

Guatemala Human Rights *UPDATE*

Guatemala Human Rights Commission/USA

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RIGHT TO LIFE AND HUMANE TREATMENT

Controversy Mounts Around Death Penalty

02.29.08 The Congressional decision to reestablish the presidential pardon for death penalty cases, which would concurrently reestablish the death penalty itself, continues to cause controversy in both national and international circles. The Justice Tribunals report twenty-eight people sentenced to death in Guatemala; two have passed away, three are fugitives, and another twenty-three are in the appeals process.

Amnesty International sent a letter to President Álvaro Colom urging him to veto the decision and reminding him that in November 2007, Guatemala voted in favor of a United Nations initiative that called for a suspension of executions around the world. Colom responded that he would decide whether or not to veto the judgment later in March. In a poll conducted by Guatemalan newspaper *Prensa Libre*, a reported 97.4% of those who voted in the recent elections said they were in favor of capital punishment. Out of 7,770 voters, only 205 said they were against the death penalty (2.6%), a number that starkly contrasts the opinions of the Catholic Church, human rights activists, and numerous international organizations.

Cardinal Rodolfo Quezada Toruño criticized the Guatemalan Congress, saying that capital punishment is not a deterrent for criminals. The decision, he continued, is political in nature and creates a “culture of death.” He also argued that the death penalty does not resolve the serious lack of security in Guatemala. Human Rights Ombudsman Sergio Morales added that the death penalty is a “cosmetic measure” used by governments to pacify its people when no real improvement in security has

taken place.

There were also many critics internationally. The International Human Rights Federation (FIDH) denounced the congressional decree, urged Colom to veto it, and declare an immediate moratorium on the death penalty. FIDH called on the European Commission to join in the political dialogue and to warn that capital punishment is incompatible with the values and rights that are promoted through their trade agreements.

The European Union also urged President Colom to veto the law, indicating that some countries, particularly Germany, might withdraw their financial and political support from Guatemala if the death penalty is applied.

In Costa Rica, the Center for Justice and International Law (CEJIL) said that reinstating capital punishment goes against agreements established by the Inter American Human Rights Court. CEJIL asked Colom to rectify the situation and send a clear message that Guatemala is committed to supporting human rights. The International Forum of NGOs, comprised of thirty-two international solidarity organizations, publicly stated their position against the death penalty. The churches that form the Ecumenical Council of Guatemala also made a statement against capital punishment.

Victims Often Have Criminal Records

02.15.08 The Minister of the Interior, Vinicio Gómez, reported that out of the 163 homicides recorded in January, 2008 in the department of Guatemala, fifty-one of the victims had records in the National Civil Police’s (PNC) criminal database.

Gómez said that 3,050 people were arrested between January 14 through February 10, 240 of which had outstanding arrest warrants for rape, homicide, theft, threats, etc. He added that the

Ministry has prioritized the formation of community-organized safety patrols to work alongside local public security forces. He hopes that every municipality will have at least one community patrol. There are 344 community safety patrols currently registered, the majority of which are in the metropolitan area of Guatemala City.

The Minister said that it is “humanly impossible” to reduce the violence in the country with only one policeman for every 2,400 people, and that currently there are 18,744 PNC officers working in three shifts to provide security to more than thirteen million citizens. According to Gómez, each police officer is responsible for 2,177 square kilometers of territory.

Bus Attacks Continue

02.15.08 A bus driver’s assistant was shot and killed close to a National Civil Police (PNC) outpost in the El Milagro Neighborhood on the outskirts of Guatemala City. The bus driver was also seriously wounded in the attack, according to the municipal firemen who tended to the victims. The PNC announced that two minors, who were later captured, confessed to the killing. The assailants claimed that one of them was being extorted by a relative of the assistant.

Government Gives Hypothesis for Bus Attacks

02.15.08 Government authorities announced that they have dismantled two cells of the “Mara 18” gang, the group that is allegedly responsible for killing eleven bus drivers and one assistant on February 5 and 6, 2008. President Álvaro Colom and Vice President Rafael Espada participated in a press conference, along with the Minister of the Interior Vinicio Gómez and the director of the International Commission against Impunity in Guatemala (CICIG), Carlos Castresana. President Colom said that there are two hypotheses for the attacks. “This could be gang-related activity, or organized crime may have hired a gang to plan the attacks,” he said. Gómez confirmed that “politically” the case is closed and that the Public Prosecutor’s office (MP) is now in charge of the investigation. Human Rights Ombudsman Sergio Morales expressed that he is not satisfied with the explanation of the crimes, saying that the demented people behind the attacks need to be identified and put on trial.

Sololá Locals Clash Over Kidnappings

02.16.08 At least twelve people have been kidnapped in Sololá to date this year. Locals clashed with local National Civil Police agents (PNC) during a protest against the elevated number of kidnappings and the lack of police action to capture the suspects. Residents set fire to three vehicles and damaged the governor’s offices. Mayor Pedro Saloj announced that a meeting would be held with the Minister of the Interior and the Director of the PNC to further discuss the situation.

Domestic Violence Increasing Dramatically

02.25.08 Using a new “social conflict map,” the Human Rights Ombudsman’s Office (PDH) revealed that domestic violence has increased in fifteen of Guatemala’s twenty-two departments. The map shows that domestic violence affects 236 municipalities in the fifteen departments, or 71% of the 333 municipalities in the country. The Ministry of the Interior, through the National Civil Police (PNC), registered 338 reports of domestic violence between December 19, 2007 and February 10, 2008.

Ana Ollas, from the PDH’s Women’s Defense Office, expressed her concern that domestic violence in Guatemala is not classified as a crime. She also pointed out that domestic violence often affects children as well.

WOMEN’S RIGHTS

Media “Validates” Femicide

02.15.08 An investigation carried out by the Center for Informative Reports on Guatemala (CERIGUA) concluded that the written media contributes to society’s justification of the murders of women by using the term “crime of passion” to describe the murder of a woman by her spouse, boyfriend, or partner.

CERIGUA monitored five Guatemalan newspapers during 2007, focusing on nineteen cases in which women were allegedly killed by their spouses, boyfriends, or partners. By labeling the murders as “crimes of passion,” said the report, the media favors the killers by profiling them as someone who is not a criminal, but someone motivated to kill because of his feelings of love and jealousy. This kind of reasoning encourages society to validate such attitudes and blames women for

their own death, even perpetuating the idea that the deaths were deserved. The media contributes to a situation in which the general population morally absolves these killers by labeling the deaths as tragic love stories rather than murders, said CERIGUA's report.

Police Stand Trial for Raping Female Inmate

02.18.08 The first sexual abuse case to go to trial involving the National Civil Police (PNC) has begun in Santa Cruz del Quiché. Juana Méndez, a 43-year-old indigenous woman, was arrested in Chimaltenango in January 2005 on drug charges when police found poppy flowers in her garden. She was held at a police station in Nebaj, Quiché. While in custody, a police officer stripped Méndez and held her while another raped her. They forced her to walk naked in front of a holding cell full of men, then ordered her to wash herself to remove any traces of evidence. Nery Osberto Aldana, one of the policemen implicated in the case, is currently a fugitive. The other, Antonio Rutilio Matías, will face the charges of rape and abuse of authority.

According to a report by the Institute of Comparative Studies in Penal Sciences (IECCP), 75% of all women who are detained by the PNC suffer some sort of sexual aggression by officers. Sandra Morán, a representative of women's organizations, hopes that the trial will set a precedent so that other women come forward to denounce what they experience. Women's groups demanded that these types of acts be punished by law and asked that the trial be fair and transparent. They hope to bring justice to the women who suffer abuse at the hands of the police.

Femicide to be Investigated by CICIG

02.21.08 First Lady Sandra Torres de Colom confirmed that the International Commission against Impunity in Guatemala (CICIG) has been asked to investigate femicide in Guatemala. According to the Presidential Secretariat on Women (SEPREM), 614 women were killed in 2007 and another 56 were killed in January 2008. Gabriela Núñez, secretary of SEPREM, said that although some of the cases are related to domestic violence, others are related to organized crime, which justifies intervention by the CICIG.

CHILDREN'S RIGHTS

Two Kidnapped Children Returned Home

02.25.08 María Fernanda and Ana Cristina Alvarado, ages four and one and a half, were returned to their mother after one and a half years of separation, just as they were about to be delivered to their new adoptive mother in the US. A judge ordered that the two children be returned to their birth mother, Mildred Alvarado, who had not seen them since September 2006.

Alvarado was pregnant with her second daughter when she was fired from her job at a *maquila* (factory) in 2006, which left the single mother without financial support. A neighbor, who was later discovered to be working with an adoption agency, offered to take care of Alvarado and her two-year old daughter while she prepared for her second child. Immediately following the birth of her second daughter, both children were taken. The kidnappers also took advantage of Alvarado's weakened state to take a sample of her blood.

Alvarado reported the kidnapping to the Public Prosecutor's office (MP) and pounded on the doors of any government agencies that would listen. She also received legal assistance from the Survivors Foundation. On November 25, 2007, her story was reported in the Guatemalan newspaper *Prensa Libre*.

The US citizen in the process of adopting the girls, who had already received their pictures and medical records, saw the newspaper article and recognized the girls' names and faces. She immediately notified Guatemalan authorities and the adoption agency in Florida that had acted as an intermediary between her and the Guatemalan lawyers. After tests were performed to prove the maternity of the girls, they were returned to their birth mother under court order. "I am very happy and excited to have my daughters returned to me," said Alvarado.

The US Embassy pre-approved the adoption of the two girls on November 30, 2006, five days after Mildred had reported to the MP that her children had been kidnapped. Scott Smith, a spokesperson from the Embassy, said that he was not permitted to discuss specific cases, but reiterated that the goal of the US State Department is to assure that all adoptions are conducted in compliance with Guatemalan and US laws.

CAMPESINO RIGHTS

Police Held Hostage by Campesino Group

02.28.08 Twenty-nine agents of the National Civil Police (PNC) were held hostage for two days by residents of Livingston, Izabal in protest over the capture of one of their leaders, Ramiro Choc. Choc has been accused of destroying areas of the Maya Biosphere, damaging public and private property, and committing theft and aggravated robbery. The police hostages were taken to a remote village called Creek Maya, twenty- two kilometers from Livingston.

One campesino spokesperson justified their actions, saying that the government has ignored their demands and has ordered that the campesinos be evicted from their lands. He also stated that the campesinos believe that Choc is innocent, highlighting the fact that he has participated in the dialogue among the communities along the gulf, municipal authorities in Livingston, functionaries from the Public Prosecutor's office (MP), and members of the National Council for Protected Areas (CONAP).

Vice Minister of the Interior Édgar Hernández said that he would try to negotiate the release of the hostages but added that he could not release Choc, who was arrested in mid-February, because he is in the hands of the court.

The Coordination for NGOs and Cooperatives (CONGCOOP) and the Rural and Agrarian Studies Institute expressed concern for the detention of Choc, who is a Q'eqchí leader, and published an ad saying that Choc's arrest was the result of a complaint filed by a landowner, whose land title is in dispute in Livingston. The groups said that the arrest sets a negative precedent by the government for dealing with agrarian issues in Guatemala. The organizations urged the government to stop its policy of exclusion towards campesinos who organize to take back their lands. President Álvaro Colom stated that anyone who was involved with taking twenty-nine police officers hostage should be treated as a "terrorist."

Plantation Workers Suffer Violations

02.27.08 Juan Tiney, from the National Indigenous

and Campesino Coordinating Committee (CONIC), reported that plantation workers all over the country are victims of human rights violations. Workers are often transported to the plantation in cattle trucks and live in shelters that resemble stables. Their living conditions are precarious and most workers do not have access to basic services or latrines. Tiney also said that workers are often fed only beans and tortillas.

The Minister of Labor, Edgar Rodríguez, admitted that the General Inspector for Labor has not fulfilled his obligation to inspect the conditions on plantations in order to confirm that workers rights are not being violated.

SOCIAL, ECONOMIC, AND CULTURAL RIGHTS

Veto of Special Education Law Overruled

02.20.08 Congress has overruled former President Óscar Berger's veto of a special education law, which was originally approved in November 2007 but vetoed by Berger in December.

The law establishes an office for the General Direction for Special Education (DIGEESP), to be in charge of coordinating actions and policies to provide educational services for students who are "disadvantaged and have more difficulties learning" so that they can benefit from a curriculum that corresponds to their age through the use of special techniques or resources. The law also requires that special education services be available in every municipality in Guatemala. An interdisciplinary team would design, aid, and supervise the specialized services so that optimal learning conditions are created for those needing them. Berger had argued that the government did not have sufficient resources to be able to enforce such a law.

Colom Says Indigenous Languages at Risk

02.21.08 President Álvaro Colom participated in a forum titled "Maternal Languages and Culture as the Engine for Development" and emphasized that his government is committed to preserving indigenous languages in Guatemala because "culture is the personality of the people and language is the expression of culture." One of the conclusions of the forum was that Spanish

domination places Guatemalan indigenous languages at risk. Because the educational system is dominated by Spanish, children are not motivated to speak their maternal languages.

Guatemala has twenty-two Mayan languages in addition to Xinca, Garifuna, and Spanish. The main linguistic groups are the K'iche', Mam, Q'eqchi', and Kaqchikel, representing 81% of the indigenous population. Of the 80,000 registered teachers, only 7,000 are bilingual. The justice system has only sixty-six interpreters for the entire country.

RIGHTS TO JUSTICE

Officer Accused of Genocide Dies

02.17.08 Former general Germán Chupina Barahona, who has been accused of torture, genocide, and State terrorism, died recently in his home on the outskirts of Guatemala City. He died from pneumonia and dehydration. The army paid homage to him at his wake.

Chupina Barahona is the second person who has died before being formally tried in court for genocide. Former president Romeo Lucas García, also wanted for genocide, died in May 2006 in Venezuela. Chupina and Lucas García, among others, are considered to be some of the main culprits for the genocide in Guatemala that left at least 200,000 dead, 45,000 disappeared, and more than one million displaced while fleeing army persecution.

According to human rights activist and analyst Miguel Ángel Albizures, the fact that Chupina died without facing the charges against him is an insult to the relatives of the victims who have been waiting for decades for justice to be served.

War Victims Hold March

02.27.08 Hundreds of relatives and friends of Guatemalans who were disappeared during the internal armed conflict participated in a march to demand a restructuring of the National Reparations Program as well as justice for the atrocities committed during war. The marchers expressed frustration with the fact that former members of the Civil Defense Patrols (PACs), who have been accused of human rights violations, have already received reparations while hundreds of victims and relatives of the war are still waiting for their payments. The protest was held on the anniversary

of the presentation of the UN Historical Clarification Commission's report detailing the human rights violations committed during the conflict, a day also known as the "Day of Dignity for Victims."

The Mutual Support Group (GAM) took advantage of the commemoration to present sixteen petitions to the Guatemalan Supreme Court to investigate cases of forced disappearances during the war. Alejandro Axpuc, the coordinator of GAM's "Justice for the Disappeared" project, said that the Supreme Court should order all necessary investigations to be carried out.

Colom Orders Declassification of Archives

02.25.08 President Alvaro Colóm has announced that military files will be opened to allow the public access to details of massacres, torture, and other violations committed during the internal armed conflict. During a commemoration for the Day of Dignity for Victims, Colom said that the military files are an important piece to discovering truth and delivering justice. He also acknowledged that the state committed atrocities.

Human rights groups said that these files will help solve war crimes, particularly when matched with the police archives uncovered in 2006. Colom said that the Human Rights Ombudsman's office (PDH) will oversee and preserve the files, because they have experience with the police files. The president also said that he has the "political support" of the leaders of the Guatemalan army to declassify the documents.

LEGAL CASE UPDATES

Fugitives Assumes Post as Mayor of Jutiapa

02.26.08 Former Congressman Manuel de Jesús Castillo assumed the post of mayor of Jutiapa, a fact that went unnoticed for one week, despite him being wanted by police for his involvement in the February 2007 murder of three Salvadoran members of the Central American Parliament (PARLECEN) and their driver.

Castillo interrupted a meeting of the Jutiapa town council on February 19 by barging into the room and announcing that he planned to assume his position as mayor of Jutiapa, for which he had been elected in September 2007. According to testimony, members of the council greeted the news

with applause. Interim mayor Mario Lizandro Salazar swore in Castillo as mayor in the presence of the rest of the council.

Defense attorneys for Castillo then presented documentation to the First Penal Court to argue that, as acting mayor, his immunity has been restored. The immunity Castillo had previously enjoyed as Congressman and mayor-elect was stripped earlier this year by the Supreme Court of Justice (CSJ) once news of his alleged involvement in the Salvadoran murders came to light.

Police officials in charge of the search for Castillo said that he has not been seen in the area, despite active searches for him. Police said they doubt that the town council meeting was held in Jutiapa, but in a secret location where Castillo could enter undetected.

Yolanda Pérez, former magistrate of the CSJ, said that Castillo's immunity has not been restored, despite his new position as mayor. Angel Figueroa, member of the Supreme Electoral Tribunal (TSE), said that the TSE will meet to decide if he can continue on in his post.

Castillo has denied association with Alberto Gutiérrez Arévalo, also known as Montaña 3, who has been arrested in connection with the crime.

RIGHT TO A HEALTHY AND SUSTAINABLE ENVIRONMENT

Solid Waste Plant Needed in Escuintla

02.23.08 Mayors in Escuintla met to discuss the construction of a solid waste treatment plant to address the problems of contamination generated by solid waste thrown into water sources in their department. Ministry of Health authorities also said that the local rivers are severely contaminated by garbage and that there could be outbreaks of infectious diseases caused by excessive contamination. The mayors hope to receive international aid for the project since their local funds will not be sufficient to cover the costs.

OTHER INFORMATION

Controversial Gun Law Again Delayed

02.28.08 A law that would have toughened penalties against illegal trafficking and possession of assault rifles was once again stalled in the Guatemalan

Congress. After four years of debate, lawmakers had believed that the law would finally be approved after many negotiations. Opponents to the law feel that it does not provide protection for honest people who fear violence from common delinquents or organized crime.

Otto Pérez Molina, former candidate for president, said that civil society should not fear disarmament. "Average citizens are permitted to use revolvers, pistols, and 24-inch shotguns, but are prohibited from using AK-47, M-16, or AR-15 rifles. People in possession of these rifles should turn them in. For special cases in which people are threatened or are under particular risk, they can approach the Minister of the Interior to receive permission to carry these types of arms," said Pérez Molina, adding that these cases would be very rare exceptions.

Currently, it is estimated that there are more than 200,000 firearms circulating in Guatemala. Many of these firearms are of high caliber and it is likely that delinquents and members of organized crime are in possession of bigger quantities of these firearms than the private security forces and or the national military.

Colom Second Highest Paid President in Hemisphere

02.16.08 A recent investigative report carried out by the Spanish news agency EFE discovered that President Álvaro Colom is the second highest paid president in the Americas, making \$18,657 per month. His salary is second only to US President George W. Bush, who earns \$33,000 per month. In 2004, then President Óscar Berger authorized a salary increase of \$13,000 per month for the presidency. He justified the decision by saying that the president should have more petty cash to spend, bypassing the normal bidding process for all unplanned trips or other activities that may come up.

UN Representative "Disappointed" by Visit

02.20.08 The United Nations Special Representative of the Secretary-General on Human Rights Defenders, Hina Jilani, visited Guatemala for the second time, interviewing authorities and representatives from social organizations in order to report on the human rights situation in Guatemala.

Jilani spoke publicly during her three-day visit, saying that the situation in which human rights activists work has deteriorated dramatically in Guatemala. She added that Guatemala is characterized by violence, organized crime, and a high level of impunity influenced by parallel power structures. She also expressed that the re-establishment of capital punishment represents a backslide in human rights.

Jilani stated in a press release that despite the problems, there has been progress since her last visit in 2002. Accomplishments she highlighted were the establishment of the Human Rights Defenders Protection Unit, the ability of the Human Rights Ombudsman's office (PDH) to respond to complaints, the creation of the International Commission against Impunity in Guatemala (CICIG), and the creation of the Ministry of the Interior's Analysis Unit for Attacks against Human Rights Defenders. Another laudable project mentioned is the Project for Public Policies to Protect Human Rights Defenders and Other Vulnerable Groups, being debated through the auspices of the Presidential Human Rights Commission (COPREDH).

Jilani noted, however, that these initiatives have not yet produced concrete improvements in the field since the number and intensity of attacks on human rights defenders has increased, doubling in five years, with an average of one attack against an activist every two days. Between July 2002 and December 2007, fifty human rights defenders were killed. Twenty-three were killed in the past two years. The level of impunity for the attacks against human rights defenders is equally alarming, she said. Justice becomes an empty word when one considers that 98% of all attacks against human rights defenders do not go to trial.

Jilani pointed out that two governmental institutions that should be vanguards in providing protection and compensation are actually part of the problem: the National Civil Police (PNC) and the Public Prosecutor's office (MP). The protection provided by the PNC to activists who are at risk is selective, ineffective, and sometimes even places them in more danger when the police themselves participate in the attacks.

She also said that she was disappointed to see the passivity of the prosecutors involved in

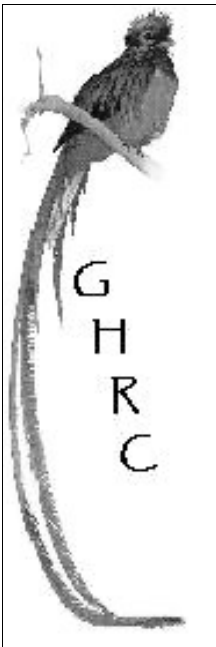
investigations of cases passed on to them by human rights activists. She recommended that measures be taken to correct deficiencies in the investigation process.

Jilani also recommended that the government and corresponding state functionaries take visible, concrete measures to recognize the work being done by human rights defenders; guarantee coordination among the institutions responsible for the investigation of the cases, especially the PNC and the MP; and guarantee absolute cooperation among corresponding institutions in the implementation of the recommendations and conclusions of the PDH and the CICIG.

Government to Increase Size of Military

02.27.08 Vice President Rafael Espada announced that one aspect of the plan to modernize the Guatemalan army includes doubling the number of soldiers on active duty in order to better combat organized crime. The government plans to gradually increase the number of troops from 15,000 to 30,000. This plan will begin in 2009 and will include training new troops as well as current troops. In order to carry out this plan, funds will be donated by the US, Argentina, Chile, Mexico, and Brazil.

Nineth Montenegro, congresswoman for the Encounter for Guatemala (EG), criticized the decision to increase the number of troops. "By doing this, the government will weaken the role of the National Civil Police. We are moving backwards," Montenegro said. Eleonora Muralles, an activist with the Families and Friends against Delinquency and Kidnapping, said that there is no logic to the government's proposal. She said that instead of increasing the number of troops, the government should increase the number of police officers.



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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