

# Guatemala Human Rights *UPDATE*

Guatemala Human Rights Commission/USA

Vol 18 No 9/May 31, 2006

## MAIN FEATURE

### **Committee Against Torture Highlights Weaknesses**

May 20 – At the end of a three-week session, after exploring the situation in a number of different countries, the United Nations Committee against Torture issued a report that was sent to governments throughout Latin America.

With respect to Guatemala, the report acknowledged recent reforms within the judicial system, as well as progress in improving the rule of law and establishing the Commission for the Investigation of Illegal Groups and Clandestine Security Organizations (CICIAS).

On the other hand, the report also mentioned existing practices of torture in Guatemala and asked the Guatemalan government to take steps to classify torture as a crime. Among other recommendations, the report suggested that the Presidential Human Rights Commission (COPREDEH) should be more independent in order to fully investigate human rights violations against activists. The committee expressed concern about the military's participation in police activities, incidents of "social cleansing," the murders of women and children, and the lynching of alleged criminals, as at least seven people were lynched in Guatemala in the past two months.

The report also includes information about impunity in Guatemala, particularly in cases involving those responsible for massacres carried out during the internal armed conflict. Of the over 600 documented massacres committed during the war, few have been brought to trial. The National Reconciliation Law has become an obstacle for the effective investigation of massacres, such as the 1982 Dos Erres massacre in Petén. Clandestine prisons and forced disappearances were also mentioned in the report.

### **UN Concerned About Violence, Impunity**

May 30 – During a press conference at the end of her three-day visit to Guatemala, United Nations High Commissioner for Human Rights Louise Arbour highlighted both the progress and the deterioration of human rights in Guatemala.

A Canadian judge and a former prosecutor for international war crimes tribunals on Yugoslavia and Rwanda, Arbour said that the lack of prosecution of high-level officials responsible for massacres has encouraged the current crime wave sweeping Guatemala. Although Guatemala has launched important initiatives and made undeniable progress since the signing of the Peace Accords after decades of internal armed conflict, Arbour said there has been no significant advancement in combating impunity or eliminating repressive clandestine groups. Human rights defenders and justice operators, in particular, remain subject to ongoing threats, harassment and, in some cases, fatal attacks, she told reporters.

Arbour stated her concern for the slow progress of reforms, as more and more people become increasingly frustrated with the government's inability to guarantee security, equality, and justice. She pointed to the delay in obtaining reparations for victims of the internal armed conflict as a perfect example. Since perpetrators have enjoyed impunity in the past, it should come as no surprise that current crimes continue to go unpunished. Arbour also called for reforms within the police, including the dismissal of officers with poor human rights records, as well as criminal prosecutions as required.

Guatemala is now one of the most violent countries in the region. According to the Human Rights Ombudsman, homicides have risen sixty percent from 2001 to 2005, with a homicide rate of forty per 100,000 people.

Arbour also called for the speedy and thorough

modernization of the judicial system, stressing the need for a functional correctional system. She said several officials assured her that the government fully supports the much-needed reforms. Given the deep-seated nature of the problems, however, progress will require a strong commitment over a number of years, as well as additional funding for implementation.

She pointed out that Guatemala suffers from the region's lowest public investment in social services as well as the lowest tax collection base at ten percent of gross domestic product. The country also scores consistently low on the UN Human Development Index, which includes infant mortality, life expectancy, and literacy rates. Arbour argued that security could not be guaranteed without focusing attention on the social and economic challenges facing the country.

Arbour also emphasized the isolation and discrimination experienced by indigenous peoples who, particularly in the case of women, remain disproportionately poor and suffer high rates of illiteracy as well as health and social problems. This stems from a lack of access to health care, education, decent housing, employment, and social services. Arbour recommended that the government encourage indigenous communities to actively participate in the development of the country.

Some of Arbour's positive comments included that Guatemala is a different country today than it was at the end of the war. The end of authoritarian, repressive, and violent state rule brought undeniable benefits to the country as a whole, particularly in rural areas that bore the brunt of the conflict, she noted. She also cited important initiatives in a number of areas, particularly the adoption of an anti-discrimination law, the establishment of the National Reparations Commission, and the development of programs to improve access to justice in indigenous communities.

## **RIGHT TO LIFE AND PERSONAL SECURITY**

### **Social Leaders Call for End to Attacks**

May 24 – In a press release, the Agrarian Platform condemned the murder of Sandra Teresa Coc Xol, age fourteen, on May 20. Sandra lived in the

community of Plan Grande Tatín, Livingston, Izabal. Her parents, Carlos Coc and Celia Xol, both work to defend and promote the rights of Q'eqchi' communities as part of the Ak' Tinamit Association.

The Agrarian Platform believes that leaders of the social and campesino movements - particularly those that reject the imposition of economic policies that only benefit the few that form the private enterprise sector - have become victims of violence and repression. The Agrarian Platform also believes that the murder of Sandra Teresa is part of this pattern of violence against communities that are fighting for their rights. The press release also mentioned evictions on the Nueva Linda plantation, where families have faced persecution at the hands of the plantation's private security personnel. The families had occupied land as a means of demanding the reappearance of the disappeared community leader, Héctor Reyes. Threats and acts of intimidation carried out against campesino leaders who demanded respect for labor rights on the Nueva Florencia plantation were also mentioned.

The Agrarian Platform believes that the Berger administration must guarantee the safety of the thousands of men and women who report injustices and human rights abuses by plantation owners and state forces. The multi-sector alliance demanded that state institutions investigate and solve these incidents so that perpetrators do not go unpunished.

### **ANN Members Attacked in Chiquimula**

May 20 – Lucrecio Castillo and Adelmo Ramos, both active members of the center left political party New Nation Alliance (ANN), were ambushed by armed individuals while returning to their homes. The secretary general of that party in the department of Chiquimula reported that six members of the ANN party have been attacked in recent months. The regional representative of the Human Rights Ombudsman's Office (PDH) said that they would demand the prompt investigation of these incidents.

### **URNG Member Abducted**

May 24 – The Guatemalan National Revolutionary Union (URNG) announced that Oscar Duarte, a community leader and member of the party, was

abducted while walking with one of his brothers after a meeting with the director of the local school in Ciudad Quetzal.

According to eyewitness accounts, a jeep and a gray car with tinted windows had been driving through the area where Duarte was kidnapped since early that morning. At 11:00am six armed men, all dressed in beige vests, attacked both brothers in front of school children and forcibly pushed Oscar into the car.

### **Security Forces Fail To Protect Bus Drivers**

May 23 – Human Rights Ombudsman Sergio Morales announced that the PDH is elaborating a report on the murders of bus drivers, which will demonstrate the lack of public safety in the country and the state security forces' inability to control the violence.

In the last three weeks, sixteen urban bus drivers have been killed and security forces have failed to provide concrete explanations for the murders. Morales said that these crimes have not been thoroughly investigated and the security forces are unable to protect the lives of innocent people.

The PDH will investigate the Attorney General and other authorities of the Public Prosecutor's Office (MP) that have failed to respond to official complaints against those responsible for organizing groups directly involved in extortion and murder. The PDH also plans to investigate why security forces have failed to identify and contain these organized crime rings.

Members of the Mutual Support Group (GAM) said that the participation of the army in police roles has raised fears among certain members of the population. GAM members argued that the presence of under cover agents on buses adds to a general sense of anxiety, as innocent people could be murdered if under cover agents fire on criminals. GAM representatives added that the number of crimes has decreased very little since the army began this practice (the group acknowledged that the holidays could also have effected the numbers). According to official reports, one month before the army started reinforcing police efforts there were 524 murders reported; one month later, 485 violent deaths were registered.

### **230 Women Murdered So Far This Year**

May 22 – The body of an unidentified woman was found in the nearby neighborhood of the river of waste-waters (aguas negras) Las Vacas, on the outskirts of the finca Zaragoza, zone 18 of Guatemala City. The Public Prosecutor's Office indicated that her death was caused by a blow to the head. She had a tattoo in the shape of a sun. According to the National Police statistics, with this case the number of women killed so far this year has risen to 230 (102 in Guatemala City and 128 in other departments). Some groups report a higher number. The Mutual Support Group (GAM) reported that 290 women were violently killed during the first four months of this year.

### **Sector de Mujeres Office Broken Into**

May 30 – In what the organization characterized as another act of intimidation, the central office of the Sector de Mujeres was broken into on May 28 or May 29. The intruders stole cell phones and the fax machine, rifled through files, and left traces of blood close to the windows and on the floor.

The Sector de Mujeres has been organizing and speaking out against violations of women's rights for the past twelve years, focusing on the right to life, freedom of expression, freedom of movement, and the right to organize. Most recently, the organization has criticized the lack of progress in implementing the Peace Accords. Joining others in the social movement, the Sector has also challenged the constitutionality of the Dominican Republic-Central America Free Trade Agreement and the recently approved implementation laws. The organization continues to participate in efforts to end impunity and violence against women in Guatemala.

The organization urged the authorities to investigate the incident to determine the intruders' motive and identify those responsible. Sector de Mujeres also noted that the most recent break-in looked similar to an office break-in two years ago. At that time, a representative of women's organizations in Ciudad Juarez was visiting and joined members of the Sector in publicly condemning the femicides in Guatemala.

The Sector de Mujeres said they would continue to organize and speak out against human rights violations and the lack of adequate govern-

ment response. The group called on civil society organizations in Guatemala to create a unified front against violence and impunity and to continue working towards a viable alternative for the country. They also called on the international community for support and continued pressure on the authorities to investigate and counteract the rising tide of violence in Guatemala.

### **Gang Violence Continues to Escalate**

May 19 – Five prisoners died and twenty-four were wounded during gang-related violence in two separate correctional facilities on May 19, according to the Human Rights Commission of Guatemala (CDHG). A riot in the Mazatenango prison left five dead and numerous others wounded by bullets after gang members attacked non-members.

On the same day, in the “Pavoncito” detention center in Fraijanes, Guatemala, prisoner Rudy Francisco Alfaro Orozco, threw a grenade that rebounded off one of the bars, injuring him and others in his section, as well as seven other inmates. One prison guard was taken hostage until members of the Human Rights Ombudsman’s Office (PDH), the police, and the military negotiated his release. The authorities reportedly used tear gas to regain control of the detention center. Wounded youths were transferred to medical facilities. Many point to the prisoners’ access to arms as a sign of corruption within the prison system.

On May 20, at least four attacks on urban buses left at least six gang members and four other travelers dead. Director of the National Civil Police (PNC) Erwin Sperisen said that the objective of this increase in gang activity is to destabilize the country and weaken state authority because certain drug traffickers and politicians would benefit from the ensuing chaos.

A recent report by the United States Agency for International Development (USAID) argued that Guatemala is fertile ground for an increase in gang activity. The report specifically listed youth unemployment, marginalized urban areas, inequality, poverty, domestic violence, deportation, migration, drug use, and minimal state authority in these areas as conditions that could contribute to the violence.

### **“Week Against Armed Violence” Organized**

One of the main problems facing Guatemala today is the excessive and uncontrolled use of weapons. Forty-four out of every 100 people who die in Guatemala are killed by bullets, and last year alone, of the 5,338 people violently murdered, eighty percent were killed by firearms. The Web for Life, an association made up of civil society organizations, recently organized the “Week against Armed Violence” to raise awareness about the negative consequences of weapons use. The Department for Arms and Ammunition Control reports 598,000 registered licenses, twice the amount in 2005.

## **RIGHT TO JUSTICE**

### **Jurists Criticize Proposed Military Tribunals**

In a legal memorandum addressed to Guatemala's Congress, the International Commission of Jurists (ICJ) argued that the Draft Laws on Military Justice are incompatible with international human rights law, adding that the approval of such draft laws would be a serious step back in Guatemala's compliance with international human rights norms. The draft laws seek to reform the military justice system in Guatemala.

The memorandum acknowledged that the current military justice system, created in the nineteenth century, should be reformed. Nevertheless, the jurists argued that all reforms should comply with Guatemala's international human rights obligations on the administration of justice. After conducting a detailed analysis of the proposals, the ICJ concluded that the laws would result in impunity for past human rights violations, as well as future crimes, if approved in their current form.

The ICJ's main criticism of the draft laws is that they would give military courts jurisdiction for all crimes committed by current and former military personnel. Such jurisdiction would remove cases of human rights violations from ordinary courts and thereby would make it more likely that such crimes will go unpunished.

The draft laws do not take into account the body of international jurisprudence on military courts, which clearly states that the jurisdiction of military courts should be limited to crimes that are

of a strict military nature, and should never include human rights violations. If these draft laws were passed, Guatemala would move back several decades in the struggle against impunity, stated the ICJ. The ICJ called on Guatemala's Congress to introduce significant amendments to the draft laws.

In particular, the ICJ called on Congress to:

1) Limit the jurisdiction of military tribunals to military personnel for crimes of a strictly military nature. Ordinary crimes committed by military personnel should be expressly excluded from the military tribunals' jurisdiction. The law should clearly state that under no circumstances will a military tribunal exercise jurisdiction over a member of the armed forces for a crime that would imply a violation of the treaties the country has ratified, international human rights standards, or human rights as recognized in Guatemala's Constitution. These crimes should continue to fall under the exclusive jurisdiction of ordinary courts.

2) The law should clearly define what constitutes a military crime, in full compliance with the principle that crimes shall only be considered to be of a military nature when a legally protected interest of military order is affected.

3) Article 7 of the draft law on military procedure should be deleted, as it would transfer from ordinary courts to military courts all cases that have not reached the trial phase. This transfer would be a formula for ensuring impunity for human rights violations, contrary to Guatemala's obligations under international law.

4) Review the draft law on the organization and functioning of military courts (*Proyecto de Ley de Organización y Funcionamiento de la Jurisdicción Militar*), particularly articles 11, 14 and 15, which require that all military judges are members of the Armed Forces, for such a requirement would compromise the right to a fair trial by an independent and impartial tribunal.

### **Alleged Murderer Lynched in San Marcos**

May 22 – Dozens of community members in Tuitucade, San Marcos lynched Lizandro Reynoso Reynoso, 25, whom they accused of killing teacher Genaro Gonzales Tomás on May 19. Lynchings occur because people do not trust the legal authorities to provide justice. According to the National Civil Police (PNC), a large group came to

Reynoso's home and took him out, forcing him to walk through the streets while they hit him and forced a confession to the teacher's murder. The group then doused him with gasoline and burned him alive. The firemen arrived and tried to intervene, but they were not allowed to get close enough to stop the murder.

### **Victims Organize to Demand Reparations**

May 25 – The National Movement of Victims of the Armed Conflict announced national actions protesting the Berger administration's failure to compensate the widows, elders, and handicapped persons for the suffering and loss experienced during the internal armed conflict.

One of the leaders of this movement, Miguel Sanic, said that in 2005 the government gave them only Q40 million (approximately US\$5 million) of the Q300 million they should have received, according to the agreement last modified in 2004. The government has argued that the rest of the money should be transferred to cover the damages caused by Hurricane Stan. Yet, according to Sanic, the government failed to consult the victims about this transfer. He added that the exact date for the protests would be announced later for security reasons and following further coordination between the 1,200 participating committees in ninety-seven municipalities throughout the country.

### **Court Files Injunction Against EMP Files Transfer**

May 23 – The Supreme Court of Justice filed an injunction against the executive order to transfer the files of the now dismantled Presidential High Command (EMP) to the court's offices. Officials of the court argued that one branch of government, in this case the judiciary, cannot receive orders from another branch, in this case the executive. They further argued that they simply did not have space for the files. The Public Prosecutor's Office (MP) is currently holding some of the files documenting EMP finances, while other documents are stored in army offices. The files reportedly contain evidence of fraud committed during Portillo's administration. A number of human rights organizations are also interested in the files, which may contain information about human rights abuses committed by the EMP. The organizations had asked that the files be transferred from army offices.

## **SOCIAL, ECONOMIC, AND CULTURAL RIGHTS**

### **Leaders Call For Reconstruction Projects**

May 26 – Social leaders and mayors continue to urge the Berger administration to allocate the necessary resources and follow through on reconstruction projects designed to address the damages caused by Hurricane Stan last fall.

Seven months after the natural disaster, the main highways, as well as smaller roads in the areas where Stan hit the hardest, remain in poor condition. Some people whose homes were destroyed last fall are still living in temporary housing and many lack drinking water, medicine, and other basic necessities. This is particularly disconcerting to local leaders, as this year's rainy season has started.

The National Coordination for Disaster Reduction (CONRED) and the National Institute of Seismology, Volcanology, Meteorology and Hydrology (INSIVUMEH) announced that the rainy season this year is expected to be even more severe than last year. Experts have predicted seventeen tropical storms, four or five of which could turn into hurricanes. Regions hit hard by Stan, like San Marcos, Sololá, Huehuetenango, and Escuintla, are on Orange Alert.

### **Guatemalans Join Global Anti-Hunger March**

May 21 – Hundreds of people of all ages, led by Vice President Eduardo Stein, marched in Guatemala City as part of an alliance against child hunger. The World Food Program organized simultaneous marches in more than 100 countries throughout the world on May 21. The WFP is seeking to reduce by one half the 850 million people in the world that will suffer from hunger by the year 2015.

### **DR-CAFTA Implementation Laws Approved**

May 30 – On March 18, the Guatemalan Congress passed legislation to implement the Dominican Republic and Central America Free Trade Agreement (DR-CAFTA). Guatemala is the fourth Central American country to do so. El Salvador implemented DR-CAFTA on March 1, and the

agreement took effect in Honduras and Nicaragua on April 1.

After approving the initial legislation, however, Congress still had not ratified three international treaties related to intellectual property rights, considered necessary steps by the US government. Changes to the national agency that regulates the telecommunications sector in Guatemala were also not included.

On May 25, Guatemalan Congress approved the Budapest and Washington Treaties, as the US government reportedly demanded. Under Article 27 of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) of the World Trade Organization, signatories are to offer protection for plants either through patents or an effective alternative system.

A spokeswoman for the Office of the US Trade Representative said the US would review the final Guatemalan implementation bill, as well as any additional steps necessary before CAFTA takes effect. She said the US hopes this can be done "quickly."

A number of sectors continued to express concern about the long-term impacts of DR-CAFTA. The legislation passed by the Guatemalan Congress included controversial changes to Guatemalan intellectual property rights laws, which were opposed by the generic pharmaceutical industry. For her part, Alba Estela Maldonado of the URNG emphasized that Congress needs to approve legislation designed to compensate certain sectors. She specifically mentioned legislation related to rural development, employment, and the regulation of the *maquilas* (assembly and packaging factories). According to Pedro Soloj Pos Municipal Secretary of the URNG, the privatization of state properties will be strengthened by DR-CAFTA.

### **Unions Protest Civil Service Law**

May 25 – The National Health Workers' Union (SNTSG), the San Juan de Dios Workers' Union, public hospital employees, and members of other organizations held a demonstration in front of the San Juan de Dios National Hospital in Guatemala City to oppose a Civil Service Law proposed by the government, arguing that the law would negatively impact staff in public hospitals. Demonstrations were also held in Puerto Barrios,

Izabal, and Quetzaltenango. Among other provisions, the law would deny hospital employees the right to a pension. Those opposing the law believe that it would be detrimental to public employees in other sectors as well.

## MIGRANT RIGHTS

### **US Senate Approves Immigration Bill**

May 25 – With sixty-two votes in favor and thirty-six against, the United States Senate approved an immigration bill that includes stricter security measures in the southern border region, including more military patrols and a fence along the Mexican border. This version of the bill also includes a pathway to citizenship for undocumented migrants and temporary worker programs, which have been vehemently opposed by certain sectors in the US. The bill's approval represents only one step in a series of stages in the legislative process before the bill would become a law.

President Bush praised the bill and congratulated the Senate for approving it. He promised that he would work with Congress towards the full implementation of immigration reforms.

In Guatemala, President Berger was optimistic about the US Senate's approval of what he called an "integral reform" and a "positive message." Guatemalan Secretary of Foreign Affairs Jorge Briz said the bill was historic, inclusive, and comprehensive.

Some have said that the number of beneficiaries of this bill among undocumented migrants could reach eight million, even as migrants continue to try to reach the US. On May 22, Mexican immigration authorities detained 134 Central American undocumented persons along the border with Guatemala. According to the Guatemalan National Migration Institute, the migrants were being transported in inhumane conditions in a refrigerated truck.

## RIGHT TO A HEALTHY AND SUSTAINABLE ENVIRONMENT

### **Ecologists Call for Opposition of Whale Hunting**

May 24 – Members of environmental groups gathered in the Central Plaza in front of the National Palace to urge the government to vote

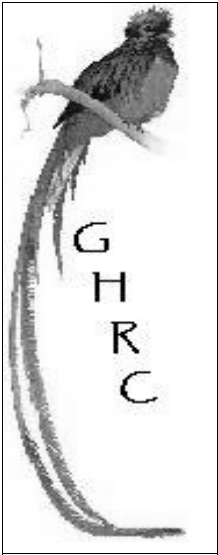
against a measure that would lift a prohibition on whale hunting at the next meeting of the International Whaling Commission planned for June 16 to June 20 in the Caribbean Islands of Saint Kitts and Nevis. Guatemalan Secretary of Foreign Affairs Jorge Briz said that Guatemala would attend the meeting as an observer, emphasizing that Guatemala does not have an official vote.

## OTHER INFORMATION

### **General Romeo Lucas García Dies in Venezuela**

May 28 – Former President of Guatemala General Romeo Lucas García died on May 28 in a hospital in Caracas, Venezuela. The General's wife is from Venezuela and he had lived there for many years, suffering from Alzheimer's in the latter years of his life.

Lucas García ruled Guatemala from July 1978 to March 1982, when he was overthrown by General Efraín Ríos Montt. After a Spanish judge issued a warrant for General Lucas García's arrest based on grave human rights abuses committed under his rule, he was briefly placed under house arrest in his home in Venezuela in 2005. Spanish courts planned to try him for his role in the police raid on the Spanish Embassy in Guatemala City in 1980, which had been occupied by protesters. The raid left thirty-seven people dead, including Vicente Menchú, the father of indigenous rights advocate and Nobel Peace Prize winner Rigoberta Menchú.



GHRC/USA is a nonprofit, nonpartisan, humanitarian organization committed to monitoring, documenting, and reporting on the human rights situation in Guatemala, while also advocating for survivors of human rights violations.

Information in the *UPDATE* that is not gathered directly is culled from various sources, including the Comisión de Derechos Humanos de Guatemala, Casa Alianza, Albedrio, 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.

Editor: Carmen Camey (ghrc-usa@ghrc-usa.org)

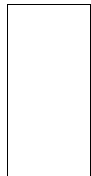
Additional Assistance:

Carrie Stengel, Julie Suarez, Michelle Monsegur, Allysun Jackson, Erin Gustafson

ISSN #1085-0864

3321 12th Street NE Washington DC 20017

Tel - 202-529-6599 Fax - 202-526-4611



Guatemala  
Human Rights  
Commission/USA

**Vol 18 No 9**

3321 12th Street NE  
Washington, DC 20017

- **UN Concerned About Violence, Impunity in Guatemala**
- **Groups Call for an End to Attacks on Social Leaders**
- **Sector de Mujeres Office Broken Into**
- **DR-CAFTA Implementation Laws Approved**
- **General Romeo Lucas García Dies in Venezuela**

**Insert: Fears and Hopes Raised by Free Trade with US**