus Drivers Continue

02.09.08 February 6 was a chaotic day in Guatemala City. In just eleven hours, six bus drivers were gunned down in separate attacks. Several passengers were also injured. On the following day, another bus driver was killed. The recent wave of violence against bus drivers has left fifteen drivers dead and has caused another 180 to resign in fear for their lives. Drivers from all routes, both urban and interdepartmental, have been affected. The attacks were orchestrated to coincide with heavily transited routes during peak hours.

On February 8, two days after the attacks began, drivers were protesting on a main thoroughfare of Guatemala City in zone 6 when bus assistant José Ángel Hernández Gudiel, 18, was shot and killed on a nearby street. Driver José Antonio Godínez Carrera, 22, was injured in the same attack and witnesses say that Jorge Luis Morales Mateo, 16, was kidnapped.

President Álvaro Colom said that the attacks were planned by organized criminals in an effort to destabilize his government in retaliation against recent actions taken by Colom’s administration to increase security and purge public security forces. Carlos Quintanilla, head of the Secretariat for Administrative and Security Issues for the Presidency (SAAS), said, “One of the objectives [of the attacks] was to cause a general transportation strike and create an ungovernable situation.”

According to one intelligence report, the attacks may have been coordinated by people linked to seventy-two military officers who were removed from active duty by Colom. The officers are under investigation for their ties to political parties or to people who may be involved in parallel power structures. Another report by the Criminal Investigation Division (DINC) indicated that the gang known as “Mara Salvatrucha” was responsible for the attacks. Other sources revealed that gang members sent an anonymous letter to the offices of Esmeralda Transport Services, located in Guatemala City’s zone 11, demanding Q50,000 (US \$6667) in exchange for an end to the killings.

During a meeting with members of the Urban Transport Association, President Colom promised to increase security in bus terminals. He proposed a plan to limit the number of bus stops and implement a prepaid ticket system so that the drivers would not

carry cash, which makes them vulnerable to extortion. The Driver's Trade Union proposed a similar plan.

The International Commission against Impunity (CICIG) agreed to investigate the killings at Colom's request. Mario Polanco, director of the Mutual Support Group (GAM), said that the fact that President Colom turned to the CICIG before going to the Public Prosecutor's office (MP) sends a negative message indicating that the MP is not going to receive much institutional support over the next four years. Carmen Aída Ibarra, from the Myrna Mack Foundation, and Iduvina Hernández, from the organization Security in Democracy (SEDEM), said that the killings may have been orchestrated by groups inside the government in a conspiracy against the Minister of the Interior, Vinicio Gómez.

Security Plan Implemented for Buses

02.11.08 In response to the recent attacks on bus drivers, many urban and interdepartmental buses are now being patrolled by almost 1,000 members of the National Civil Police (PNC), who have been assigned to watch over drivers, their assistants, and passengers. The PNC's assistant director, Henry López, confirmed that the Nucleus of Transportation Security has been formed and will be in charge of patrolling areas that are considered to be at risk for more attacks.

The plan includes sending 400 undercover officers to ride buses in order to counterattack any assailants or extortionists. Different bus lines have also undertaken their own private security measures in light of the recent events.

Police Arrested for Killing Bus Assistant

02.12.08 An assistant inspector and two officers from the National Civil Police (PNC) were arrested and taken to prison for the extrajudicial execution of José Ángel Hernández Gudiel, 18, a bus driver's assistant. Gudiel was murdered during a protest against the killings of bus drivers. Édgar Hernández, Vice Minister of the Interior, ordered that the Office for Professional Responsibility of the PNC be investigated and stated that the Ministry's policy is to purge the PNC of criminal elements.

POLITICAL RIGHTS

National Dialogue System Created

02.11.08 President Álvaro Colom has opened the Permanent National Dialogue System (SNDP), a series of meetings between the Executive Office and social and political sectors in order to discuss problems that Guatemala currently faces. Luis Zurita, the coordinator of the Inter-Institutional Relations Commission, explained that the SNDP is one of the most important government projects. The SNDP is designed to encourage all citizens to actively participate in every stage of the public policy making process, in the search for and implementation of solutions to the central problems affecting Guatemala.

Meanwhile, civil leaders, including heads of cooperatives, unions, and representatives of small and medium sized businesses, expressed their desire for the SNDP to prioritize certain issue. These issues include: food security, access to the means of production for campesinos, local development, and labor issues. At the same time, members of the international community expressed their willingness to cooperate in order to realize the goals defined at the SNDP.

CHILDREN'S RIGHTS

Two Minors Killed Per Day in 2007

02.04.08 Covenant House-Guatemala presented a report to the international community revealing that an average of two minors were killed each day last year in Guatemala City. Eighty percent of the minors killed were between the ages of fourteen and seventeen. According to statistics from the Human Rights Ombudsman's Office (PDH), money, vengeance, and addictions were motives behind the killings of fifty-nine boys and girls under the age of thirteen. While most were killed by firearms and knives, others were beaten to death.

The head of the Homicide Division of the National Civil Police's Criminal Investigation Unit (DINC) said that due to a shortage of resources, they have not been able to classify the deaths of minors under the age of thirteen by motive. He added that in the majority of cases, the killings are a way to show the control that a certain gang holds over a neighborhood, or prove loyalty in gang initiation

ceremonies, usually while under the influence of drugs.

New Juvenile Court Model to be Implemented

02.05.08 The Ambassador of Spain in Guatemala, Juan López Dóriga, officially presented a new model for handling court hearings in child and juvenile court cases, which will guarantee that court proceedings are short and will offer the child or youth in question adequate attention and protection. The model proposes an expedited process so that judges will be able to make their decisions quickly. The project is supported by the Law for Integrated Protection for Children and Adolescents and has the technical and financial support of the Spanish International Cooperation Agency, the United Nations Children's Education Fund (UNICEF), and the Coordinator of the Modernization of the Justice Sector.

Officials Accused of Kidnapping Adoptees

02.06.08 Congressman Gudy Rivera, member of the Patriot Party and head of the Congressional Commission for Minors, said he has been given the names of government employees and lawyers who may be involved in kidnapping children and putting up them up for adoption. Rivera said that he would meet with the Solicitor General's Office (PGN), Public Prosecutor's Office (MP), and the National Adoption Council (CNA) to discuss actions to be taken.

Adoption Cases Registered with CNA

02.13.08 After a controversial start and last minute changes to council members by first lady Sandra Torres de Colom, the National Adoption Council (CNA) has registered more than three thousand adoption cases since the paperwork was begun in 2007. These cases will now continue to be processed by the Solicitor General's Office (PGN) under the old adoption procedure. The new law establishes that cases started in 2007 must be registered with the CNA in order to continue under the old system and that any case that was not registered within the time period established would be annulled and must start from scratch, following the procedures established under the new law.

The CNA, with the help of twenty volunteers, worked long hours throughout the weekend in order

to extend the necessary documentation for these cases. One problem that the CNA experienced was that many original documents were missing from the files. The originals are needed in order to compare them to the copies that were provided by notaries, to be sure that no alterations were made. "The CNA identified cases where there are discrepancies with the information provided about the child in question. Those cases were given back to the notaries in order to correct the situation," commented Marilys Barrientos de Estrada, one of the CNA members. The CNA also found that some notaries presented between fifty and 200 adoption cases. Sonia Hernández de Larios, another CNA member, said, "I wonder where they have found all of these children for adoption. I guess this is part of the corruption that has happened in the past."

LABOR RIGHTS

Municipal Workers Fired Without Cause

02.06.08 Dozens of workers in the city of Siquinalá, Escuintla, were fired without cause by mayor Otto René García, a member of the Unionist Party (PU). The mayor replaced them with his own people, according to Ovidio Hernández Chacón, the General Secretary of the local municipal workers' union. Hernández warned that if García does not reinstate those who were fired, there will be strikes within a few days.

MIGRANT RIGHTS

Immigrants Forced to Pay Bribes in Guatemala

02.01.08 Immigrants from other countries traveling through Guatemala to the US pay more than Q1,200 (US \$160) in bribes in order to pass through police check points near the Mexican border, according to the National Roundtable for Immigration (MENAMIG). Álvaro Caballeros, author of the study titled "Crystal Rights: Analysis of the Immigration Problem and Human Rights Violations for Immigrants in Transit through Guatemala," said that each person pays Q 50 (US \$6.67) at every National Civil Police (PNC) checkpoint. In addition, both male and female immigrants are often sexually abused by the PNC.

It is estimated that about 200,000 Central Americans pass through Guatemala from other countries each year on their way to the US and that

most are abused in some way by the local Guatemalan authorities.

Changes to Visa Favor Agricultural Workers

02.06.08 Temporary agricultural workers will be allowed to wait less time to reenter the US under H-2A work visas, due to modifications announced by the Department of Homeland Security in the US. The changes eliminate some of the restrictions placed on companies that contract temporary workers with these visas and facilitate the workers' ability to change companies without waiting for final authorization from the US government.

Under the new provisions, agricultural workers may stay in the US for up to one month after their contracts have expired, an increase from the ten-day grace period previously allowed. Furthermore, the waiting period to reenter the US has been reduced from six to three months. Employers will also be required to testify as to their need for temporary agricultural workers and to use recruiters to place them.

Underage Immigrants Suffer Abuses

02.11.08 The Presidential Secretariat for Social Welfare provides counseling and job training services for an average of thirty to forty Guatemalan minors deported each week from Tapachula, Mexico. Most are between the ages of four and seventeen and lack proper documentation and come from San Marcos, Huehuetenango, and Sololá. Most of them are looking for ways to provide for their families. They have faced many dangers, including traveling alone or accompanied by traffickers called "coyotes." The Secretariat hopes that by providing training as tour guides, the youth will be able to find jobs in Guatemala.

Mauro Verzeletti, the head of the Migrant House, said that school age children head north to the US because they live in poverty and lack opportunities in Guatemala. Many youth fall victim to traffickers while in transit and they run the risk of being coerced into becoming "mules" that transport illicit drugs for narcotraffickers.

SOCIAL, ECONOMIC, AND CULTURAL RIGHTS

Council Created to Oversee Funding

02.04.08 The Council for International Cooperation

was recently created to oversee foreign contributions to the Guatemalan government. The Council will include representatives from the Ministries of Foreign Relations and Finance, as well as the Presidential Secretariat of Planning and Programming. The Council will make sure that funds donated will be invested in the Council for Social Cohesion and spent in the areas of rural development, security, justice, energy, and fiscal reform.

Hurricane Stan Victims Still in Shelters

02.11.08 Over three hundred families who lost their homes to Hurricane Stan in October 2005 are still living in temporary shelters in the Las Delicias settlement in San Marcos. The families were promised housing by the previous government but are still living in deteriorated plastic and tin shelters. According to community members, the common bathroom area is in a state of collapse and the septic tank does not work, meaning that raw sewage flows into open areas causing illnesses. Mayor Érick Zúñiga said that the government already built 192 houses in the center of Las Delicias, but that the homes have not yet been turned over to the families due to bureaucratic red tape. Another 301 houses are still under construction.

RIGHT TO A HEALTHY AND SUSTAINABLE ENVIRONMENT

Environmental Crimes Go Unpunished

02.07.08 According to data compiled by the Center for Social and Environmental Legal Action (CALAS), 653 environmental crimes were registered in 2007 and brought to court; however, not one case has been sentenced. The most common reports of environmental crimes include damage to forests, environmental contamination, and crimes against protected areas. Fifteen cases were overturned or thrown out.

Toxic Transport Not Regulated

02.06.08 Tons of chemical and toxic waste are circulated in Guatemala unregulated or not properly handled. Human lives and the environment are at risk, even though environmental authorities, customs officials, and industrial owners who import such products are aware of the dangers.

An investigation by the Center of Informative Reports on Guatemala (CERIGUA) along the Pacific Coastal highway, including the customs office in Tecún Umán, San Marcos and certain regions of Chiapas, México, reveals the possible smuggling of substances used by large businesses, including liquor companies. These materials enter Guatemala without being inspected by customs and are transported on Guatemalan highways without taking any of the precautionary measures stipulated by international treaties and conventions that have been ratified by Guatemala.

Earlier this month, two accidents occurred involving a tanker and a truck, which further demonstrate the dangers of improper handling of dangerous chemicals. Arsenic and toluene were spilled in these accidents, which are both highly toxic substances. In 2007, sulfuric acid was spilled into the Ayal River in the Quetzaltenango region near the Pacific coast. This case raised many questions about the lack of functional laws regulating the imports of toxic materials as well as the transport and use of such materials.

River Contaminated by Sugar Plantation

02.11.08 Almost two thousand families reported that rivers near the village of Chegüez, San Antonio, Suchitepéquez were being contaminated. The families told Congressman Héctor Nuila, member of the Guatemalan National Revolutionary Union (URNG), that the contamination was being caused by waste coming from the Palo Gordo sugar processing plant. Even though the problem dates back more than fifty years, the families reiterated their concerns that nothing has been done and that their children have suffered from viral and infectious diseases as a result. Nuila said that he would coordinate with the Ministries of the Environment, Health, and Communications in order to take the necessary actions to resolve the problem. He also asked the San Carlos University of Guatemala (USAC) to analyze water samples from the river in their laboratories to measure the contamination levels in the area.

Wetlands Contaminated in Guatemala

02.02.08 Guatemala signed on to the Convention for Wetlands in 1971, but only seven wetlands in Guatemala are registered for the preservation of

biodiversity within them. These bodies of water are being threatened by urban development, industry, livestock, the change in the use of land, contamination, and the exploitation of natural resources. Claudia Santizo, secretary of the National Council for Protected Areas (CONAP), said that Guatemala has an international commitment to protect biodiversity and, more importantly, water sources in the country.

BASIC FREEDOMS

Media Monopolized by One Family

02.06.08 The European Union's Electoral Observation Mission reported that national television in Guatemala is operated under a monopoly and that the media has a "familial character" that limits the plurality of editorial lines in the printed media. The Mission said that there is a "monopoly of public television channels, headed by Mexican businessman, Ángel González, as well as domination by the Marroquín family of the printed media," alluding to their ownership of the newspapers *Prensa Libre*, *Nuestro Diario*, *La Hora*, and the cable channel, Guatevisión.

LEGAL CASE UPDATES

Local Courts Clash Over Genocide Case

02.09.08 Defense lawyers for Generals Efraín Ríos Montt and Ángel Aníbal Guevara filed a motion against a ruling handed down by the Eleventh Court of the First Instance in the genocide case. José Eduardo Cojulún Sánchez, the judge in this case, ruled that the court would depose eleven witnesses, despite the CC's ruling in favor of the accused military officers. The defense argued that they filed the motion because the Constitutional Court (CC) had already ruled that Spain did not have jurisdiction in Guatemalan territory and therefore could not depose witnesses in Guatemala.

In the meantime, Santiago Pedraz, the judge from the Spanish Federal Court (ANE), heard the testimonies of six of the thirty-eight protected witnesses in the genocide case. Rapes, executions, and burning people alive are some of the atrocities reported by the seventeen witnesses and experts to the ANE, attributed to Guatemalan military personnel.

Pedraz has called on people from all over the world to give their testimonies of crimes that they may have witnessed in Guatemala between 1961 and 1996. The Spanish judge also ordered that the arrest warrants issued internationally to extradite those accused of the crime in Guatemala remain in effect, despite the CC's ruling that Spain has no jurisdiction.

OTHER INFORMATION

Violence and Impunity Reign in Guatemala

01.31.08 The annual report from Human Rights Watch (HRW) classified Guatemala as one of the worst countries in the world in terms of violence and impunity. According to HRW, Guatemala still suffers from the aftereffects of the internal armed conflict. Even a decade after the Peace Accords were signed that ended the war, impunity is the rule and not the exception, said the report. The report also highlights the data provided by Guatemala's National Civil Police (PNC) on the 5,885 people who were murdered in 2007, which is the highest homicide rate since the end of the war.

HRW said that common crime is a "chronic" problem in the country and that the "weakened and corrupted judicial institutions are incapable of containing the powerful groups of organized crime." The report further states that only 6% of all the murders committed in Guatemala make it to court, although that figure drops to 3% for cases of femicide and infanticide, the killings of women and children. The report also says that judges and investigators do not have adequate training for their jobs and that the army and PNC do not collaborate often. Many officials are also accused of participating in "social cleansing" and "clandestine groups" responsible for the violence perpetrated against the human rights defenders.

Security Forces Need More Training

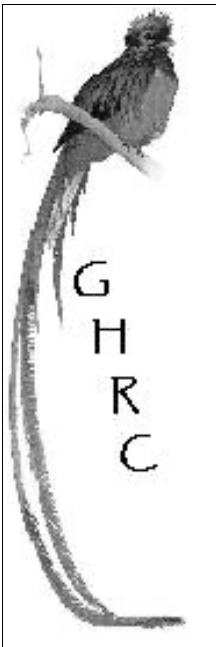
02.06.08 Representatives of the Guatemalan Forum, which includes groups from small and medium businesses, environmental groups, indigenous groups, pro-justice organizations, and the San Carlos University, asked Minister of the Interior Vinicio Gómez to continue to strengthen public security forces and other groups within the Ministry of the Interior, including Immigration and the

Penitentiary System. Minister Gómez promised to continue with this process and said that he plans to increase the number of police by 3,000 within the next twelve months. Members of the Forum said that technology is also needed to combat crime, especially along the highways.

Internationals Speak Out Against Impunity

02.07.08 Approximately thirty international solidarity organizations, including the Guatemala Human Rights Commission (GHRC), USA; Peace Watch, Switzerland; Collectif Guatemala, France; CAREA, Germany; SweFOR, Sweden; the Network in Solidarity with Guatemala (NISGUA), USA; Guatemala Solidarity Network, England; Unitarian Universalist Central America Network, USA; and Sister Parish/Iglesias Hermanas, USA, published a paid advertisement in the Guatemalan newspaper *Prensa Libre* on February 7. The advertisement stated that the organizations are frustrated with the progress of the Guatemalan genocide cases and consider the recent ruling by the Guatemalan Constitutional Court an impediment to impunity and the Rule of Law.

The organizations called for "continued support of the process of peace and reconciliation so that there is no repetition of similar crimes." They also commit to "supporting and maintaining the dialogue through diplomatic means to strengthen the respect for human rights in Guatemala."



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: From the Kitchen to the Soccer Field