

Guatemala Human Rights *UPDATE*

Guatemala Human Rights Commission/USA

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RIGHT TO LIFE AND HUMANE TREATMENT

Bus Drivers Continue To Be Killed

03.03.08 Bus drivers and their assistants continue to face alarming and deadly violence. Dozens of bus drivers and assistants in Villa Nueva, a neighborhood just south of Guatemala City, went on strike when yet another bus driver was killed. The drivers demanded that the National Civil Police (PNC) provide better security. Jairo Fajardo Sumalé, a young bus driver at the age of 26 was shot and killed in the end of February. Herlinda Sumalé, the victim's mother, said that she blamed her son's death on two men, alleged members of a group called "Los Caballos." She added that they demanded that her son pay them Q2,000 per week (US \$267) in extortion fees. In the first two months of 2008, nineteen drivers and their assistants have been murdered and at least six more have been injured.

'Social Cleansing' Group Kills Two

03.04.08 A group calling itself the "Anti-Gang and Anti-Extortionists Group" (GAME) has formed with the self-proclaimed purpose of social cleansing. GAME claimed responsibility for killing two alleged gang members in San Juan Alotenango, whose bodies were found along the highway between Antigua, Guatemala and Escuintla. Édgar Hernández, the vice minister of the Interior, stated that he was unaware of the group's existence and ordered that the members be investigated.

Campaigner For Justice Attacked

03.06.08 On March 5, 2008, Guillermo Chen's house was shot at six times by unknown assailants in Rabinal, Baja Verapaz. Guillermo is the director of *Fundación Nueva Esperanza, Rio Negro* (New

Hope Foundation, Rio Negro). Around 9:00pm while Guillermo was sitting at home with his wife and two children, two individuals on bicycles rode by the Chen household and opened fire, shooting six rounds at their front door. No one was injured. Human rights organizations believe that the attack was directly related to Guillermo's work campaigning for justice for crimes committed during Guatemala's internal armed conflict. (*Read more about the attack and find out how you can take action in this issue's Insert.*)

Colom Vetoes The Death Penalty

03.14.08 After several days of meetings with diplomats, religious leaders, presidents from other countries, and a twenty-two member legal team, President Álvaro Colom announced his decision to veto the Presidential Pardon Law (Decree 06-2008) for those awaiting the death penalty. Asserting that the Law violated articles of the Constitution and went against the principle of the right to life, Colom rejected reinstating capital punishment. The death penalty has not been applied in Guatemala for several years because it was caught in a legal vacuum concerning clemency protocols. However, Decree 06-2008, approved by Congress in mid February, clarified questions around the use of presidential pardons for individuals on death row and subsequently, opened the door for the death penalty once again.

Otto Pérez Molina, former presidential candidate and leader of the Patriot Party, criticized Colom's decision. He stated that the president was once again being inconsistent with his platform and policies. Pérez Molina introduced Decree 06-2008 in Congress and lobbied for its passage.

During the two week period leading up to Colom's decision, both Congress and Colom were the object of heavy criticism and pressure from

several sectors, both national and internationally. Church leaders insisted that the death penalty would be immoral and create a “culture of death,” and would not resolve the root causes of crime in Guatemala, which stem from poverty, the drug trade, and organized crime. The European Union pressured Colom by suggesting that Guatemala would potentially lose trade partners if capital punishment were to be reinstated.

Several human rights organizations, including the Center for Legal Action on Human Rights (CALDH), the International Human Rights Federation, the Mutual Support Group (GAM), the Institute of Comparative Studies in Penal Sciences (IECCP), and the Human Rights Office of the Archdiocese of Guatemala (ODHAG) issued a press release stating that “the application of the death penalty will not resolve the security or delinquency issues in Guatemala; on the contrary, in Guatemala and other countries, this kind of extreme measure is ineffective.”

Pressure on Colom came from international citizens as well. The Guatemala Human Rights Commission/USA (GHRC) mobilized its base of international grassroots activists to send hundreds of letters to President Colom encouraging him to veto the legislation because capital punishment violates the right to life and never serves as a deterrent to crime.

POLITICAL RIGHTS

Concerns Around Remilitarization

03.01.08 Guatemalan Vice President Dr. Rafael Espada announced an initiative to double the size of the army in order to better combat organized crime. In response, the Guatemalan National Revolutionary Union (URNG) issued a press release asserting that adding more troops would to a remilitarization of the state and society, which would violate the Peace Accords. The URNG called on the Guatemalan grassroots and social movements to speak out against the proposed increase in remilitarization. The URNG also urged the international community to denounce the Vice President’s initiative to expand the military. President Colom later said that the number of troops would not be increased.

BASIC FREEDOMS

Campesino Group Takes Belgian Tourists Hostage

03.15.08 A group of campesinos calling themselves the “Campesino Encounter” kidnapped four Belgian tourists, their Guatemalan tour guide, and their boat pilot near Livingston, Izabal, a popular tourist destination near Guatemala’s Caribbean Coast. This was the second group of hostages that the campesinos had taken in the past month. The group’s intent was to pressure Guatemalan authorities to release their leader, Ramiro Choc, who was arrested in mid-February under charges of damaging public and private property, theft, and aggravated robbery. Santiago Cabnal, a spokesperson for the Campesino Encounter, said that the group had taken more hostages because authorities had failed to fulfill the agreements reached during previous negotiations to release the twenty-nine police officers that the campesinos had held hostage for two days in late February.

In attempting to free the hostages, the National Civil Police (PNC) arrested a handful of campesinos and extrajudicially executed Mario Caal Bolón, 29, one of the campesinos. According to witnesses, police officers shot a tear gas bomb from ten feet away at Caal Bolón, hitting him in the chest, and then beat him to death. The PNC denied the accusations, stating that officers were unarmed. Human Rights Ombudsman (PDH) Sergio Morales confirmed that Caal Bolón’s body showed signs of abuse and bruising, and that it had been struck by a tear gas bomb.

After thirty-six hours, the Belgian and Guatemalan hostages were released in exchange for the campesinos that had been arrested during the episode. All six hostages were unharmed. Ramiro Choc remains incarcerated.

WOMEN’S RIGHTS

Women March To Defend Their Rights

03.08.08 Thousands of women belonging to forty different organizations marched through Guatemala City’s historic center and other cities across the country in commemoration of International Women’s Day. The march’s theme was “For my

CHILDREN'S RIGHTS

Children Miss School For Agrarian Work

03.03.08 Despite the fact that the official school year began on January 15, many classrooms in Baja Verapaz are empty. The reason being that many campesinos migrate to other regions in Guatemala to look for work during harvest time, taking their children with them. According to the Human Rights Ombudsman (PDH) and the organization Plan International, 70% of school-aged children in Baja Verapaz stopped attending school in 2007 to work on *fincas* (farms). The Ministry of Education is researching the possibility of implementing a school year that would coincide with the agricultural calendar so that the official program of studies is not altered.

Thousands Of Children Suffered Abuse in 2007

03.13.08 The United Nations Children's Fund (UNICEF) reported that 408 children were killed in the metropolitan area of Guatemala City in 2007 and an additional 2,000 cases of human rights violations against children and youth were reported. In domestic violence cases, 70% of the victims were under the age of ten and the majority of them suffered from physical and verbal violence, which in turn affected their psychosocial development. Organizations that promote child welfare state that the general population needs to be better educated on how to reduce violence towards children and authorities need to be better educated about how to address this issue.

INDIGENOUS RIGHTS

Colom Fails to Include Indigenous Representatives

03.13.08 On the campaign trail, then National Unity for Hope (UNE) candidate for president, Álvaro Colom, promised that his government would have a "Mayan face." However, since inauguration, President Colom has failed to appoint a representative number of indigenous people to his Cabinet and other government posts. Despite the fact that indigenous people make up more than sixty percent of Guatemala's population, Colom only appointed one indigenous minister to his Cabinet and three indigenous vice-ministers out of a total fifty-one positions. Moreover, Colom only appointed five indigenous departmental governors

right to be happy, without violence, and with a dignified, just wage." Marchers demanded justice in crimes committed against women, an end to impunity, and an end to discrimination against women. They also expressed concern over the increase in femicide. Sixty-three women were killed during the first two months of 2008. Human rights groups, unions, and youth groups also participated.

In a press release, Human Rights Ombudsman (PDH) Sergio Morales reiterated his commitment to defend women's rights and called on Guatemalans to form a national movement against domestic violence, with an emphasis on education and prevention.

US Senate Condemns Femicide in Guatemala

03.11.08 In commemoration of International Women's Day, the US Senate unanimously passed Senate Resolution 178 (S. Res. 178), highlighting the more than 3,000 unsolved murders of women and girls in Guatemala since 2001. The bipartisan Resolution, introduced by Senator Jeff Bingaman (D-NM) and cosponsored by thirteen other Senators, expressed condolences to the relatives of victims; condemned the murders; and encouraged the Guatemalan government to promptly investigate these killings, prosecute those responsible, and continue to work toward eliminating violence against women.

The Resolution also called on the Guatemalan government to establish a comprehensive Missing Persons System and an effective Witness Protection Program for witnesses, victims' relatives, and human rights defenders. It also encouraged Guatemalan lawmakers to adequately fund the National Institute for Forensic Science (INACIF), which would train lab personnel in investigatory and evidence gathering protocols in the hopes of finding and prosecuting the assailants of these crimes. Finally, S.Res. 178 recommended that the US Secretary of State develop a comprehensive plan to address the growing problem of violence against women throughout all of Latin America.

The Guatemala Human Rights Commission/ USA (GHRC), in conjunction with other human rights organizations, led the grassroots campaign to mobilize Americans to urge their lawmakers to support S. RES. 178.

out of a total twenty-two seats, and failed to appoint even one indigenous person to the diplomatic corps or to head the Presidential Secretariats.

As a result, his administration has taken heat for falling short of his promise. Indigenous activists that once support Colom have become publicly critical. Sociologist Fernando Solís said that Colom could demonstrate his commitment to the indigenous people by resolving the agrarian conflicts and respecting decisions made by the masses, such as the grassroots referendums carried out on mining issues.” He added that Colom’s support of the Presidential Commission against Racism and Discrimination would also be fundamental to swaying the indigenous opinion in his favor.

In his defense, Colom stated that the number of indigenous in his Cabinet has little importance because his government is “close to” the Mayans and “there are no racists” among his associates. Colom pointed to the recently launched initiative “Living Together in Cultural Diversity” by the Presidential Commission, aimed at impacting the hearts and minds of Guatemala’s youth through mass media and alternative communications. President Colom stated that society would never be whole unless collective practices of racism are eliminated. He added that his administration is interested in “creating the basis for ethnic harmony.”

LABOR RIGHTS

Companies to Be Sanctioned Over Minimum Wage

03.05.08 The Guatemalan Social Security Institute (IGSS) notified Guatemalan Labor Minister Édgar Alfredo Rodríguez that 150 businesses in Guatemala have failed to comply with the minimum wage requirements as stipulated in the Labor Code. According to Rodríguez, the businesses will receive a warning, will be sanctioned, and if necessary, closed, if they do not comply with the wage requirements. The Minister stated that it is important for employees to report businesses who do not pay the minimum wage, since the Ministry only has 280 inspectors to monitor all the business in Guatemala.

SOCIAL, ECONOMIC, AND CULTURAL RIGHTS

Policy for the Disabled Created

03.05.08 The Guatemalan Congress approved the National Policy for the Disabled and its corresponding action plan, which will guarantee the protection of those who suffer from physical, mental, or sensory disabilities. The Policy promotes actions to prevent disabilities and provide rehabilitation services, education, training and employment, comfortable and safe access to physical spaces, public transportation, and information sources for disabled persons. It will also provide access to recreation, sports, and culture. The Congress must now establish a commission to ensure that the policy is carried out.

RIGHT TO JUSTICE

Optimism Surrounds Declassified Files

03.05.08 Guatemalan human rights groups have expressed high hopes that war crimes will be investigated after President Colom’s announcement that military archives would be declassified. Thirty human rights organizations stated in a joint press release that the decision to declassify the military files is of “national transcendence” and they expect that a governmental agreement will be made to ensure the declassification of the files. The organizations said that the files would help to uncover the names of the military officers responsible for crimes and human rights violations committed from 1960 to 1996. Former military officials have asserted that false expectations are being raised since the military files do not record human rights abuses.

The Human Rights Ombudsman’s Office (PDH) has agreed to be responsible for the recovery, cleaning, and digitalization of the military archives so that the public can have access to the files in the future and they can be used as evidence in court. PDH is also in the process of handing the files from the National Police archives that were discovered in July 2005.

Jutiapa Council Members Imprisoned

03.01.08 The Ninth Criminal Court ordered the arrest and imprisonment of eight council members from Jutiapa after ruling that there was enough evidence to indicate that they aided fugitive Manuel de Jesús Castillo Medrano, a former Congressman, to take office as the mayor in Jutiapa. The council members have been accused of illicit association as accomplices, abuse of authority, covering up a crime, forgery, and disobedience. Manuel de Jesús Castillo has been accused of aiding in the assassination of the three Salvadoran Central American Parliamentary (PARLACEN) representatives and their driver, a crime committed in February 2007. Castillo has been a fugitive since January 3, 2008. With the help of the council members, Castillo assumed the office of mayor in late February 2008.

Opponent of Factories Illegally Detained

03.05.08 Several communities in San Juan Sacatepéquez, in the department of Guatemala, reported that Abelardo Curup was illegally detained in early February after the Public Prosecutor's office (MP) caved to pressures from the companies Cementos Progreso, Pino S.A., CONASA, and MINCESA. According to the communities, the MP, the National Civil Police (PNC), and a judge in Mixco are "in the service of the aforementioned companies who want to open up factories in the San Juan area even though residents have expressed their disapproval." Community representatives assert that authorities have resorted to lying to justify repression against the communities and their leaders, accusing them of being "criminals and terrorists."

The communities called on President Colom to review the proceedings in the Curup case because they believe that the process has been corrupted and that government resources have been used to benefit the Novella family, the owners of the cement company. They also asked Colom to instruct authorities to stop using repressive tactics against local residents, to free Curup, to annul the arrest warrants that were issued against twenty-seven people, and to cancel proceedings against fifteen more people who were set free on bail in the beginning of January.

Military Officer on Trial for Disappearances

03.10.08 The first-ever trial against a former military officer accused of committing a forced disappearance

during the internal armed conflict began on March 10, 2008. Felipe Cusanero Coj, a former military commissioner, is accused of kidnapping and forcibly disappearing six Kaqchikels from San Martín Jilotepeque, Chimaltenango between 1982 and 1984. The Sentencing Court in Chimaltenango immediately rejected a motion of unconstitutionality filed by the defense. During the trial, leaders from the Association of Families of the Detained and Disappeared of Guatemala (FAMDEGUA) will act as co-plaintiffs in the case. Relatives of the victims believe that the remains of their loved ones might be inside the military barracks in Chimaltenango, where, in 2003, residents from the indigenous community of Choatalum, Chimaltenango reported the case to the Public Prosecutor's Office (MP). This is the first time in history that the case of a forced disappearance in Guatemala has gone to trial, even though there are many such cases in the court system. None have been resolved. Some 45,000 people were forcibly disappeared in Guatemala during the civil war.

Ríos Montt's Appeals Are Denied

03.10.08 The Constitutional Court (CC) unanimously rejected a petition filed by former general Efraín Ríos Montt intended to derail the declassification of military documents. The CC's ruling allowed for the declassification of four military plans carried out in the 1980s, as well as ended the appeals process against the court that originally approved the files declassification in July 2007. Human rights groups hope that the declassification of documents concerning Campaña Sofía 82, Victoria 82, Firmeza 83, and Operación Ixil will provide evidence to support the investigations into the massacres carried out during Ríos Montt's government. The plans allegedly detail the military practices used during the internal armed conflict.

Ríos Montt lost another legal battle when the Eleventh Criminal Court overruled the motion filed by his defense team to block the testimonies taken from eleven witnesses in the genocide case against him. The Court ruled that the testimonies would stand.

RIGHT TO A HEALTHY AND SUSTAINABLE ENVIRONMENT

Environmental Law Reform Revisited

03.01.08 The environmental impact studies that companies present before commencing their industrial activity will become public record now that a reform implemented by the previous administration has been overturned. The reform sought to make this information discretionary, not public, and left the decision in the hands of companies and their functionaries. The reform was implemented just four days before Óscar Berger turned over the government to Álvaro Colom. Berger's family holds stock in one of the mining companies that operates in Guatemala.

Mining Law Debate Reopened

03.14.08 The Guatemalan Congress has reopened the debate around possible reforms to the Mining Law that was introduced two years ago. Alejandro Sinibaldi, the president of the Legislative Commission on Energy and Mines, recently announced that the reform to the Mining Law would be a priority and that he hoped it would be approved before the end of 2008.

Legislators met with Bishop Álvaro Ramazzini of San Marcos and Raquel Zelaya, from the Investigation and Social Studies Association (ASIES), who were members of the original commission that drafted the 2006 proposal. "It is very important to reactivate the dialogue on mining. It is necessary to make substantial changes in the current law to better protect the environment so that the benefits of this activity reach the local residents," Bishop Ramazzini said.

The bishop and Zelaya urged Congress to approve a one-year moratorium on licenses to authorize exploration so that reforms could be made to the mining law. Ramazzini emphasized that the amendments to the law need to include an increase in royalties that companies pay to assure that "the principal income goes to Guatemala." Currently, mining companies pay one percent in royalties to Guatemala. In addition, mechanisms need to be established for grassroots referendums to ensure that they are binding.

The new bill would raise royalties that mines must pay to 3% and it would eliminate tax

exemptions for mining companies. Sinibaldi affirmed that this proposal would be the basis of a new bill that hopefully would have consensus of many sectors.

Communities in San Marcos and Huehuetenango, among others, have rejected mining through grassroots referendums. In December 2007, representatives from Sipacapa, San Marcos, presented a formal complaint to the Inter-American Human Rights Court (IAHRC) against the Guatemalan government because the government did not respect the people's opposition to mining activities in their territory. Between 2004 and 2007, three licenses were granted for mining exploration. A total of twenty-three licenses are now in effect.

OTHER INFORMATION

UN Report on Guatemala is Grim

03.07.08 UN High Commissioner for Human Rights Louise Arbour presented a 2007 report on Guatemala to the UN's Human Rights Council in Geneva. The report harshly criticized the security and justice systems and the declining socioeconomic situation and urged the Guatemalan government to combat discrimination and violence. One of the most serious problems reported was the violence that led to the deaths of 5,781 people in 2007. Guatemala, according to the report, has a homicide rate of 47 per 100,000 inhabitants, which places it among the most violent countries in Latin America and the world.

Regarding the murders of women, the High Commissioner said that Guatemala "has not been able to coordinate an institutional response to prevent, investigate, and punish the perpetrators of these crimes." The National Civil Police (PNC) registered 590 women and girls killed in 2007. The High Commissioner stated that justice officials are often discriminatory, which is reflected in the "lack of investigation and the tendency to attribute some degree of responsibility to the victims."

The report reiterated the need to penalize domestic violence and sexual abuse as well as to carry out a "rigorous" restructuring of the PNC, including continued purging of corrupt officers and agents. The situation of human rights activists was also mentioned in the report; activists carried out

their work under increased attacks, although the number of attacks was reduced by 30% in the second half of the year due to measures taken by the Ministry of the Interior.

“Guatemala is one of the Latin American countries with the highest levels of inequality and it is ranked second to last in human development in the region. This situation of inequality and poverty continues to be the main challenge that the government has to making progress in economic, social, and cultural rights.” The High Commissioner said that Guatemala is far from reducing extreme poverty, maternal and infant mortality, and childhood malnutrition. Nevertheless, the Commissioner recognized that progress had been made, though the progress has not reached everyone, particularly the rural and indigenous populations, of which women and children are the most affected groups. Arbour recommended that sustainable economic development be promoted with a national strategy for development, including a fiscal plan to allow for a larger tax base through better tax collection.

The Pope Expresses Concern About Guatemala

03.07.08 Pope Benedict XVI expressed his concern for the increased violence and poverty in Guatemala. He recently met with bishops from the Guatemalan Bishop’s Conference (CEG) in Vatican City. Guatemalan bishops meet with the pope every five years to inform him of relevant issues. The Pope told the Guatemalan religious leaders that this situation provokes “heavy emigration to other countries, with serious consequences on a personal and family level.”

US State Department Reports Few Advances

03.12.08 The US State Department’s 2007 Human Rights Report on Guatemala noted that the Central American nation had made few advances in human rights and that it had the worst human rights record in Central America. The Report indicated that state institutions are unable to guarantee that both individual and collective rights are respected. The Report also indicated that security forces continue to kill and that the country is violent and corrupt. The National Civil Police (PNC) and the Justice Department have many internal weaknesses.

Despite this, the Report also acknowledged the

positive steps that have been taken, such as the implementation of the International Commission against Impunity in Guatemala (CICIG), the National Forensic Science Institute, and the purging of the PNC. These steps are factors that have improved the country’s overall ranking, according to the US State Department’s assessment.

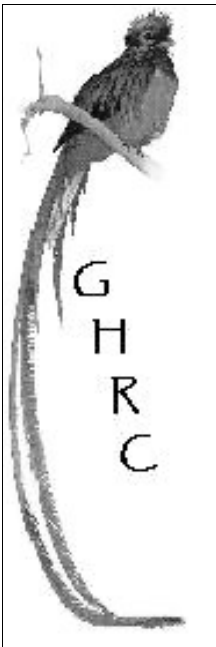
Colom’s Government Full of Inconsistencies

03.13.08 President Álvaro Colom’s decision to veto the Presidential Pardon that would have reinstated the death penalty in Guatemala is only one of the inconsistencies that have surrounded his new presidency. In mid-February, Colom said that he would approve the Pardon following others in his party, the National Unity for Hope (UNE), who supported the measure. However, after Vice President Rafael Espada expressed that he did not support capital punishment, Colom reevaluated his decision and ultimately rejected the Pardon.

This is not the only case in which Colom’s government has decided to change a decision at the last minute, nor is it the only occasion in which members of the UNE party have not honored a prior promise or commitment. Other examples include the *Creciendo Bien* (Growing Well) program in which First Lady Sandra Torres announced that she would change the program’s name, leaving the program in tact. However, two months later she restructured the entire program.

Furthermore, Colom announced that he would name Alfredo Tay Cuyuy, an indigenous person, as Vice Minister of the Ministry of Education (MINEDUC), but the next day the Minister appointed Héctor Escobedo instead. In another incident, Vice President Espada announced that the army would be doubled in size with funding from other countries to better combat organized crime. The next day, however, President Colom stated that there were no plans to increase the number of troops.

Lisardo Bolaños, a political analyst, said that he is concerned about the inconsistencies in the new administration. Independent analyst Édgar Gutiérrez added that the public disagreements between Colom and Espada are of concern because “it gives the perception that there is no unification within the Executive Branch and it is evident that team members speak publicly before talking among themselves.”



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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