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Slight Improvement In Guatemala Human Rights, Says U.S. Annual Report

by LADB Staff

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The US appears to be having a difficult time this year passing itself off as arbiter of the human rights performance of other countries, but to the extent that its evaluations are credible, Guatemala has improved its dismal record just marginally this year compared with last. Nearly all countries that fared badly in the State Department's 2008 Country Reports on Human Rights Practices released Feb. 26 commented on the US loss of gravitas during the administration past. Comments from Guatemalans recommended doing their own report on the US, rhetorically questioned who the US is to cast aspersions on others, and called the report the same old interference in their internal affairs. Criticism of the same kind and quality came from Vietnam, which called US information erroneous, and Fiji, where human rights chairperson Shaista Shameem told an already dubious world, "Human rights reports done by the USA are not known for their fairness or balance....Hopefully under [US President Barack] Obama's administration this state of affairs will change." The report gave some indication that it might. In presenting the document, Secretary of State Hillary Clinton said, "The promotion of human rights is an essential element of our foreign policy," and she said the US wanted to be "an example." The report textually declared that, reciprocally, the opinions of actors in the international community about respect for human rights in the US "are not interference in our internal affairs." Whether or not the report is the premature effort of a nation struggling to recover its own moral footing, the report did discuss violations in Guatemala as they occurred and catalogued them in a useful fashion for review. The findings condensed The US found no reports that the Guatemalan government or its agents committed political killings. But it did find that the police committed a bunch of them and that corruption and intimidation prevented investigations. In 2008, the Policia Nacional Civil (PNC) reported having investigated 32 accusations of such killings and investigated 185 agents, finding PNC personnel responsible in 18 of them, with the rest of the files still open. The government has been out of the political-assassination business as far as is publicly known since the end of the civil war in 1996, most analysts agree, but the private sector has taken over the enterprise with a vengeance. "Societal violence was rampant," says the report. "Nonstate actors, with links to organized crime, narcotics trafficking, gangs, private security companies, and alleged 'clandestine' or 'social cleansing' groups, committed hundreds of killings during the year." The Unidad de Proteccion de Defensoras y Defensores de Derechos Humanos (UPDDDH) cites 221 threats against human rights defenders, with 12 killed. Police involvement was alleged in some cases. Police were also implicated in data from the Grupo Guatemalteco de Mujeres (GGM) reporting on 722 murders of women from January to December. The PNC reported 6,292 murders for the year, of which it counted only 687 women. Another nongovernmental organization (NGO) quoted in the report, the Grupo de Apoyo Mutuo (GAM), counted 105 children murdered and 138 lynchings of people of various ages. GAM noted the lynchings were the public response to the lack of an effective judicial or police institution and counted among the victims government and police actors who had failed in their official responsibilities to enforce the law. The rest were alleged perpetrators of a variety of crimes, where a disillusioned public took law enforcement to themselves. At times the lynch mobs have been

tragically wrong, subjecting innocent people to punishments and tortures of the very worst kind. The report documents some of these. The report found the government not to have perpetrated disappearances, but there were at least nine cases of police involvement in kidnaps for ransom, according to the PNC's Oficina de Responsabilidad Profesional (ORP), nor were there developments on past high-profile cases. The PNC was also involved in another of the reports' rubrics, torture, and other cruel, inhuman, or degrading treatment or punishment, and note is taken that PNC chief Elias Lemus Guerra, along with others, is on trial for illegal detention and extortion involving false drug-possession charges. Prisons were called harsh and dangerous, lacking in resources and corrupt, insecure and inadequate regarding health care and food. Prisoners with money live well and use cell phones to participate in and manage criminal activities, including kidnapping. Overcrowding is a problem, with 19 institutions designed to hold 6,974 people currently home to 8,242, 45% of whom have not yet been tried and convicted. With no work and educational help, recidivism stands at 90%. Women and juvenile inmates are physically and sexually abused. There are reports of arbitrary arrests and detentions and police ignoring mandates to bring prisoners before magistrates or to hearings. Fair public trials were denied defendants because of insufficient personnel or funds, corruption, intimidation of judges, prosecutors, and witnesses. Most serious crimes are not investigated or punished, and witnesses have been killed. Moving on to respect for civil liberties, the government generally respects press and speech freedom, but there were 35 complaints of attacks and intimidation against journalists during the year, particularly in cases reporting on police aggression. On freedom of assembly, there is no official restriction, but police used unnecessary force in handling demonstrations, and the government declared a state of prevention three times during the year, suspending assembly and other civil rights. But on other freedoms, association, assembly, religion, movement, there was no systematic violation, and there was no progress on internally displaced persons, protection of refugees, and stateless persons, all big problems during the civil-war period. On elections and political participation, Guatemalan citizens have been able to change government by democratic means with Organization of American States (OAS)-documented free and fair elections, but Amnesty International (AI) did note 26 killings of political activists in the last election. Election of women is limited, but not systematically blocked. Government corruption and transparency, or the lack of it, is a serious problem. Surveys indicate public lack of confidence in nearly all government institutions in all branches. Impunity remains rampant, as documented by several reports, including the UN special representative on human rights. As with all the other categories, the US report provides many pages of individual examples. Women is a separate category in the report. Sexual offenses against women remain a serious problem, even though the law on these is good and the Congress even passed, in April, the law against femicide and other forms of violence against women. There is a special unit for crimes against women in the state prosecutor's office, which this year noted a 10.8% decrease in rapes year-on-year for 2008. But violence against women in general, including domestic violence, remains common and high. The Public Ministry has responded with a "comprehensive model of attention" to coordinate legal, psychological, and medical assistance to victims of these crimes. There are several programs to assist women, including the program for prevention and eradication of intrafamily violence, under the first lady's secretariat of social work and the office of the advocate for indigenous women within the administration's Comision Presidencial de Derechos Humanos (COPREDEH). Many NGOs also serve in this area, but the statistics are skimpy on their overall effect. When it came to children, however, the government "devoted insufficient resources to ensure adequate educational and health services for children." The UN High Commissioner for Refugees (UNHCR) reported a lack of facilities and opportunities for registering births, especially for indigenous, with the result that

their access to public services later on was restricted. Free education is constitutionally mandated up to grade nine, yet fewer than half those over 13 years of age had completed primary education. According to government figures, in 2007, 42% of children who entered first grade completed sixth; 45% of those entering seventh completed ninth. Rural and indigenous children had lower completion rates. Child abuse is a serious problem. The government boasts convictions in specific cases, 45 of 57 cases opened during the year, but is more than overwhelmed by the numbers of children the grossly underfunded public welfare system must look after. The government had to refer 245 of 430 children its agency handled to the NGO Casa Alianza. Some of these were sexual-exploitation cases, of which Casa Alianza handles many. Guatemala's reputation for being a major exporter of stolen children for First World, mainly US, adoption figures into this category, and, although the traffic has been impeded by the passage of a law that brings the country into line with the Hague Convention on Intercountry Adoption (see NotiCen, 2008-03-13), the practice continues reduced but not abated. Related to this is trafficking in persons. Guatemala is identified in the report as a source, transit, and destination country for citizens and other Central Americans "trafficked for purposes of commercial sexual exploitation and forced labor." There are no reliable estimates of the extent of the problem, but it also includes in-country child prostitution, begging rings, and sales of children for these purposes. People with disabilities are not served at all well in Guatemala, where there are no specific anti-discrimination laws. There is a law mandating access to public facilities, but even most major universities violate it without consequence. Workers have the right to association and to form unions, but enforcement is weak, and workers suffer employer intimidation and violence. Unions and advocacy groups report a significant increase in killings of activists and their families. A petition has been filed under the Central America Free Trade Agreement (CAFTA), but the government remains helpless to enforce its laws, and the US, publisher of this report, has done nothing to exercise its obligations and prerogatives under CAFTA. Workers have the right to strike, but weak unionization and legal hurdles kept the number of strikes to two last year. There were demonstrations by teachers, health workers, farm workers, and other labor groups. The executive branch, president and Cabinet, are empowered to suspend any strike "gravely prejudicial to the country's essential activities and public services," and work stoppages not approved as legal strikes can result in punishment, including suspension or firing for absence without leave. Unions, weak as they are, have protested the use of national interest and emergency as an excuse to declare strikes illegal, but to little avail. Labor courts are ineffective, with long backlogs of reinstatement cases, and the International Trade Union Confederation (ITUC) found insufficient labor inspections, a weak judicial system, and impunity in its annual survey. The International Labor Organization (ILO) found a weak Labor Ministry crippled by a 2004 ruling by the Corte Constitucional (CC) that it cannot impose sanctions on employers for labor-law violations. Formation of new industry unions required jumping almost insurmountable hurdles, including that membership constitute 50% plus one of all the workers in an industry. The ILO's Committee of Experts (COE) said that restricts union formation. Labor activists, said the report, considered this "a nearly insurmountable barrier to the formation of new industry-wide unions, effectively eliminating the possibility for workers to exercise the right to negotiate and formally engage employers at an industry level." There may be little to be proud of anywhere in this report for Guatemala, but some encouragement could be taken in that, of the 40 countries included in it, only Colombia, Guatemala, Thailand, Bangladesh, and Iraq have improved their overall standings.

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