

# Guatemala Human Rights *UPDATE*

Guatemala Human Rights Commission/USA

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## RIGHT TO LIFE AND HUMANE TREATMENT

### **Pavón Inmates Cite Mistreatment at New Facility**

09.26.06 Defense attorneys and prisoners' relatives presented evidence on behalf of former Pavón inmates, claiming that the prisoners were mistreated during the transfer of more than 1,600 prisoners from Pavón prison in Fraijanes, Guatemala, to the nearby Pavoncito prison.

Defense attorneys argued that the inmates were transferred to Pavoncito without the authorization of a judge, without prior warning, and without guaranteed living conditions in the new facility. Attorneys added that several prisoners suffered injuries and some were killed during the transfer. Inmates claimed that they were taken to Pavoncito without their belongings and that they were not provided food, water, blankets, or adequate light. The office of the Human Rights Ombudsman (PDH) reported that a number of the inmates suffer from diabetes or gastroenteritis and are in need of medicine.

According to several inmates, masked men entered Pavón with a list of prisoners who were to be killed. Minister of Interior Carlos Vielmann countered that the security forces were only responding to attacks from the inmates, who were using M-16s and hand grenades against the soldiers. Authorities reported that items seized from Pavón included twenty pounds of marijuana, six desktop computers, telephones, a nine-millimeter firearm, and a motorcycle. Vielmann added that the prison would be further searched for firearms and drugs, as authorities believe that the inmates were running a drug laboratory. Authorities will also search for the remains of other prisoners.

The raid and seizure of Pavón were recognized by US Ambassador James Derham, as part of the

process to end drug trafficking in Guatemala.

### **Prison Director's Family Flees Guatemala**

10.09.06 Alejandro Giammatei, Director of Guatemala's prison system, announced that he and his family have been receiving death threats as a result of the raid on the Pavón prison. On October 9, he reported that his family had left Guatemala for their safety. He insisted that the ongoing death threats would not deter him from doing his job effectively. The action at Pavón is not the first to draw attacks against Giammatei. In March of 2006, the prison director escaped unharmed after he was attacked outside a supermarket in zone 15.

### **Bus Driver Murdered in Mixco**

09.28.06 Twenty-six-year-old Manuel Gustavo Estrada Perez was killed while driving his bus route in El Milagro, Mixco. According to the Public Prosecutor's Office (MP), three individuals boarded the bus and, without saying a word, one of them shot the bus driver twice in the head. Another driver said that thirty-four bus drivers have been killed so far this year in similar circumstances.

A number of bus drivers in the area protested by blocking roads and declaring a strike, after receiving further death threats from gang members. Authorities have reportedly arrested 112 gang members in the area and confiscated twenty-one firearms. The drivers, however, argued that the latest police operations were inadequate, because the majority of those arrested were released shortly thereafter and promptly resumed their threats against the bus drivers.

The bus drivers in the area have said that they will maintain the strike until the government provides adequate security. In the meantime, people living in the area have been forced to ride in trucks and pick-ups charging uncontrolled rates.

### **Hijacker Dies During Attempted Bus Robbery**

09.30.06 An unidentified man died after he attempted to rob a bus in zone 7 of Guatemala City and the passengers attacked him. According witnesses, the passengers beat the man and threw him off the bus, where he was shot and killed by another passenger.

### **Alleged Child Traffickers Attacked**

10.02.06 Residents of a number of communities in Sololá, including Patzún, Xejuyup, Pasajquín, and Palacal, attacked at least twenty-three community members of Tzucubal, as punishment for allegedly participating in child trafficking. They were apparently looking for Domingo Perechú, who managed to escape with his bodyguard, and María Tzuy, a midwife that works in the region. Both Perechú and Tzuy are accused of selling children on the market.

The attack in Tzucubal resulted in at least one death, several injuries, and the burning of twenty-eight houses and five cars. Manuel Tzuy Tambriz died as a result of injuries from a machete, while a number of other community members were transferred to a hospital in Mazatenango. The police confirmed that at least ten women had been held against their will. They had been bound and whipped, and also had their hair cut off.

### **Residents Accuse Bi-National Police Force of Abuse**

10.07.06 Residents of Jutiapa have reported cases of abuse and illegal detentions carried out by members of the Bi-National Police. The force, made up of police officers from both Guatemala and El Salvador, was created in 2005 to confront crime along the Guatemala-El Salvador border. Authorities say that crime in the area has decreased as a result. Community members, however, said that the Bi-National Police is abusive and acts with impunity. Furthermore, residents claim that Salvadoran police often act within Guatemala, without the company of their Guatemalan counterparts. The residents did not identify themselves for fear of reprisal.

### **Politician and Wife Receive Death Threats**

10.03.06 Alvaro Colom, leader of the political party National Unity of Hope (UNE), announced that he and his wife, Sandra de Colom, have been receiving death threats since December 2004, at least six of

which have been legitimate. Colom said he would not file a formal complaint regarding these threats because the authorities are not efficient.

Francisco Matías, Assistant Director of the Division of Protection, indicated that the National Civil Police (PNC) does not have a specific plan to protect political party representatives, as the police force is small and does not have enough resources to protect the large number of representatives.

## **BASIC FREEDOMS**

### **Journalists Call for Freedom of the Press**

10.02.06 At the 62<sup>nd</sup> annual meeting of the Inter-American Press Society, members called for a united effort to ensure freedom of the press in Guatemala. Members also urged Guatemalan society at large to demand respect for this basic freedom, which is fundamental in strengthening democracy.

In his analysis of the situation, Gonzalo Marroquín, President of the Commission on Freedom of Press and Information and Editorial Director of the Guatemalan newspaper Prensa Libre, described the continuous violence faced by journalists as “devastating.” He noted that nine journalists have been murdered in the hemisphere in the last six months: three in Venezuela, three in Colombia, two in Mexico, and one in Guatemala. Marroquín mentioned that a wide variety of groups, including organized crime and corrupt politicians, share the same goal of silencing journalists.

With regard to Guatemala, Marroquín’s report mentioned the murder of journalist Eduardo Maas Bol and the attack on journalist Vinicio Aguilar, among other incidents.

## **WOMEN’S RIGHTS**

### **Murders of Women Increase in September**

09.27.06 The Public Prosecutor’s office stated that the murders of women in Guatemala City increased during the month of September. The number rose from eleven murders in July, to sixteen in August, to seventeen this month as of September 27.

### **UN Recognizes Violence Against Women as a Violation**

10.11.06 Secretary General of the United Nations, Kofi Annan, acknowledged in a recent report that violence against women constitutes a human rights

## SOCIAL, ECONOMIC, AND CULTURAL RIGHTS

violation and that all States have the obligation to protect women, hold perpetrators accountable, and provide justice to the victims. The report looked at violence against women in all its forms throughout the world, including violence within the family, violence perpetrated by the State, and violence in armed conflicts. Among other things, the report found that States are failing to implement the already existing international legal and policy framework to address violence against women on a national level. The report highlights the successful efforts of some women's NGOs and States and also calls on the international community to prioritize the issue. In particular, the report asserts that violence against women will never be eradicated and impunity for these crimes will continue if there is no political will or investment of resources.

### RIGHTS OF THE CHILD

#### **Children March to Demand Rights for Minors**

10.02.06 In honor of National Children's Day, hundreds of children and advocates for children's rights marched to Constitution Plaza in Guatemala City. Among other things, the participants asked Congress to reform the penal code to more effectively punish those who violate the rights of minors. Victor Gudiel, President of the Social Movement for the Rights of Children, said that the reforms have been stalled in the Commission on Childhood and the Family for six months. The reforms would standardize crimes such as abuse and violence against minors, sexual and labor exploitation, and the rape of minors.

#### **Group Releases Research on Child Abuse**

10.04.06 Research conducted by the Network for the Prevention of and Attention to the Abuse and Sexual Abuse of Children and Adolescents reveals that the abuse of a minor is committed by a brother or close relative of the victim in three out of every ten cases. The analysis was based on cases reported to the Public Prosecutor's Office (MP) in 2004 and 2005 in the municipalities of Amatitlán, Villa Nueva, Mixco, and San Juan Sacatepéquez. Data on reported sexual abuse was also compiled from Escuintla and Santa Lucia Cotzumalguapa, Roosevelt Hospital, San Juan de Dios Hospital, and the National Commission against Child Abuse.

#### **Hospital Crisis Drags On**

10.11.06 On September 26, the Inter-Institutional Medical Commission met with Human Rights Ombudsman Sergio Morales, who requested that the Supreme Court give the Ministry of Health ten days to provide supplies for all hospitals in the network. This represented the latest in a series of efforts to resolve an ongoing strike that initially began on June 9 in a number of public hospitals.

On October 2, a new committee was set up to negotiate a resolution, with Sergio Morales and Estuardo Gálvez, the Dean of the University of San Carlos of Guatemala (USAC), appointed as facilitators. The new committee will meet every seven days over next two months.

Minister of Health Victor Gutiérrez Longo said that he would not yield to the physicians' request to fire the hospital directors of the San Juan de Dios and Quetzaltenango hospitals. He also maintained that the only changes in the Ministry would be the resignation of the Vice Minister and the termination on one contract that would not be renewed.

Arturo Melville, President of the Association of Roosevelt Hospital Doctors, said that on October 4, a lack of adequate equipment led to a second suspension of operations in the hospital. The doctors have started giving each patient a form to state their condition upon arrival; this is a legal strategy to protect the doctors from accusations of negligence.

Roosevelt Hospital has so far dismissed eighteen x-ray technicians. Lay offs will continue due to funding constraints and reduced donations for the hospital.

On October 10, the Union of Health Sector Workers requested the dismissal of the manager of the National Hospital of Jalapa, Margarita Morataya, and of the head of personnel, Joshua Navas. Both are accused of corruption and embezzlement.

#### **Parties Sign Agreement on Health and Nutrition**

09.26.06 The Secretary Generals of a number of political parties signed an agreement on health and nutrition as part of the "Vision Plan for the Country," which includes the development of new public policies over the next fifteen years. The signatories ex-

pressed their hope for improvement among the population's health, especially with respect to indigenous, children, women, the disabled, and migrants. The signatories also expressed the importance of universal access to healthcare and social security.

The "Vision Plan for the Country" is run by a group of fifteen Guatemalans from diverse sectors of the country. The plan is to negotiate agreements between political parties in order to advocate for changes in public policy.

### **7,120 Families Remain in Temporary Shelters**

10.02.06 An estimated 7,120 families continue to live in temporary shelters one year after Hurricane Stan passed through Guatemala in October of 2005. The government-constructed shelters are temporary, single-room houses that measure four by four meters. The wooden shelters are covered with plastic and have laminated roofs. According to those living in the shelters, the structures are very uncomfortable because of the heat during the day, the cold at night, and leaking water. The government has yet to fulfill the promise to purchase land, relocate the families, and construct new homes.

In Tzanchaj, 332 families, with an average of seven members each, continue to live in temporary shelters. Approximately 2,324 people share fifty toilets, forty washtubs, and twelve showers.

In Panabaj, many children and adolescents were orphaned after the hurricane. One year later, these children have still not received support from the government.

### **Government Reports on Post-Stan Reconstruction**

10.03.06 Government officials recently presented the fourth report on Hurricane Stan reconstruction efforts. Officials recognized that a resolution to the housing issue has been delayed. At this point, victims will not see results until next year. The government also reported that 2,800 families currently living in shelters would be transferred to eighty-seven newly created urban centers.

The report revealed that 1,600 million quetzales (approximately \$213 million) have been used in constructing 1,493 kilometers of highway and rebuilding 712 schools. The government is also working on fifty-two new health centers and has

distributed 4,000 stoves and 3,492 water filters.

Movement Demands Housing Improvements  
10.04.06 Members of the Movement of People of Guatemala marched in front of Congress to demand that officials approve a bill that would improve housing conditions in the country. They also demanded a qualified director to solve the housing crisis at a national level.

## **MIGRANT RIGHTS**

### **Border Wall Draws Criticism**

10.01.06 On October 4, President George W. Bush approved the Department of National Security expenses for fiscal year 2007. The budget includes funds for the construction of a wall along the southern border of the US, as well as other border security measures.

Immigrant community leaders in the US criticized the US Senate's decision to approve the border fence. Marlon González, President of the Coalition of Guatemalan Immigrants, condemned the attitude of the US government and maintained that the decision was based on politicians' reelection hopes. President Oscar Berger also criticized the US Senate for approving the wall construction and announced that he planned to protest the wall with other presidents of the region.

Some reports say that landowners in California are complaining about the tighter immigration and border security policies, as up to thirty percent of the agricultural harvest is rotting due to the lack of day laborers. Last year, the Border Patrol deported 1.1 million Mexican migrants.

### **Bodies Exhumed in Senahú, Alta Verapaz**

10.06.06 The remains of six victims of the internal armed conflict were exhumed from clandestine graves in Yalijux, San Antonio Senahú, Alta Verapaz. Victim Domingo Tuz Cuz, who was killed at the age of thirty-seven and buried in a soccer field, was identified by his relatives. The other five victims were found in the community market. They were identified as: Domingo Caal Poou, who was sixty-five at the time he was killed; Juan Choc Choc, fifty-five; Vicente Caal Coc, thirty-one; Miguel Choc, thirty-four; and Alberto Coy, fifteen. Forensic experts worked with community residents to find the graves. After the exhumation, the re-

mains were transferred to the capital city so that experts could officially record the cause of death and establish whether or not the victims were tortured before they were killed.

## RIGHT TO JUSTICE

### **Community Punishes Alleged Rapists**

09.27.06 Members of the community of Xatinap V detained and whipped three alleged criminals for the rape of an eleven-year-old girl and a thirteen-year-old girl. One of the men had previously been held, tied to a post, and then turned over to the National Civil Police (PNC). The police later released him due to lack of evidence. Upset with the lack of police action, the neighbors went after the suspect themselves and forced him to identify the other individuals that had assisted him in the crime. Community leaders summoned the victims' families to identify the three men and then held a hearing. The three men were sentenced to twenty lashings each.

Marcelina Reynoso, a member of the community, said that many people criticize this form of "Mayan punishment," but she argued that this method is more effective than leaving punishment to State authorities. A number of communities in the western part of the country have recently applied their own justice in similar cases. In September, two men were lynched in San Vicente Pacaya after attempting to rob a store.

### **Commission to Investigate CONAP Murders**

10.02.06 The Inter-American Commission on Human Rights (IACHR) accepted the murder cases of Edwin Haroldo Ochoa and Julio Vásquez for further proceedings. On February 29, 2000, Ochoa and Vásquez, both of whom were working for the National Council of Protected Areas (CONAP), were murdered in Puerto Barrios, Izabal. According to Amnesty International, they had filed formal complaints of deforestation after finding a nature reserve that had been destroyed and subsequently used as a landing strip for drug trafficking operations.

On November 13, 2003, the Court of First Penal Instance and Drug Trafficking in Chiquimula sentenced Jairo Humberto Gómez Sandoval and Elder Estuardo Morales to twenty-seven years in prison for the murders. Another suspect, Werner Sandoval, remains a fugitive of the law. In July of

this year, the IACHR ruled in favor of investigating retired Colonel Ottoniel Ponciano García. According to investigations of the National Civil Police (PNC) and the Public Prosecutor's Office (MP), Ponciano may have hired the assassins.

This is Guatemala's first case before the Commission involving environmentalists. The Center for Legal, Environmental, and Social Action in Guatemala, the group providing legal support, is arguing for compensation, a public act to honor the victims, a park donned with the name of Edwin Ochoa, a national fund for protected areas, and reforms to the Civil Service Law that would improve park rangers' salaries, benefits, and physical safety.

### **Berger Approves Prison Law**

10.05.06 President Oscar Berger approved Decree 33-2006, the Law of the Penitentiary System, which he says will be a vital tool in combating organized crime and drug trafficking. The decree states that inmates should have the favorable conditions necessary for reeducation, readjustment, and community participation. The decree also states that multidisciplinary teams must be provided within the jails to control the inmates and evaluate their conduct, work, education, and qualifications. According to President Berger, this law will modernize the prison system and limit undue privileges.

### **Organizations Ask Government to End Death Penalty**

10.10.06 In honor of the International Day Against Capital Punishment, Guatemalan human rights organizations asked the state to guarantee total respect for the rights of all inhabitants of the country, with special attention to the right to life. The Guatemala Human Rights Commission (CDHG), the Guatemalan Institute of Comparative Studies in Criminal Sciences (ICCPG), the Center for Human Rights Legal Action (CALDH), the Mutual Support Group (GAM), and the Archbishop's Human Rights Office (ODHAG), released a public statement to encourage the government to abolish the death penalty. The groups pointed out that Guatemala is one of only a few Latin American countries that still use the death penalty. The organizations stated this extreme form of punishment is a manifestation of the violence that still reigns in Guatemala.

Since 2005, the Public Defense in Guatemala has managed to revoke seventeen death sentences. In most cases, the sentence was changed to fifty years in prison. So far this year, the justice system has not handed down any death sentences. The last two executions took place in June 2000 during the presidency of Alfonso Portillo.

### **Guatemala and US Sign Anti-Drug Agreement**

09.26.06 The governments of the United States and Guatemala signed an agreement to combat drug activity, corruption, and money laundering. The US will donate \$1.87 million in 2006 to support the anti-drug program. In Guatemala, the Vice President's Office, the Ministry of Interior, and the Public Prosecutor's Office (MP) plan to cooperate on this program.

### **Groups Pressure For Action On Genocide Case**

10.05.06 On October 4, 2006, the Association for Justice and Reconciliation (AJR) presented the Public Prosecutor's Office (MP) with a formal request. The group asked the MP to initiate the next step in the efforts to try Efraín Ríos Montt, a former military general accused of genocide, and to file the corresponding paperwork with the judiciary. Members of the AJR emphasized that this would open the door for Ríos Montt to stand trial.

Lawyers with the Center for Human Rights Legal Action (CALDH), which provides legal support to the AJR, argue that the acts carried out by the Guatemalan army under Ríos Montt's command constitute genocide caused physical and mental damage, forced displacement, and massacres with the intention of destroying the Mayan people.

## **OTHER INFORMATION**

### **State Fails to Implement Anticorruption Measures**

09.27.06 Citizen Action and a number of other non-governmental organizations released a report entitled, "Is Guatemala Fulfilling International Anticorruption Commitments?" In September 2005, a committee of experts from the Organization of American States (OAS) made thirty-one recommendations to improve efforts to combat corruption in Guatemala. According to the report, certain State agencies, including the General Control of Accounts (CGN), have not followed through on these commitments.

The implementation of the "Guatecompras" system is one recommendation that the government did fulfill. This system was implemented for acquisitions and quotes made by institutions in charge of public funds. The government also made progress in establishing a code of ethics for the CGN. The legislature was the least successful, according to the report, because it did not implement any of the six suggestions made by the OAS. The executive branch has advanced in three of the recommendations but has failed to fulfill the other three, while the judiciary and the Public Prosecutor's Office (MP) have failed to design a training program for civil employees to investigate corruption, as the OAS recommended.

Guatemala signed the Inter-American Convention Against Corruption in 1996. It was ratified, adopted, and implemented in 2001.

### **Rice Favors Guatemala for Security Council**

09.27.06 Both Guatemala and Venezuela continued efforts to win the Latin American seat on the United Nations Security Council, which will soon be vacated by Argentina. According to Secretary of State Condoleezza Rice, Venezuela's presence in the Security Council would be unfeasible. Rice says the Security Council needs the presence of "responsible" states and not those that only want to air their anti-American points of view. She also noted President Hugo Chavez's speech before the United Nations General Assembly, in which he labeled President George W. Bush a "devil," a "tyrant," and a "liar."

Some human rights organizations have argued against Guatemala's candidacy for the seat, citing an atrocious human rights record, ongoing impunity, and the failure to implement UN-sponsored agreements.

### **Las Zetas Grow With Support from Kaibiles, Gangs**

09.27.06 According to the Mexican newspaper La Jornada, the armed wing of the Gulf Cartel, known as the Zetas, has increased its membership to more than 500. The Zetas have gained strength with the aid of the former Guatemalan kaibiles, an elite military force trained in counterinsurgency tactics. In spite of claims by US and Mexican authorities to the contrary, the Zetas seem to be stronger than ever due to successful recruitment and better training.

According to La Jornada, the group of hit-men has used the support of local gangs to expand to Dallas and Houston, in addition to former kaibiles and members of the youth gang Salvatrucha.

### **Mexican Judge Releases Portillo**

10.08.06 Judge Verónica Judith Sanchez Valle, from the Mexican district of Reclusorio del Este, ordered the release of Alfonso Portillo, the former president of Guatemala. Sanchez Valle recommended that the Mexican Minister of Foreign Affairs deny the extradition request submitted by Guatemalan authorities. The judge ruled that Guatemala's Human Rights Ombudsman failed to provide sufficient proof as required by the Extradition Treaty between the two countries. In addition, Sanchez Valle ruled that embezzlement, the crime with which Portillo has been charged, is not comparable to the penal laws of Guatemala. Omar Contreras, Public Prosecutor against Corruption, said Sanchez's decision was non-binding. He said the Minister of Foreign Affairs would determine whether or not the extradition process would proceed.

### **Countries Extend Temporary Worker Program**

10.11.06 Outgoing President Vicente Fox of Mexico and President Oscar Berger of Guatemala agreed to extend the program for temporary Guatemalan workers in Mexico. The presidents committed to increasing the number of visas so that more Guatemalans could work in Mexico. They also agreed to adopt a permanent program for temporary workers and to build a shelter in the city of Talisman to help to control migration flows and guarantee the safety of the residents. They also pledged to improve communication and to ensure a dignified and orderly repatriation process for undocumented Central American migrants looking for opportunities in the US. Fox and Berger also committed to reinforcing border security and continuing with the implementation of Plan Puebla Panama (PPP).

### **URNG Joins Leftist Front**

10.09.06 During the fourth National Assembly of the Guatemalan National Revolutionary Union (URNG), Hector Nuila was reelected as Secretary General of the party. Other officers were also elected, including members of the Court of Honor and Discipline. Participants formalized the

URNG's membership in the Political and Social Leftist Front. Nuila said that now is the time to strengthen the leftist movement in Guatemala, and that the URNG should become a part of the Front. He added that this union could influence the selection of a presidential candidate.

### **Court Cites Error in Ruling in Favor of Ríos Montt**

10.11.06 The Constitutional Court (CC) denied a petition filed by lawyer Mario Fuentes Destarac, which sought to nullify an earlier court decision allowing former military general Efraín Ríos Montt to run for president in 2003 in spite of a constitutional ban on allowing former leaders brought to power in a coup to run in presidential elections. The court ruled against Destarac's petition on the grounds that the situation had passed. The court decision, however, does mention that the court made a mistake in its 2003 ruling by misinterpreting Article 186 of the Constitution and the conjugation of certain verbs.

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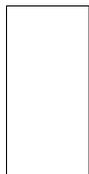
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