



Guatemala Human Rights **UPDATE**

Guatemala Human Rights Commission/USA

Vol 17 No 17/ September 21, 2005

FUNDAMENTAL VIOLATIONS

Casa Alianza Legal Advisor Murdered

Harold Rafael Pérez Gallardo, an advisor to Casa Alianza's Legal Program, was shot and killed by an unidentified man on Friday, September 2. Formed in 1990, after National Police agents brutally murdered thirteen-year-old Nahamán Carmona López, the Legal Program seeks to defend and promote the rights of children, youth, and young mothers. Pérez Gallardo served as an advisor to the Legal Program for six years and was advising Casa Alianza on several pending cases involving the murders, sexual exploitation and trafficking of street children, illegal adoptions, and other human rights violations against children.

URNG Members and Social Leader Murdered

On September 8, Mario René Pacheco and Domingo Xoná Ical, members of the Guatemalan National Revolutionary Union (URNG), were murdered near the municipality of Nueva Concepción, Escuintla. Xoná Ical and Pacheco had just left a meeting with the mayor addressing an increase in bus fares.

Pacheco was a representative of the Assembly of Civil Society of Escuintla and in recent years had worked hard for justice and development in that department.

On the same day, campesino leader Paulino López was murdered in the community of El Paraíso in Jalapa.

According to Andrea Barrios, representative of the Center for Human Rights Legal Action, the assassinations of social leaders, human rights activists, and campesino leaders are occurring in the context of struggles for resources and basic rights within the departments of the interior of Guatemala, where justice is lacking much more than in the capital. Barrios said in an interview with CERIGUA that violence against activists has recently increased as a result of their continuing opposition to the Central America Free Trade Agreement (DR-CAFTA), the Law of Concessions, and other neoliberal policies, as well as the high levels of general insecurity. Barrios also noted that the attacks are occurring in the context of an early

electoral campaign, and campaigns are typically accompanied by a rise in violence.

Gad Echeverría, an advisor to the Mutual Support Group, said the surge in attacks on human rights leaders is also related to the recent discovery of clandestine groups connected to the state. According to Echeverría, the most recent cases are characterized by a lack of serious investigation: the authorities determine that they are common crime without duly investigating the motive of intimidation of activists.

DEATH THREATS AND OTHER INTIMIDATIONS

Forensic Anthropologists Threatened

Fredy Peccerelli, executive director of the Guatemalan Forensic Anthropology Foundation (FAFG), and his co-workers and family members have been targets of death threats and intimidation. On August 26, Jeannette Peccerelli, Fredy's wife, was approached by two men while stopped in her car at a stoplight. One of the men put a gun to her head and told her they were watching her husband.

On September 8, Omar Girón Bertoni, Fredy's brother-in-law and co-worker with FAFG, received an anonymous note at his home threatening the entire team, as well as his wife, Bianca Peccerelli (Fredy's sister). The death threat—addressed to Omar—said that the FAFG would be punished for its work, that previous threats were just an initial message, and that now they would use other means to stop them.

The FAFG has been instrumental in exhuming clandestine cemeteries throughout the country.

Members of Congress Intimidated

Mario Rivera and Guillermo Sosa, representatives of the Guatemalan Republican Front, and Obdulio Solórzano, a representative of the National Unity for Hope, have reported intimidation by members of the Guatemalan

military. The three representatives are on the Congressional Investigative Commission that is looking into the management of bids for aircraft contracts to modernize the armed forces. Rivera's home in zone 11 of Guatemala City was robbed, and all the other two legislators have received phone calls from members of the army, allegedly from officials upset with the Ministry of Defense's budget overhaul. The members of Congress said the intimidation started on the day officials from the ministry were called before Congress to explain their actions.

Vielmann Reportedly Threatened

Minister of the Interior Carlos Vielmann has reportedly received threats aimed at persuading him to support a law that would allow private security companies some loopholes and would include a provision to exempt owners of private security companies from prosecution if the companies acted in an illegal manner.

According to Vice Minister of the Interior Julio Godoy, pressure from parallel groups and organized crime has been evident in the discussion of security legislation that is being debated in Congress. The security package includes initiatives on arms control, civil intelligence, and private security companies. According to Godoy, special interest groups have urged changes or blocked the legislation altogether. Pablo Monsanto, of the New Nation Alliance (ANN), said that the owners of private security forces, particularly former military leaders, have also sought to block the proposals.

Among other provisions, the proposed intelligence bill would make wire tapping legal if authorized by a judge. In its analysis of the legislation, the Myrna Mack Foundation argued that the Supreme Court of Justice should designate an Appeals Court to review each case and only temporary authorizations should be given.

Community Leader Threatened

Business and community leader Jorge de León has reportedly received death threats from Mayor Alfonso Sánchez, of El Asintal, Retalhuleu. The mayor is currently being investigated in relation to the threats. De León reported the mayor to the Public Prosecutor's Office (MP) for threatening him in public. According to de León, Sánchez threatened him during a Municipal Development Council meeting for opposing a water project. De León has since heard gunshots outside his house on various occasions and at odd hours of the night. De León represents

the Community Development Council of the Colonia San Carlos on the Municipal Development Council. He is head of a water project in his community that apparently is at odds with the mayor's plan for the municipality.

WOMEN'S RIGHTS

458 Women Murdered in 2005

Approximately 458 women have been murdered in Guatemala so far this year in a wave of violence that is becoming increasingly gruesome. According to the Network for Non-Violence Against Women, these numbers represent a twenty-six-percent increase in violence over the same time period last year. In all of 2003, 383 women were murdered. In 2004, the number rose to 527.

Hilda Morales, Amnesty International's Ambassador of Conscience, says that the state's failure to address the issue further degrades the victims and forces their families to confront the corruption of the state in order to seek justice.

Women's Organizations Criticize US

A number of women's organizations, including the Organization of Women for the Environment and Development in Latin America, recently criticized the US for trying to eliminate references to gender equality from the World Summit document. During the opening of the United Nations General Assembly in New York, the US delegation failed to reaffirm the agreements reached in the Beijing Declaration and Platform for Action, which establishes a commitment to the goals of equality, peace, and development for women worldwide.

According to June Zeitlin, of Mujeres Hoy, the US delegation sought to omit any discussion of gender from text regarding poverty and debt. Other delegates criticized the US for ignoring the issues of gender inequality and women's autonomy, in an effort to prioritize counterterrorism.

LAND RIGHTS

Cooperative Could Lose Land to Dams

Various families from the Arbolito Cooperative in the Petén may lose their land. El Arbolito is a community of seventy families relocated in the 1960s from regions with acute land shortages. Community members discovered land seizure documents when they attempted to convert

individual lots into communal property. Andrés Hernández reportedly seized the land for 37,000 quetzales. The community values the property at more than 100,000 quetzales.

Faustino Calmo Chales, a member of the Front Against Dams, holds the authorities responsible. He contends that the ultimate aim is to sell land acquired from local cooperatives to government-supported companies. El Arbolito lies along the Usumacinta river, where, according to Calmo, President Óscar Berger and foreign companies plan to build five dams.

Eviction Ordered for Highway Construction

Communities that were relocated to Agua Caliente, El Progreso after fleeing violence in Baja Verapaz in the 1970s and 1980s now face eviction due to proposed highway construction. According to Elena Shetemul, a resident of the community, the inspector for the General Road Director's Office told her they must leave the area. He said they would receive payment for the houses but not the land.

The families are asking the authorities to provide land for relocation, since they are not receiving compensation for the land they currently hold. Road construction is set to begin sometime in October.

LABOR RIGHTS

One-fifth of Domestic Workers Are Children

A recent study on child labor revealed that 38,000 children, the majority indigenous women, work as domestic laborers, facing serious risks without fair economic compensation. According to the study, two out of ten domestic laborers are children who are often exposed to mistreatment, sexual abuse, and unhealthy conditions.

Alejandro Argueta, head of the investigation, criticized members of Guatemalan society and employers that believe they are doing a child a favor by employing them to perform domestic chores for twelve to fourteen hours a day for 300 quetzales (less than \$40) per month. Rigoberto Dueñas, general secretary for the General Center for Guatemalan Workers, emphasized the gravity of the situation, especially given that workers in this sector do not receive legal protection, social security, or holidays.

CULTURAL AND ECONOMIC RIGHTS

Community Protests Mining in El Estor

In El Estor, Izabal, over fifty Maya Q'eqchi' communities nonviolently protested mining operations by the Guatemalan Nickel Company, a subsidiary of the Canadian company Skye Resources Inc. The communities seek the suspension of Skye's exploration license, which was granted without prior consultation with affected populations. Community members contend that the mining activity has contaminated their water sources, damaged their crops and encroached on community land.

Albertino Flores, member of the Friends of the Lake Association emphasized that they will take stronger measures if the mining companies don't leave El Estor. The communities have also filed a formal complaint with the International Labor Organization based on Convention 169, which establishes indigenous communities' right to a consultation on government policies that directly affect them.

Once Skye finishes the environmental impact study currently underway, the company plans to seek a license to begin producing ferro nickel in 2006. Ferro nickel is increasingly valuable due to cell phone use, China's economic growth and the US space program.

Thousands Protest Water and Concessions Laws

On September 6, at least 15,000 people gathered in front of the government building in Totonicapán and at three points along the Inter-American highway to protest the General Water Law and the Law of Concessions.

On August 5, hundreds of campesinos from Totonicapán had requested that indigenous communities be consulted during the legislation's development. Lacking a response from the government, those communities now demand that the General Water Law and the Law of Concessions be withdrawn from Congress and that the government halt the privatization of basic public resources. The protestors also urged the government to curb rising transportation and living costs resulting from increasing oil prices.

On September 7, residents of Momostenango, Totonicapán gathered to protest the mayor's recent reinstatement and the General Water Law and Law of Concessions. Mayor Abel Daniel Xiroj, of the National Unity of Hope (UNE), had been removed from office on allegations of corruption but was reinstated because the Public

Prosecutor's Office lacked sufficient evidence. Some of the protestors held a town councilor and a judge hostage. When the police rescued the hostages, a group set a number of police cars on fire and destroyed the police station, the mayor's house, and the municipal building. One man, accused of stealing a computer from the municipal building, was severely beaten by other protestors. Erwin Sperisen, director of the National Civil Police (PNC), sent 500 agents from the Special Forces to reinforce the local police force.

The protests continued for two more days, as students and union members marched in opposition to the legislation in Guatemala City. Road blocks were also set up at three different points on the nation's highways. José Pinzón, director of the General Center for Guatemalan Workers (CGTG), said that the current administration is driving the country towards social upheaval by failing to address the growing informal economy, the high cost of living, low salaries, land tenure issues, and security.

Water Legislation Halted After Protests

The Environment and Natural Resources Commission suspended discussion of the General Water Law after days of protest in various regions of the country. Ana Lucrecia Marroquín Godoy de Palomo, representative of the Guatemalan Republican Front (FRG), argued that the general public is misinformed but that a working group would analyze the law's content sometime in the near future.

The law would create a Vice Minister of Water and also includes provisions for registering water sources, establishing tighter controls, supervising well construction, and collecting payment for commercial water use. According to Congress members, the law also establishes water as a public resource that should serve the population before industry. Those opposed to the law, however, fear the privatization of a vital resource which many people already pay for at the local level. Some argued that Congress members do not understand how indigenous communities operate and fail to adequately consult them on policy changes.

CAO Finds No Risk in San Marcos Mining Project

Although the first draft expressed doubts about Montana Exploradora's Marlin project in San Marcos, the Compliance Advisor Ombudsman's (CAO) final report concluded that the

gold mine does not pose any serious human or environmental risks. In May 2005, the CAO traveled to Guatemala to investigate a grievance presented by the Madre Selva Collective and Sipacapa residents. They argued that Montana Exploradora did not adequately consult nearby communities and that the project would create serious health and environmental problems in San Miguel Ixtahuacán.

While stating that the companies could have conducted more thorough consultations and developed better security policies, the report found the companies' practices satisfactory. Magalí Rey Rosa, director of Madre Selva, expressed disappointment over the final draft's omission of the harsher criticism included in the first draft. She also said the report unfortunately only looked at the effects on Sipacapa rather than San Miguel Ixtahuacán.

The CAO investigates complaints and makes recommendations on projects funded by the International Finance Corporation (IFC), a member of the World Bank Group that finances private sector development projects. The Canadian company Glamis Gold, which owns Montana Exploradora SA, received a \$45 million loan from the IFC for the Marlin project.

The mining company expects to begin operations sometime in September. The government and the mining company have promised to invest in road construction, a hospital, and a school in San Marcos.

Government Temporarily Suspends Mining Licenses

The government announced a temporary suspension of new exploration and exploitation licenses. The measure will be lifted after the approval of guidelines for a new law governing mineral extraction in Guatemala. A proposal drawn up by civil society leaders promotes the regulation of royalties, social investment on the part of private investors, and the protection of certain areas. Bishop Álvaro Ramazzini continues to advocate for a permanent suspension of new mining licenses.

IMMIGRANT RIGHTS

Study Reports Violations on the Border

A study conducted by Casa del Migrante's Human Rights Office found that National Civil Police agents and employees of the General Migration Director's Office

(DGM) are responsible for violating immigrants' rights. The majority of the abuses, including threats, illegal detentions, discrimination, robbery, and bribery, take place in Guatemalan departments that border on Mexico, Honduras, and El Salvador. According to the study, security forces were responsible for eighty-one percent of the abuses recorded, while DGM officials were responsible for thirteen percent.

The Human Rights Office urged the authorities to comply with international conventions and the Guatemalan Constitution, investigate the corruption and abuse of authority evident along the border, and guarantee security for the population regardless of their legal status.

Military Presence on Mexican Border Increases

Minister of Defense Carlos Aldana announced a plan to increase the military presence along the Mexican border by 200 percent. The 500 soldiers currently stationed there will increase to 1,500 in order to protect the border, combat drug and human trafficking, and preserve archaeological and nature reserve sites. More than 200 will be stationed in the El Naranjo camp in the Petén to secure the border and guard the Laguna del Tigre ecological park. According to officials, members of organized crime use the region to transport immigrants on their way to the US. Officials from the military base estimate that 300 to 400 people, primarily from Central and South America, pass through the area each month. Aldana stated that National Civil Police and border patrol agents would be added over time.

LEGAL CASE UPDATES

Judge Dismisses Río Hondo Consultation

Judge Ángel Alberto Arévalo Salazar of the First Instance Court in Zacapa ruled that the consultation held with community members in Río Hondo has no legal value. At the consultation held in July, community members expressed opposition to the construction of a hydroelectric plant in the municipality. According to the judge, the potential for hydroelectric power belongs to the state and is, therefore, not subject to the Municipal Code and community consultations, which pertain only to decisions made by the Municipal Council.

CC Decides in Favor of Ruiz Wong

The Constitutional Court (CC) confirmed an appeal in favor of Judge Mario Ruiz Wong and exonerated him from the criticism issued by the Human Rights Procurator's Office (PDH). The sentence orders the PDH to issue a new resolution, which abstains from negative comment against Ruiz.

The PDH's criticism of Ruiz Wong stems from a July 2003 case regarding former dictator Efraín Ríos Montt's candidacy for president. At the time, Ríos Montt's party had the support of Ruiz Wong and Cipriana Soto on the Constitutional Court but they needed Francisco Palomo and Manuel Flores to be the two replacements to the Constitutional Court. These two men were chosen through an allegedly secret lottery. With the two replacements, the Constitutional Court decided (4-3) that he could run, even though Guatemalan courts had ruled against him on previous occasions.

JUSTICE AND RECONCILIATION

Street Renamed for Myrna Mack

Fifteen years after Myrna Mack was assassinated by a member of the Presidential High Command, the Guatemalan state complied with the sentence issued by the Inter-American Court of Human Rights (CIDH). In its decision, the CIDH ordered the Guatemalan state to publicly ask forgiveness as well as provide financial compensation to the family members.

The Presidential Human Rights Commission (COPREDEH) renamed part of 12th street in zone one, where Mack was stabbed to death on September 11, 1990, as "Myrna Mack Street." A plaque was also unveiled in front of the offices of the Association for the Advancement of Social Sciences in Guatemala (AVANSCO).

Former member of the Presidential High Command, Noël de Jesús Beteta, is serving a twenty-five year jail sentence as the intellectual author of Mack's assassination.

OTHER INFORMATION

Guatemala Ranks Third in Inequality in the World

In the 2005 Human Development report, the United Nations Development Program reported that Guatemala is one of the four most unequal countries in the world in terms of income. In Latin America, Brazil and Guatemala

have the highest rates of inequality, and on an international level are surpassed only by Namibia and the Central African Republic (data were not available in all countries). Based on the human development index, which measures development in terms of life expectancy, GDP per capita, adult literacy rates, and school enrollment, Guatemala ranked 117 out of 177 countries. In Latin America, only Haiti has a lower human development index.

The report urges drastic policy changes in aid, trade, and security in order to confront global inequality and poverty.

David Harcharik, of the United Nations Food and Agriculture Organization (FAO), said that Guatemala is behind and will need another forty years to reduce hunger and poverty rates by half, as set forth in the Millennium Development Goals. While Mexico is stable, Central American countries have seen these rates increase since the goals were established in 2000. During the Conference on Chronic Hunger in Latin America, officials emphasized the necessity to develop food security programs and support small agricultural workers.

PDH Warns of Violent Social Unrest

A study conducted by the Human Rights Procurator's Office identifies thirty-seven issues in Guatemala that cause social tension and warns of violent social unrest if authorities do not address the issues.

According to the study, violence, security, rising transportation costs, the high cost of living, malnutrition, famine, land tenure, narcotrafficking, and unemployment top the list of conflictive issues. In twenty-one departments, the majority of the population is dissatisfied with the authorities' inaction. The study points to Totonicapán, Quiché, Alta Verapaz, Sacatepéquez, Quetzaltenango, and Escuintla as the most conflictive regions.

The PDH plans to send the study to President Berger to urge the government to take appropriate measures to address these issues.

Human Rights Situation Deteriorates

According to a report by the Mutual Support Group (GAM), between January and July of this year, human rights groups have been the victims of seventeen office break-ins, and twenty-seven of their members have received death threats. There were ninety-four violent acts directed at human rights workers during the seven months.

A study conducted by CERIGUA's Journalist Observatory found that thirty-one journalists were victims of violence during the same time period. Since 2003, three journalists have been killed, which has serious implications for the freedom of the press in Guatemala.

The GAM report also points to disturbing increases in the number of women and children murdered and acts of social cleansing, defined as murders committed by former or current security forces (public or private) for powerful groups such as organized crime. GAM also criticized the Guatemalan military for spending millions of quetzales on bonuses for high-ranking officials. GAM asserted that the military's budget will exceed the established limits, diverting funds from other organizations like the National Civil Police.

Participants in the first Regional Human Rights Defenders Conference, held in Antigua from August 31 to September 2, expressed concern over the deteriorating situation. The participants concluded that global and regional policies aimed at combating terrorism, narcotrafficking, gangs and civil opposition constitute a grave threat to the protection of human rights and democracy in the region.

Guatemalan Justice System Critized

According to Soraya Long, regional director of the Center for Justice and International Law (CEJIL), the right to justice has not been established as a fundamental human right in Guatemala. Long traveled throughout the country, monitoring the human rights situation and meeting with government representatives and human rights groups.

CEJIL works to defend human rights through cases brought to the Inter-American Human Rights System. Long said that the state has not carried out the sentences that it has received, so there are no advances in the application of justice in the country and impunity persists. Guatemala is one of the countries with the most conviction sentences and the most human rights violations.

The International Commission of Jurists expressed concern about the recent attacks against justice officials, including the attack on Judge Leonel Meza Reyes and the murder of lawyer Harold Rafael Pérez Gallardo.

US Certifies Counternarcotic Efforts

The US government has re-certified Guatemala as one of the countries that has made sufficient efforts to combat

narcotrafficking. The certification guarantees continued cooperation and US financial support for programs designed to combat drug trafficking. Guatemala is among twenty countries in the world identified as having high levels of drug cultivation and trafficking. The list also includes Afghanistan, the Bahamas, Bolivia, Brazil, and Colombia. This year, the US government decertified Venezuela and Burma, citing insufficient efforts.

Operations Target Youth in Five Countries

Security forces in Mexico, Guatemala, Honduras, El Salvador and the US carried out simultaneous operations targeting members of juvenile gangs, primarily Mara Salvatrucha members. In the five participating countries, 655 youth were arrested for crimes ranging from illegal possession of a firearm to threats and aggression. Authorities from the five countries sent all information on the arrests to the FBI. According to the head of the National Civil Police in Guatemala, the data are used to determine if those arrested have committed crimes in other countries.

Prison Violence Continues

One youth died and nine were injured on September 6, when members of Mara 18 attacked members of Mara Salvatrucha in a juvenile detention center in Platanar, San José Pinula. Authorities connected the attack to the rivalry between the two gangs and, in particular, to the riots that erupted in prisons across the country on August 15. Although guards had separated members of the two gangs, members of Mara 18 went to the Mara Salvatrucha section during a break and attacked with grenades and firearms. A judge had ordered the center to allow outside breaks. Authorities are still investigating how the weapons entered the center.

As the violence continues, the Public Prosecutor's Office (MP) has still not identified those responsible for the August 15 prison riots that left thirty-six dead. The MP has had a difficult time finding witnesses who are willing to cooperate. Those willing to testify have requested protection in return for their testimony but the MP does not currently have a witness protection program for this sector. At this time, twenty-five prisoners are charged with eleven murders in El Pavón, and one prison official from Presidios in Escuintla has been detained.

Dominican Republic Ratifies DR-CAFTA

The Dominican Republic's House of Representatives ratified the Central America Free Trade Agreement (DR-CAFTA), with 118 votes in favor, four against and various abstentions. The Senate, in which the social democratic Revolutionary Dominican Party (PRD) holds a majority, had approved the agreement on August 26 with a request that the government compensate local producers for losses experienced as a result of free trade.

Countries that have already ratified CAFTA are negotiating when the agreement will take effect, but January 1, 2006 seems likely. Nicaragua and Costa Rica have yet to ratify the agreement.

State Announces CICIACS Initiative

President Óscar Berger announced a new initiative on the Commission of Investigation of Illegal Groups and Clandestine Security Forces (CICIACS). Vice President Eduardo Stein reiterated his support and Chancellor Jorge Briz said that they have already started discussing the issue with members of Congress. Arístides Crespo (FRG), Mario Taracena (PAN), and Édgar Rodríguez (UNE) denied the reported cooperation between the executive and the legislative branches. Human rights groups have expressed concern that the announcement, rather than reporting actual progress, is solely intended to silence criticism from the international community. CICIACS is a UN-sponsored commission that would investigate and try leaders of clandestine groups often connected to attacks on human rights defenders and organized crime and linked to state agents. The commission has stalled due to a lack of political will.

Helen Mack Receives Notre Dame Prize

Helen Mack Chang, founder of the Myrna Mack Foundation, was awarded the Notre Dame Prize for Distinguished Public Service in Latin America for her work promoting human rights in Guatemala. The prize, funded by the Coca-Cola Foundation, consists of \$10,000, with a matching amount donated to a charitable organization, in this case the Myrna Mack Foundation. This year marked the fifteenth anniversary of Myrna Mack's murder, the event that spurred her sister, Helen Mack, to fight for justice, human rights and an end to impunity in Guatemala.



The Guatemala Human Rights Commission/USA, based in Washington D.C., has been on the forefront of the struggle for peace and human rights in Guatemala since it was founded in 1982. GHRC/USA is a nonprofit, nonpartisan, humanitarian organization committed to monitoring, documenting and reporting on the human rights situation in Guatemala while advocating for victims of human rights violations.

Information in the Update that is not gathered directly is culled from various sources including ; the Guatemalan Human Rights Commission , Casa Alianza, Amnesty International, Associated Press, Reuters and the Guatemalan Press, including Cerigua, La Cuerda, Incidencia Democrática, Prensa Libre, La Hora, Guatemala Hoy, Siglo Veintiuno, and Patrullaje Informativo. *Dates written before the text indicate when the incidents were reported.

Editors: Carrie Stengel (programcoordinator@ghrc-usa.org)
Pat Davis (pdavis@ghrc-usa.org)

ISSN #1085-0864

3321 12th Street NE Washington DC 20017
www.ghrc-usa.org

Tel - 202-529-6599 Fax - 202-526-4611
ghrc-usa@ghrc-usa.org

Insert: Guatemala Human Rights Update Survey

- Casa Alianza Legal Advisor Murdered.....1
- Forensic Anthropologists Threatened.....1
- 458 Women Murdered in 2005.....2
- Communities Protest Mining in El Estor.....3
- PDH Warns of Violent Social Unrest.....6

INSIDE...

Guatemala
Human Rights
Commission/USA
3321 12th Street NE
Washington, DC 20017



Vol 17 No 17