

Guatemala Human Rights *UPDATE*

Guatemala Human Rights Commission/USA

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WOMEN'S RIGHTS

Guatemala's Gender Gap Worst in Americas

11.19.07 Gender discrimination is on the rise in Guatemala, according to a recent report by the World Economic Forum. The report, titled "Global Gender Gap Report 2007," ranked Guatemala number 106 out of 128 countries analyzed, making Guatemala the lowest ranking country in Latin America, although all Latin American countries have slipped down on the list. Gabriela Núñez, from the Presidential Secretariat on Women (SEPREM), stated that violence against women and inadequate legislation to promote gender equality are the two biggest factors affecting the gender gap in Guatemala. She asserted that, despite the report's classification, Guatemala has made some advances, especially in providing education, reproductive health care, employment, and micro-credit loans to women. Núñez added that the challenge for the next government will be to involve indigenous women in different activities to close the gender gap.

Paola González, coordinator for the National Women's Union in Guatemala, insisted that the advances in tackling gender inequality have been minimal. She said that the advances that have been made contrast greatly with the need for educational and reproductive health programs. González criticized the government's lack of interest in closing the gender gap as demonstrated by the fact that the 2008 national budget does not include any significant changes in funding for programs that protect women's rights.

Alliance Against Sexual Violence Created

11.20.07 In order to curtail a recent increase in sexual violence in Guatemala, six organizations have joined together to form the Alliance against

Sexual Violence. The Alliance plans to pressure the government to comply with sex crime laws already established and, in conjunction with the Alliance's member organizations, institutionalize protocols to deal with this issue. The Alliance stated that it is necessary to encourage dialogue about the sexual violence that Guatemalan women suffer and to monitor governmental institutions that should implement public policies for the prevention and treatment of sexual abuse. The coalition added that this issue must also be addressed as a public health problem rather than solely as a medical emergency or a legal case. Finally, the Alliance urged the government to guarantee that specific policies and treatment services be implemented at a national level, since sexual violence has serious consequences for society at large, including the transmission of STDs and HIV/AIDS, unwanted pregnancies, and psychological problems.

Guatemala to Open More Shelters

11.23.07 With cases of domestic violence increasing and numerous victims with no where to turn, the Guatemalan government plans to open more domestic violence shelters. Sharon Díaz, director of the Program for Prevention and Eradication of Violence (PROPEVI), stated that PROPEVI currently runs two shelters in Guatemala City and one in the Western highlands for women and their children. Given that PROPEVI attended to seven thousand domestic violence cases in the last eleven months, it plans to open three more shelters next year.

The Guatemalan government also has plans to address the need for safe living spaces for victims of domestic violence. During the first few months of 2008, the Ministry of the Interior plans to open up shelters in private homes for women who suffer from domestic violence or who have received death

threats. Police records indicate that they receive approximately forty-five complaints of domestic violence a day. The Survivor's Foundation has reported 4,933 cases of domestic violence in the department of Guatemala alone. Ana Gladis Ollas, head of the Human Rights Ombudsman Office's (PDH) Defense of Women Section, stated that thus far in 2007, 250 cases have been reported in Guatemala City of women in need of protection after being attacked by their partners.

Campaign Against Gender Violence Launched

11.25.07 To address the increasing violence against women, the Guatemalan government, with the support of the United Nations (UN) and the European Union (EU), launched the "Sixteen Days of Action Against Gender-Based Violence" Campaign. The Campaign's objective is to raise awareness among the general population about the vulnerable situation that Guatemalans face on a daily basis. Gabriela Núñez, head of the Presidential Secretariat on Women (SEPREM), said that it is important for the Guatemalan government to realize how physical, psychological, labor, political, and economic violence against women results in a negative impact on society, democracy, and the national economy. Núñez added that work needs to be done within the justice system, including enforcing tougher penalties, and that prevention must be a priority.

Guatemalan Congress Condemns Femicide

11.25.07 To commemorate the International Day of No-Violence against Women, the Guatemalan Congress passed a resolution that condemned the killings of women in Guatemala, as well as physical assault, rape, and other acts of gender-based violence. More than 3,000 women have been murdered in Guatemala since 2000, with an average of almost two women killed each day. In contrast with those startling numbers, the Guatemalan courts have only handed down convictions in thirty-three cases of the murders of women in the last five years.

The Congressional resolution recognized this lack of justice by stating, "Women's access to the justice system is limited due to their socio-cultural subordination, the burdens of work both inside and outside the home, lower educational levels, fewer economic resources, and a lack of information

regarding their rights. These conditions are even worse for indigenous women who, among other things, do not have access to bilingual legal services."

Similarly, representatives from the Central American Parliament (PARLACEN) urged member states to take adequate measures to raise awareness among individuals and groups regarding violence against women and to develop public policies to prevent gender-based violence, attend to the victims, and punish those responsible. PARLACEN also encouraged member countries that have yet to classify gender-based violence as a crime to do so.

More than one hundred organizations and youth groups participated in a march in Guatemala City to commemorate the day, handing over petitions to several key governmental institutions. Adela Camacho de Torrebiarte, the minister of the Interior, received the petitions, which advocated for establishing treatment centers for victims of violence, halting the round-ups and harassment of sex workers by the National Civil Police (PNC), and guaranteeing the safety of all Guatemalan women. Similar marches were carried out in dozens of cities and communities throughout the country.

Controversy Surrounds Shoe Ad

11.28.07 Several Guatemalan women's organizations criticized a recent advertisement campaign by the Salvadoran-based MD Shoe Company. The ad contained images of a dead woman in a chair and another dead woman at the morgue, accompanied by the slogan "Shoes to die for." The Guatemalan women's organizations asserted that the ad campaign constitutes a tacit approval of the killing of women. The Latin American Women's Forum, headquartered in Argentina, stated that they stand in solidarity with Guatemalan women criticizing the ad and demanded that all of society commit to eradicating violence against women. The Organization of Salvadoran Women for Peace also publicly disapproved of the ad campaign.

CHILDREN'S RIGHTS

Adoptions Under Scrutiny

11.29.07 The subject of adoptions has become a hot topic in Guatemala. Children's rights organizations,

congressional representatives, foreign governments, and victims of the broken system have all recently weighed in on the issue.

According to a recent report published by several prominent human rights, social, and children's organizations, criminal mafias have become involved in adoptions through the theft and sale of babies, the falsification of documents, and the corruption of bureaucrats. In some cases, women have been murdered in order to steal their babies. The report, titled "Adoptions in Guatemala: Protection or Market?," went on further to document that in many adoption cases, "children are being adopted without the informed consent and knowledge of their biological mothers, who do not receive adequate counseling and who are tricked or pressured into doing it."

Xiomara Campos, the consultant responsible for carrying out the report, investigated 1,083 adoption cases between May and August of 2007. The report said that the average cost of adopting a baby varied from US \$13,000 to \$40,000, and that the majority of the children were six months old or less. US couples adopted the overwhelming number of children, while Guatemalans adopted 0.5% of the children in the study.

The biggest complaint of the adoption system by organizations, foreign governments, and international observers is that the system has been poorly regulated and has become a business with corrupt individuals taking advantage of the process. Reports have surfaced that adoption "hawks" and lawyers have duped some mothers into selling their babies, while a few other babies are stolen from their biological mothers each year. Lawyers, in turn, take the children and process them for adoptions, earning roughly US \$30,000 for each child, which is divided up among the lawyers, translators, adoption "hawks," and kidnappers.

Commenting on the business nature of the system, the Human Rights Office of the Archdiocese of Guatemala (ODHAG) stated that the adoptions in Guatemala generate US \$200 million a year, thus resulting in individuals taking advantage of the system by kidnapping children and processing illegal adoptions. In fact, foster care "neighborhoods" have sprung up throughout Guatemala just to care for children being processed for adoption.

Representatives from the US and European governments have also expressed their concern regarding the poorly regulated adoption process in Guatemala. US Senator Norm Coleman (R-MN) met with Guatemalan congressional leaders to gauge where the Guatemalan Congress stood in terms of approving a pending adoption law, which has been pending in Congress for the last five years. During his visit, Senator Coleman stated that he "does not trust" that the Guatemalan Congress will approve the adoption measures needed to comply with the Hague Convention on Adoptions any time soon. The US Embassy in Guatemala announced that the Hague Convention on Adoptions would go into effect in the US on April 1, 2008.

In a press conference in Guatemala, diplomats representing several European countries called on the Guatemalan Congress to approve the pending adoption law, introduced for the second time in November. The diplomats expressed their optimism that the law would be approved in mid-December in an extraordinary session.

The Inter-American Commission on Human Rights (IACHR) has also weighed in on the issue. On November 21, it ordered the Guatemalan government to provide protection orders for twenty-six babies in the process of being adopted. The protection order would guarantee that the adoption process of the twenty-six children is transparent and that the best interests of the children are put first.

The Guatemalan government would be obligated to supervise the children's living conditions, their legal and family situation, and take measures to ensure their protection. Covenant House-Guatemala and Center for Justice and International Law (CEJIL), two organizations working on the adoption issued, were pleased with the IACHR's order for protective custody since it would protect the rights of the children involved and set a legal precedent for the government to take adequate measures to monitor and better regulate the other adoption cases.

Relatives of stolen babies and affected mothers have also been more vocal in recent weeks. For example, dozens of relatives participated in the Survivors' Foundation's new "Empty Cribs" Campaign denouncing the recent surge in reports of baby thefts and illegal adoptions. To kick off the Campaign, relatives marched in front of the Public Prosecutor's Office (MP) with empty baby strollers and cribs, demanding that the authorities take action

on the issue. The Survivors' Foundation criticized the MP, the Attorney General's Office (PGN), and the Justice Department (OJ) for their lack of progress in the investigations of those babies who have been stolen and placed on the market for foreign adoption.

Girls Face Discrimination at School

11.24.07 Several social organizations called for an end to the discrimination that Guatemalan girls face in the education system. Mary Cruz Pérez, a member of the Collective Group Promoting Education for Everyone, stated that girls face constant discrimination at school and that it is most commonly expressed through the separation of girls and boys throughout their development. Pérez also added that gender discrimination is a root cause of violence against women.

INDIGENOUS RIGHTS

Indigenous Mayors Call for End to Discrimination

11.30.07 In the First Congress of Indigenous Mayors of Sololá, participants urged the central government to comply with the Peace Accords, eradicate discrimination, and establish an equitable justice system. The indigenous mayors participating in the Congress requested that the Mayan judicial system be constitutionally recognized, that the current development model exploiting indigenous and natural resources be suspended, and that indigenous women receive due recognition for their role in society. The mayors - representing communities from Sololá, Nahualá, Santa Catarina Ixtahuacán, and Santiago Atitlán - also asked governmental authorities to respect indigenous leaders and to take into account the decisions made by indigenous communities and peoples through popular referendums and Agreement 169 of the International Labor Organization (ILO).

MIGRANT RIGHTS

Guatemalan Workers Exploited in Mexico

11.17.07 An overwhelming majority of the estimated 35,000 Guatemalan migrant workers laboring in Chiapas, Mexico face poor labor conditions, exploitation, mistreatment, and withholding of pay by the employers. The migrant workers, known as *braceros*, harvest crops each year for plantation owners in Chiapas. Nonetheless, the majority of

braceros are not provided adequate shelter, nutrition, or medical care, despite the fact that the Federal Labor Law in Mexico guarantees migrants' these rights. According to Fermina Rodríguez, the director of the Fray Matías de Córdova Human Rights Center, the abuse that migrant workers suffer is well known but not officially documented or reported because many workers are unaware of their rights as employees. Rodríguez added that the most serious problem is that the authorities do not monitor the labor conditions of Guatemalan migrants nor do they provide attention centers for migrants to report abuses.

Female Migrants Sexually Abused

11.22.07 According to a recent report by Cimac / Mexico, Central American women - many of them young - migrating through Mexico on their way to the US suffer many human rights violations, including sexual assault, rape, extortion, and murder. José Moya, a consultant for the Panamerican Health Organization and the World Health Organization, said that many women traveling the four thousand kilometers north are raped, infected with HIV/AIDS, or left with unwanted pregnancies. Mexican health expert Tania Cruz commented that the physical and emotional violence committed against female migrants is very common. They suffer these human rights violations at the hands of gang members, police officers, and immigration officials. According to Rodolfo Casilla, from Grupo Beta, public authorities commit 51% of the human rights violations.

Immigrants Ask Berger for Pro-Immigrant Law

11.23.07 The Movement of Guatemalan Immigrants in the US (MIGUA) called on President Óscar Berger to advocate for the passage of a pro-immigrant law recently introduced in the Guatemalan Congress. The law encourages the Guatemalan government to address the needs of Guatemalans living abroad through an integrated and regional approach. MIGUA also called on President Elect Álvaro Colom to be more engaged with Washington in negotiations than his predecessor so that Guatemalan immigrants could enjoy the same benefits provided to Hondurans, Nicaraguans, and Salvadorans under Temporary Protection Status (TPS).

SOCIAL, ECONOMIC, AND CULTURAL RIGHTS

Special Education Law Passed

11.20.07 The Guatemalan Congress approved a new special education law for people with developmental disabilities. The law will ensure that all children, adolescents, and adults with special needs will receive quality services and education. The law also established the creation of the Department of Special Education (DIGEESP) as a part of the Ministry of Education. DIGEESP will be in charge of implementation of the law.

Minimum Wage Agreement Stalled

11.23.07 Negotiations on the minimum wage have once again stalled in the National Salary Commission, one week before the proposed date to set the minimum wage for 2008. Business owners continued to advocate for matching minimum wage increases to productivity levels, while workers fought for a daily wage increase of 50% to be able to meet the skyrocketing cost of living.

Guatemalans “Forgotten” in Western Region

11.27.07 Nearly half of all Guatemalans do not have adequate access to basic public services such as education, housing, and sanitation services, according to a recent marginalization index created by the Secretariat for Planning and Programming (SEGEPLAN) and the United Nations Population Fund. The northwestern region of the country, including the departments of Petén, Alta Verapaz, Quiché, and Huehuetenango, faces a particularly dire situation. The marginalization index labeled the region as the “forgotten area” of Guatemala. In the region, roughly 82% of children do not finish primary school. In the departments of Petén and Alta Verapaz, roughly half of the homes do not have potable water or sanitation services, leaving citizens vulnerable to disease.

The departments of Guatemala and Sacatepéquez are the departments with the lowest level of marginalization. Of the 236 municipalities in Guatemala, only thirty-nine were classified to have low levels of marginalization. Residents living in the municipalities of Guatemala, Mixco, Jocotenango, Petapa, and Quetzaltenango have the best access to

basic services in the country. This contrasts to the 197 municipalities that have high or very high levels of marginalization. The municipalities of Santa Bárbara and San Gaspar Ixchil, in Huehuetenango, are considered to be the worst.

RIGHT TO JUSTICE

Catalogue Created to Identify War Victims

11.19.07 Relatives of war victims in the department of Chimaltenango, Guatemala are now able to search for and identify their missing family members through a 103-page catalogue. The Catalogue contains photographs of more than two hundred sets of bones and clothes that were exhumed in San José Poaquil, Chimaltenango and Comalapa, but remain unidentified by members of the Forensic Anthropology Team of Guatemala (FAFG).

CICIG Faces Many Obstacles

11.22.07 The Congressional Finance Committee reduced the Public Prosecutor’s (MP) budget by Q108 million (US \$14.4 million) for 2008. President Óscar Berger criticized the Committee’s decision, stating that it would negatively affect the functioning of the International Commission against Impunity in Guatemala (CICIG), headed by Spaniard Carlos Castresana. Berger noted that Congress has the obligation to guarantee that the MP will have sufficient funds to hire personnel to work with the CICIG. Attorney General Juan Luis Florido commented that by not approving the full Q686 million (US \$91.5 million) budget sent to Congress, the collaboration between the MP and the CICIG will be compromised.

In addition to funding obstacles, the legality of the CICIG’s establishment is being challenged. In a public hearing convoked by the Constitutional Court (CC), José Luis González Dubón, a representative of the Pro-Patriot League, petitioned the court to annul Congressional Decree 35-2007, which ratified the CICIG’s creation. González Dubón argued that Congress did not follow appropriate internal norms during the session when the CICIG was ratified; therefore the decisions made are not legally binding.

Victims Ask for Support, Compensation

11.23.07 The Human Rights Ombudsman's Office (PDH) recently held the National Victims' Congress, a three day meeting where victims of human rights violations and their relatives could share their experiences and make suggestions as to how the government should attend to those affected by violations. Ombudsman Sergio Morales indicated that one suggestion was to humanize the justice system and its officials, because victims do not receive adequate attention. Participants demanded that victims who testify be offered psychological support. The PDH's Director for Institutional Planning and Development, Pablo Werner, talked about the need for institutions to support victims. He said that they should attend to the victims' pain and suffering from the very beginning of the process and in doing so, the government would become more humane, acting as the intermediary between victim and victimizer.

Victims and relatives of the internal armed conflict also demand attention and support. The representatives of the National Victims Movement indicated that the National Reparations Program (PNR) has only provided compensation to ten percent of affected families in four years. The UN-led Commission for Historical Clarification (CEH) reported that there were 200,000 victims during the internal armed conflict. Some victims have received economic compensation for their suffering of between Q20,000 – Q24,000 (US \$2,667 to 3,200).

LEGAL CASE UPDATES

General Questions Jurisdiction in Genocide Case

11.20.07 Retired General Ríos Montt filed a motion questioning the jurisdiction and competence of the Second Branch of the First Criminal Court to try him for human rights violations committed during the internal armed conflict, arguing that the judge is not competent to hear the case. In a public hearing, the Association for Justice and Reconciliation (AJR) petitioned the Supreme Court of Justice to reject the motion asserting that it was a stall tactic designed to thwart the genocide case against him. Édgar Pérez, a lawyer representing AJR, stated that the Tribunal of Jurisdictional Conflicts ruled that the case should continue in the present court. "This petition [filed by Ríos Montt] shows his clear interest in delaying and

obstructing the genocide case against him, and we hope that this motion will be overturned," said Pérez.

CC Rules in Favor of Military Officers

11.29.07 The Constitutional Court (CC) suspended the pending depositions of Óscar Mejía Víctores, four former military officers, and two civilians accused of genocide and the Spanish Embassy fire of 1980. The CC overturned the ruling issued by the Eleventh Branch of the First Criminal Court. The testimonies of eleven witnesses were also suspended by the highest court in Guatemala.

RIGHT TO A HEALTHY AND SUSTAINABLE ENVIRONMENT

Locals Protest Mining in San Marcos

11.21.07 Locals blocked the road to Sipacapa, San Marcos, protesting the environmental impacts of mining on their communities. Residents stated that mining in the region has degraded their environment and polluted their water sources through the cyanide-leaching process. Demonstrators asked that their opinions be taken into account when decisions are made on the mining issue. The Montana Mining Company, a subsidiary of the Canadian Goldcorp Company, extracts metals in San Miguel Ixtahuacán, San Marcos, through the Marlin mine, headquartered in Sipacapa. Montana has concessions for 90 hectares in the region.

Environmentalists Reject Mining

11.23.07 Environmentalists rejected a recent government decree (499-2007) proclaiming that the promotion of mining and new energy sources is in the nation's best interest. Environmentalists see this decree as a way for the government-elect to authorize new concessions before they take office in January. Carlos Salvatierra from Madre Selva, an environmental group, stated that the government has attempted to tie the problems with the energy sector to the need for new mining. Environmental activist Magaly Rey Rosa insisted that the decree is just another way to assure future business for those that continue to pollute and degrade the environment. According to Jorge García, vice

minister of Energy, Congress should have stopped the concession of licenses by placing a moratorium on mining, but failed to do so.

Berger Criticized for Pro-Mining Stance

11.30.07 In a recent visit to Taxisco, Santa Rosa, President Óscar Berger demonstrated his pro-mining stance by stating, "Using [the resources] God gave us benefits everyone and is very important." Berger defended the mines working in Guatemala and insisted that mines have improved the quality of life and generated employment for residents of San Marcos.

Yuri Melini, director of the Center for Legal, Environmental and Social Action of Guatemala (CALAS), criticized Berger's comments. Cardinal Rodolfo Quezada Toruño disapproved of the fact that mining concessions are still being issued without taking into account the environmental and human consequences. He also criticized the fact that licenses are issued regardless of whether or not the inhabitants in the area are in agreement with mining. The Rigoberta Menchú Foundation supported Cardinal Quezada's criticisms and reaffirmed its "total legal and moral support to campesinos and communities that are affected by the mining in San Miguel Ixtahuacán and Sipacapa."

Environmental Parliament Convened

11.28.07 The Environmental Parliament, an entity created to encourage discussion about environmental issues and natural resources, held its first debate focusing on the docking of the Kent cargo ship in Guatemala, en route to the US. The cargo ship carried radioactive material. It was reported 150 cargo ships pass through Guatemala's ports each year, some of which contain toxic materials. Members of the Defense Ministry and the Ministry of Energy and Mines participated in the discussion. The Environmental Parliament plans to issue a legal and technical resolution regarding this issue. The Parliament also plans to hold at least four sessions in different municipalities on an annual basis.

OTHER INFORMATION

Europeans Voice Concern About Human Rights

11.26.07 The Human Rights Subcommittee of the European Parliament expressed concern regarding the dismal human rights situation in Guatemala. The Subcommittee criticized the poor justice system and the obstructionist role of the Defense Ministry. H el ene Flautre, a French parliamentarian, commented that the Defense Ministry "continues to be an obstacle to the clarification of human rights violations." She also expressed her concern about the increase in killings of women.

Socialist Parliamentarian Wolfgang Kreissl-Dorfler, who headed the European Union's Electoral Observation Mission to Guatemala, reported that in the first six months of the year, some 3,700 people had been killed in Guatemala at the hands of gangs, drug cartels, organized crime rings, clandestine groups, and other criminal entities.

Fernando Fern andez, another member of the European Union's Electoral Observation Mission to Guatemala, noted the "scandalous business of adoptions of Guatemalan children." According to Fern andez, Guatemalan Vice President Eduardo Stein confessed to him, "if we radically prohibit foreign adoptions, 30% of hotels' business will crash."

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Information in the UPDATE that is not gathered directly is culled from various sources, including the Comisión de Derechos Humanos de Guatemala, Casa Alianza, Albedrío, Amnesty International, Associated Press, Reuters, and Guatemalan news sources, such as Cerigua, Centro de Estudios de Guatemala, Incidencia Democrática, Prensa Libre, El Periódico, La Hora, and Siglo Veintiuno.

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Insert: GHRC Action Alert, Community Leader Killed