### Conditions Facing Guatemalans Deported from the US: Concerns and Recommendations for a Rights-Based Approach

The Guatemala Human Rights Commission/USA | October 2014



An average of two ICE planes arrive every day at the Guatemala City airport carrying Guatemalans deported from the US; some individuals are detained in the desert a few days after crossing into the United States while others have lived in the US for years. An ICE official recently estimated that a total of 50,000 Guatemalans were deported from the US in FY 2014.

In order to stem the tide of children fleeing Central American countries, a situation that made headlines over the summer, the Obama Administration is aiming to deport unaccompanied children and families with children as soon as possible, including a "last in, first out" rapid deportation of recent arrivals.¹ However, Guatemala's rampant corruption and poor social services call into question that country's ability to safely and humanely absorb increasing numbers of its deported citizens, especially children. It is also unlikely to be a successful strategy in the long term, while the reasons underlying migration remain unchanged.

# What is the Process for Return and Reintegration?

US officials have cited Guatemala as having a model intake process for deported migrants. In late August, GHRC staff observed the intake process for a plane of deportees that arrived from Brownsville, Texas. Over 100 people walked across the tarmac to a small building set up to process returned migrants. The majority of people that deplaned were young men, many wearing matching jeans and white t-shirts, but there were also about two dozen women.

Each person was briefly interviewed and allowed to make a local call and exchange money. Afterward, they were given a small mesh bag containing their personal effects, which in most cases appeared to be almost empty.

In interviews conducted by GHRC

staff, many deportees mentioned being coerced into signing their deportation papers, including some that recounted a US border agent threatening to sign the papers for them if they didn't sign voluntarily.

Women interviewed spoke of the lack of basic sanitary items such as toothbrushes in ICE detention, and lack of access to showers for extended periods of time. One described an infant, lying on the

floor, blue from cold – workers at the facility would not give the baby milk or diapers, she explained.

Outside, a few NGOs had tables set up to provide resources on temporary migrant housing and to offer international phone calls. After this intake process, we were told, deportees are taken to the central bus station and given bus tickets at least part-way to their home towns. No further services are provided.

# GUATEMALA IS NOT ADEQUATELY PREPARED TO RECEIVE LARGE NUMBERS OF RETURNED MIGRANTS, MUCH LESS UNACCOMPANIED MINORS:

- An estimated 50,000 Guatemalans were deported from the US in FY 2014.
- There are no government services to support reintegration, job training or do risk assessments for those who fled violence.
- Unaccompanied children are not monitored after being released to a family member.
- Minors who remain in state custody live in overcrowded shelters with extremely poor living conditions, undertrained staff, and a lack of security.





Left: A processing center gets ready to receive a flight of deportees; Right: Mesh bags containing personal effects.

### What Happens to Unaccompanied Children?

Unaccompanied children deported to Guatemala are turned over to the Secretariat of Social Welfare. The Secretariat has two shelters to receive the children, and if they can't be handed over to their families within a few days, they are sent to one of the permanent shelters the office runs. In a damning report from August 2013, Guatemala's Human Rights Ombudsman's Office wrote that these shelters were unhygienic and provided poor quality food, inadequate clothing, no recreational activities and poor healthcare. The facilities are overcrowded, with children sleeping two to a bed, and understaffed. Last year, a 14 year-old girl who was a resident of the Guatemala City shelter was murdered by two other girls after they were locked into a bathroom together and left there.

According to an ICE official, there were 72 minors deported from the US to Guatemala between January and late August 2014. There is reportedly no risk assessment carried out before the child is turned over to a family member, and no follow-up with the children by the

government. GHRC even received information that the government may have, in some cases, mistakenly handed children over to people who are not family members, including individuals linked to human trafficking networks.

## Violence is a Daily Fact of Life in Guatemala

### GENERALIZED VIOLENCE

According to a UNHCR report on unaccompanied child migrants, the majority of unaccompanied children from Guatemala are from the Western Highlands, which has high rates of poverty and very few government services. The region doesn't have the highest homicide rates in the country, but other forms of violence are commonplace, particularly for women and children. Twenty-three percent of the unaccompanied children the UNHCR interviewed mentioned violence they suffered in the home. Guatemala City has a 70% rate of impunity for homicide (down from 98% just a few years ago); other violent crimes are very rarely reported and almost never successfully prosecuted. A further 20% talked with the UNCHR about violence in society as being a major cause for their

migration. Organized criminal networks continue to operate freely throughout Guatemala, trafficking drugs, guns, and human beings. Gangs control entire sections of Guatemala City and other urban areas through extortion, forced recruitment, and other acts of intimidation and violence. Children and youth are specifically targeted for forced recruitment and threatened with severe retaliation if they refuse to join gangs and perform criminal activities or serve as coerced sexual partners.<sup>2</sup>

Every 17 hours a child or teen dies from gun violence in Guatemala, and every two hours a child younger than five years of age dies of preventable causes.3 The Guatemalan government is often unable to offer its citizens protection from violence – especially those most vulnerable, such as children. Moreover, there are credible allegations of collaboration between organized criminal groups and members of the Guatemalan military and police,4 as well as police and military involvement in serious crimes,<sup>5</sup> exacerbating impunity and denying victims the right to security and justice. Such abuses are often not investigated or prosecuted.

<sup>[2]</sup> http://www.uscrirefugees.org/2010Website/5\_Resources/5\_4\_For\_Lawyers/5\_4\_1%20Asylum%20Research/5\_4\_1\_2\_Gang\_Related\_Asylum\_Resources/5\_4\_1\_2\_4\_Reports/Jeffrey\_D\_Corsetti\_MarkedforDeath.pdf.

<sup>[3]</sup> Informe ODHAG sobre Violence contra la niñez, 2013.

<sup>[4]</sup> Gonzalez, Rosmery Austria deniega permiso de venta de armas a gobierno de Otto Pérez, El Periodico, (May 2, 2014).

<sup>[5]</sup> U.S Department of State, Country Reports on Human Rights Practices for 2013.

## POVERTY AND DEPRIVATION, UPHELD THROUGH VIOLENCE

Twenty-nine percent of the children interviewed mentioned depravation as a major factor in their decision to migrate. According to the UNDP, more than 51% of Guatemalans live in poverty, with 17% surviving on less than US \$1.25 per day. Over half of children under age five suffer from stunting due to malnutrition and 23% of the entire Guatemalan population is undernourished. According to a recent World Bank report, the poorest Guatemalans are only sinking deeper into poverty, largely due to extremely low rates of spending by the Guatemalan government, especially on social programs.

This depravation is more extreme in rural areas, where many people are heavily dependent on subsistence agriculture. The Central American Free Trade Agreement, signed by Guatemala in 2006, has increased the trade imbalance between the US and Guatemala and imports of US subsidized crops have undercut local markets, forcing people to find work elsewhere, including in the United States.

# TARGETED VIOLENCE AGAINST ACTIVISTS AND COMMUNITY LEADERS WORKING FOR POSITIVE CHANGE

Human rights defenders who advocate for policies that would reduce inequality and poverty are killed with near impunity. For example, in 2013, the International Trade Union Confederation called Guatemala the most dangerous country in the world to be a trade unionist, citing 68 documented assassinations of unionists since 2007. Suspects have been arrested for only one of the murders. According to the Guatemala's Human Rights Defenders Protection Unit, 18 defenders were killed last

#### STATISTICS ON BASIC CONDITIONS IN GUATEMALA:

- Guatemala is one of the lowest spenders on social programs of any country in Central America: the national budget invests approximately 3% in education, 1% on health and 0.4% on housing.
- Over 50% of children are chronically malnourished; chronic under-nutrition in indigenous communities is an estimated 70%.
- 60% of the population lives on less than US \$2/day. 26% of the population lives in multidimensional poverty.<sup>6</sup>
- 75% of working people are employed in the informal sector, with no job benefits or security, and no guarantee of earning the minimum wage.<sup>7</sup>
- The homicide rate of almost 40 murders per 100,000 inhabitants is one of the highest in the world.8
- 748 women suffered violent deaths in 2013, an average of 2 every day, which is a 10% increase from 2012. The impunity rate for these cases is 98%.
- 68 labor activists have been killed since 2007, making Guatemala the most dangerous country in the world to be a trade unionist.
- At least 54 drug trafficking organizations reportedly operate within the country.<sup>9</sup>

year for their work.

The government's reaction to social conflict has been increasingly repressive. Across the country, communities have opposed the construction of mines and hydroelectric dams; in response, the police and military have been mobilized in large numbers to break up peaceful protests. Various military outposts have been opened in regions with ongoing conflicts over these "development" projects instead of in regions with the highest levels of violence, or identified as hotspots for organized crime. The Guatemalan government has also repeatedly used states of siege similar to martial law - to suspend constitutional guarantees, raid homes, and detain community leaders.

In October of 2012, 15,000 indigenous protesters blocked

Guatemala's main highway demanding lower electricity prices and rejecting proposed reforms to teacher training and to Guatemala's constitution. Soldiers opened fire on the crowd, killing at least six people and injuring dozens of others. The soldiers and their commanding officers still have not been tried.

## **Flawed Proposals**

As part of the Supplemental Budget Request, the Obama Administration asked Congress for \$300 million to address the root causes of migration and to aid in reintegration. However, the proposed uses of these funds replicate US policies that in the past have deepened poverty and exacerbated inequality, or that have simply proven ineffective.

In addition, President Obama asked for permission to waive

<sup>[6]</sup> UN Human Development Report 2013.

<sup>[7]</sup> Taken from World Bank at http://www.voxxi.com/latin-american-workers-swallowed-by-informal-employment-low-wages/

<sup>[8]</sup> Prensa Libre. "Guatemala es el quinto país con más homicidios." April 11, 2014. http://www.prensalibre.com/internacional/Guatemala-quinto-pais-homicidios 0 1118288209.html.

<sup>[9]:</sup> Insight Crime. Guatemalan Officials Identify 54 Drug Trafficking Groups. Claire O'Neill McCleskey. 12 June 2013

protections granted to Central American children in order to deport them more quickly. However, according to the UN Office for the Coordination of Humanitarian Affairs, rapid deportation could threaten the wellbeing of returnee children given that adequate humanitarian attention and protection in their home countries are not guaranteed.

While in Washington, DC, Guatemalan President Otto Pérez Molina requested that \$2 billion be invested in "Plan Central America," along the lines of Plan Colombia and the Merida Initiative. However, many of the security policies carried out to date in Guatemala have served not to improve security, but to uphold entrenched inequality and poverty and thus contribute to reinforcing some of the very "push factors" that lead migrants to seek better opportunities in the US.

### Recommendations

A HUMANE RESPONSE, IN LINE WITH INTERNATIONAL PROTECTION OBLIGATIONS, TO ADDRESS THE IMMEDIATE NEEDS OF CHILDREN AND VULNERABLE POPULATIONS

- 1) The US should fully comply with international obligations and provide comprehensive screening for possible international protection needs. To do so, The US should guarantee legal representation for migrants and refugees that arrive at the US border, especially for vulnerable populationst such as unaccompanied minors.
- **2)** The US should maintain protections under the Trafficking Victims Protection Reauthorization Act of 2008 for Central American children.
- **3)** The US should base all decisions regarding the treatment of child migrants on the best interest of the child; family reunification in the US should be top priority.
- **4)** The US should halt all deportations until a system is in place to provide both legal representation and screening for international protection needs for all migrants.

A LONG-TERM STRATEGY THAT ADDRESSES THE ROOT CAUSES OF MIGRATION AND FOCUSES ON HELPING PEOPLE TO STAY IN THEIR COMMUNITIES, INSTEAD OF A MILITARIZED ENFORCEMENT APPROACH

- 1) The US should halt security assistance to Guatemala's police and military, both through the Central America Regional Security Initiative and bilateral security assistance programs, until credible evidence shows they are protecting human rights and effectively combating internal corruption and links to organized criminal networks. If security assistance is provided, it should be contingent upon strict compliance with human rights conditions and should focus on prevention programs as well as services for at-risk populations such as women's shelters and witness protection programs.
- 2) The US should re-negotiate the Central American Free Trade Agreement to create more balanced trade regulations and address ongoing poverty and inequality in the labor, textile, agricultural, and service sectors. USAID programs should prioritize support for local and community-based programs to alleviate poverty, and increase access to education, social services and employment opportunities. The US should ensure that any assistance program meets priority needs identified by the local population. To address displacement due to large-scale extractive industry projects, the US should also urge Guatemala to meet its obligation to indigenous communities of free, prior and informed consent before any development project is carried out.
- **3)** The US should continue to provide support to strengthen the judicial system and accountability mechanisms; this includes support for the high risk courts and the International Commission Against Impunity in Guatemala and efforts to increase judicial independence. The US should also encourage full compliance with Guatemala's human rights obligations under international law.
- **4)** The US should support increased protections for human rights defenders, many of whom face targeted threats and violence due to their work to improve social and economic conditions in Guatemala.



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The Guatemala Human Rights Commission/USA (GHRC) is a non-profit, grassroots, solidarity organization dedicated to promoting human rights in Guatemala and supporting communities and activists who face threats and violence. GHRC documents and denounces abuses, educates the international community, and advocates for policies that foster peace and justice.