



# Guatemala Human Rights *UPDATE*

Guatemala Human Rights Commission/ USA

Vol 17 No 5/ March 1, 2005

## **DEATH THREATS AND OTHER INTIMIDATIONS**

### **Daughter of Witness in Corruption Case Is Wounded and Threatened**

**2/16/05** - MARTA GISELA LÓPEZ MARTÍNEZ, daughter of VICTOR SALOMON LÓPEZ SALDANA, a member of the governing body of the Superintendence of Tax Administration (SAT) and witness in two corruption cases, was the victim of a violent attack.

According to reports from authorities, on February 14, two men intercepted the car of López Martínez and cut her in the neck with a knife while she was in her car in Guatemala City.

“This is for the testimony that your father gave as a witness,” declared one of the two men to López Martínez.

The women’s father, López Saldana, testified as a witness in the ongoing trial against the former minister of Public Finances Eduardo Weyman for having allegedly embezzled Q38 million (\$4.75 million).

Also López Saldana will be called upon to testify in the trial against the former SAT director, Marco Tulio Abadio, accused of stealing more than Q50 million (\$6.25 million) from that institution.

As a result of the attack, the Public Prosecutor’s Office will provide protection to López Saldana and his family.

### **Campesinos Threatened by Gunmen**

**2/24/05** - ISRAEL CARÍAS, president of the Committee for Comprehensive Development of the Community of Los Achiotos, Zacapa, reported receiving death threats by heavily armed men on January 20. These men allegedly were sent by plantation owners in the region who claim to own campesino-occupied lands. They showed up at Los Achiotos in an unregistered truck looking for and threatening Carías; however, they did not find him.

Carías stated that Los Achiotos is comprised of approximately 187 campesino families, who for more than

170 years have fought to have the lands they live on awarded to them. Landowners have obstructed this process by using various methods to frighten the campesinos and authorities.

On February 24, dozens of campesinos from Los Achiotos protested in the town center demanding that authorities investigate the harassments and death threats. With the assistance of the CUC, the campesinos also officially requested there be mediation regarding the land conflict.

### **Death Threats Against CUC Leader**

**2/17/05** - According to reports from the Committee for Campesino Unity (CUC) unknown perpetrators, apparently private security for a plantation in Izabal, have threatened to kill campesino leader ADALBERTO ROLDÁN. Roldán is from the San Vicente de Paúl community of Morales, Izabal.

A CUC press release expressed that the inoperability of Guatemala’s judicial system is of great concern for the campesinos, especially since aggravated assaults and reports of death threats go uninvestigated.

Since 2001, ten community leaders have been murdered in various municipalities of Izabal and despite evidence on the part of campesino groups, the crimes remain unresolved.

The campesino organization has demanded that the Public Prosecutor’s Office (MP) investigate the death threats and that those responsible for the crimes be brought to justice.

### **Journalists Report Constant Death Threats**

**2/21/05** - Journalists from Channel 13’s Contacto Noticioso, in the department of Chiquimula, have received numerous threats attempting to stop them from reporting problems in the region. The threats have taken a variety of forms, including receiving phone calls of funeral marches. The director of the program, BENJAMÍN MARTÍNEZ, reported the more than twenty-five threatening phone calls that he and his team have received since

the beginning of the year. He said his staff is now fearful of being sabotaged while covering news stories. The most recent threat came on February 16, but the station did not bother reporting it to the Public Prosecutor's Office because "they only receive complaints, but never investigate them," said Martínez.

## FUNDAMENTAL VIOLATIONS

### Jutiapa Mayor's Daughter Kidnapped then Released

**2/18/05** - Four days after being kidnapped, four-year-old LESBIA MELISA ESTRADA VÁSQUEZ, daughter of JAIME ESTRADA GARCÍA, mayor of Jutiapa, was freed on the morning of February 17 along the highway to El Salvador, in the jurisdiction of Asunción Mita.

The girl was kidnapped by unidentified armed men who intercepted the vehicle in which she was traveling, which was driven by JAIME BARRIOS FORONDA whom they also kidnapped.

Mayor Estrada García stated in a press release that the kidnappers called his family at 12:40am on February 17 saying that they had accidentally kidnapped the wrong person and they would free her, along with Barrios.

A police chief stated that no ransom was paid for the girl and driver's release, nor did the kidnappers demand one. The Criminal Investigative Service (SIC) of the National Civil Police (PNC) is investigating the double kidnapping.

Estrada García also lamented the kidnapping of other youth in Guatemala. On February 15 TATIANA MORALES was kidnapped when she arrived at a school for girls in Jutiapa. There is rumor of another kidnapping in El Progreso, Jutiapa, but authorities have not yet confirmed it. Apart from Jutiapa, youth gangs have recently kidnapped other persons in Coatepeque, Quetzaltenango.

## WOMEN'S RIGHTS

### Commissions Issue Favorable Report on Domestic Violence Reform

**2/18/05** - The Guatemalan Congressional Commissions on Women, Youth, and Family issued a joint report in favor of reforms to the Penal Code. These reforms are intended to protect victims of domestic violence and to

punish those responsible. The reforms will depend on the decision of the board of Legislation and Constitutional Points, according to representative Aura Marina Otzoy Colaj.

The bill sets forth severe punishments for those who commit criminal acts against youth, women, and the elderly, specifically in regards to crimes such as rape and sexual abuse, torture, and murder. The crimes would be punishable by up to five to thirty years in prison; as well as capital punishment for those related to kidnapping, rape, and murder.

A crime of mistreatment will be classified as one that is committed by a person in a role of power or trust in the home by restricting the liberty of movement or communication of another person.

In addition, a crime of psychological violence is committed when a family member continuously, unjustly prohibits or limits the exercise of beliefs, decisions, or development of a relative.

During a meeting, which lasted more than three hours, leaders of more than fifty women's organizations requested that Congress expedite the approval of several projects, in particular, one geared toward reforming the Penal and Penal Process codes. The groups criticized the lack of advances made on initiatives classifying sexual abuse and regulating contracts of domestic employees, among others.

### Eighty Women Have Died in 2005

**2/22/05** - Since the beginning of 2005, eighty women in Guatemala have been violently murdered. This figure has nearly doubled compared with the first two months of 2004.

In January 2004, twenty-six women lost their lives to violence, and in February 2004, twenty-seven women. This year, as of February 21, the number of women brutally killed has already reached eighty. According to police, thirty of these women died in Guatemala City, and fifty in rural areas.

Women's rights groups expressed that despite recommendations made to help authorities make progress, including advocating for an investigation unit within the police force and urging the Public Prosecutor's Office (MP) to contract specialized personnel to investigate the cases, the number of violent crimes occurring against women continues to increase.

## RIGHTS OF THE CHILD

### **Guatemala Considers Adopting New Anti-Gang Legislation**

**2/22/05** - Guatemala is currently contemplating whether to adopt the tough laws against the gangs (maras) that El Salvador and Honduras have already adopted. By mid March the Guatemalan Congress will have voted on anti-mara legislation, which would punish mere membership, or tattoos suggesting membership of the gangs.

The legislation is being backed by the Patriotic Party and the National Advancement Party. Although between them these parties control only twenty-three of the 158 seats. Even with support from other sectors, this might not be sufficient for ratification. President Óscar Berger is opposed to the legislation, preferring social rehabilitation programs that aim to coax youths away from gangs.

Under the new bill gang members as young as twelve would be considered adults, gang leaders could face twelve-year sentences, and asking for money on an urban bus could become a crime. One of the proponents of the bill, Manuel Baldizón, argues that it responds to the public clamor for action against the maras. While it is true that security problems are the main concern of the public, polls suggest that a majority agrees with much of the media that draconian laws will not provide the answer.

### **Relatives of Missing Children Seek to Open Military Archives**

**2/25/05** - Groups searching for children who vanished during Guatemala's armed conflict said they are asking for access to military archives. "Eighty percent of the cases cannot be resolved because [the children] were captured by soldiers and taken to military centers and from there we know nothing more," said Axel Mejía of the group Casa Alianza, a branch of New York-base Covenant House.

It is part of the Search Commission for Disappeared Children, which is investigating about 1,200 cases of children who vanished amid armed confrontations or massacres involving military or paramilitary forces during the war that ended in 1996 after more than 200,000 people died or disappeared. "We are asking the army, Congress, the current president to help us open the army archives and those of orphanages that received children during the armed conflict," Mejía said, whose own group specializes in helping street children. Many children are

believed to have been turned over to orphanages or adopted by military families.

## INDIGENOUS RIGHTS

### **Menchú to Serve as Indigenous Liaison**

**2/25/05** - Rigoberta Menchú accepted a position as the formal link between the government of Guatemala and the country's indigenous community as one of the implementations of the Millennium Goals established by the United Nations.

The winner of the Nobel Peace Prize has committed to dedicate 75 percent of her time to developing rapprochements among the indigenous communities with the goal of identifying their needs and opportunities for development.

## SOCIAL AND ECONOMIC RIGHTS

### **Banned Corn Shipped to Guatemala**

**2/16/05** - On February 16, environmental groups said they have discovered that genetically modified corn never approved for human consumption is being handed out as UN food aid to Guatemala.

A study backed by the international group Friends of the Earth found that samples of World Food Program grain shipments included StarLink, a corn withdrawn from the market in the United States because of concerns it could provoke allergic reactions.

Discovery of StarLink corn in consumer products in the United States prompted several high-profile supermarket recalls of cornmeal, corn dogs, taco shells, soup, and chili mixes in 2000 and 2001. The grain sent to Guatemala was intended for human consumption in products like tortillas, members of the Central American Alliance in Defense of Biodiversity said at a news conference in Guatemala. The allegations regarding StarLink were part of a broader protest about genetically modified corn being included in food aid shipments to Central America.

In addition to Guatemala, news conferences were held in El Salvador, Honduras, and Costa Rica. Environmentalists cited a study that looked at seventy-seven samples of imported corn included in aid shipments or sold on the open market. Eighty percent was reported to include genetically modified material.

## HEALTH RIGHTS

### **HIV Positive Guatemalans Demand Access to Medicine**

**2/15/05** - On February 14, over one hundred HIV positive Guatemalans protested in front of the buildings of Congress and the Ministry of Health, demanding that the government increase citizen accessibility to generic drugs. The humanitarian organization Doctors without Borders (MSF) has provided treatment to 530 patients, but will cease doing so as of June; the Guatemalan government has expressed little interest in assisting with the treatments.

After four years of providing medications to over 1,300 individuals in Guatemala City and in Coatepeque, Quetzaltenango, MSF has delegated this responsibility to the State of Guatemala. According to MSF, the first who will be adversely affected are 530 patients who have been receiving treatment in the public Roosevelt Hospital.

## JUSTICE AND RECONCILIATION

### **Ex-PACs Threaten to Take Action to Receive Compensation**

**2/16/05** - Guatemala's top tribunal, the Constitutional Court, ruled on February 8 that a bill approved by Congress allowing payment of compensation to the former militiamen of the Civil Defense Patrols (PAC) was unconstitutional. The 520,000 members of the ex-PAC claim that the state owes them for assisting the armed forces during the counter-insurgency campaign.

On February 15, the ex-PACs threatened to repeat the protest actions for which they have become famous in recent years: setting up roadblocks and bringing the country to a standstill. This time, however, their protests might fall on deaf ears. President Óscar Berger says he will abide by the court's decision and is only prepared to offer the ex-PAC payment-in-kind, which would involve channelling funds into infrastructure and development projects benefiting their communities. Congressional leaders, at least for the moment, are saying the same.

### **Chixoy Activists Liberated**

**2/18/05** - After being detained for occupying the Chixoy Hydroelectric plant, several activists were freed on February 16 by order of a judge from Cobán, Alta Verapaz. Carlos Chen, one of the campesinos, stated, "they detained me unjustly, we only want to demand our rights to

the National Electricity Institute (INDE) because in 1975, when they began the construction of the Chixoy Dam, they began the expropriation of our lands." Chen added that he was a member of the village of Río Negro and was relocated to the community of Pancux.

Edgar Pérez, defense lawyer for the campesinos, stated that the campesinos freed by judge Ennio Najarro represent the struggle of twenty-three communities affected by the dam construction. Those initially arrested are Julio Santiago, Juan García, Félix Alonzo Raymundo, Víctor Lem, Miguel Picón, Domingo Sic, and Santiago Fernández.

Before the construction of the Chixoy Dam, the village of Río Negro, Quiché, was the site of six massacres. In March of 1982, 177 people were killed. Eighty-two people were killed in May 1982, as well as, ninety-two in September of the same year. Human rights organizations feel that the massacres were intended to facilitate the expropriation of lands for the construction of the Chixoy dam.

In addition, the twenty-three communities of Rabinal, Baja Verapaz brought a case to the Inter-American Human Rights Commission, concerning the displacement of communities during the 1980s, due to the construction of the Chixoy Dam. The case is in opposition to the United States, the Guatemalan government, the Inter-American Development Bank, and the World Bank for providing funds for the construction of the hydroelectric dam during administrations widely known for their human rights violations.

The Center on Housing Rights of the Evicted, and the organization Rights Action will advise the Rabinal communities. Dominga Sic, human rights activist and survivor of one of the Río Negro massacre, will take part in the case.

### **CONAVIGUA Requests Protection for Exhumation Work**

**2/14/05** - Before beginning the exhumation process in the areas most affected by the armed conflict, the National Coordinating Committee of Guatemalan Widows (CONAVIGUA) asked Guatemalan authorities to investigate threats and other acts of violence committed against human rights groups. The organization said that at the end of February a new search for remains will begin in clandestine cemeteries located in Chimaltenango, Quiché, and Baja Verapaz where massacres and crimes of genocide were committed.

In Quiché, cemeteries will be exhumed in Chajul, Nebaj, Playa Grande, Sacapulas, and San Andrés Sajcabaja; in Chimaltenango, exhumations intend to be carried out in San Martín Jilotepeque, Comalapa, and San José Poaquil; in Alta Verapaz exhumations will occur in Cahabón.

During 2004, CONAVIGUA with the help of members the Guatemalan Foundation of Forensic Anthropology (FAFG), completed twenty-two exhumations in Quiché and Chimaltenango recovering 163 bodies.

A member of the Mutual Support Group (GAM), another organization involved in exhumation work, has received death threats. At 3am on February 3, a man armed with a gun entered the hotel room where Sarah Poroj, from GAM's Exhumations Program, was sleeping and searched her documents and belongings, while keeping his gun pointed towards her head.

**Spain Issues Arrest Warrant for Lucas García 2/22/05** - A Spanish judge has issued an arrest warrant for former Guatemalan president Romeo Lucas García, currently believed to be living in Venezuela, on charges of human rights abuses.

The Rigoberta Menchú Tum foundation said Spanish judge Fernando Grande-Marlaska issued the warrant for the deaths of Spanish and Guatemalan citizens during a bloody 1980 police raid on the Spanish Embassy in Guatemala. The National Court in Madrid confirmed on February 22 that the warrant had been issued.

"This is another sign that impunity cannot last forever, as it had once seemed in Guatemala," said Gustavo Meoño, director of the foundation.

Venezuelan authorities said they would investigate whether Lucas García was living in Venezuela and would consider his extradition if requested. "We have not received any information up until today from the foreign ministry about a formal request," Venezuelan Interior Minister Jesse Chacón said. "If this man is in Venezuela, we will pass the information to the judicial authorities and if they determine the Spanish government has completed the requirements, we will proceed with extradition," he said.

The eighty-one-year-old Lucas García is believed to suffer from Alzheimer's.

The practice of revealing arrest warrants has become controversial after former Guatemalan Interior Minister Donald Álvarez Ruiz, wanted for the same crime, apparently was able to flee police in Mexico in Decem-

ber after word of the warrant was leaked to the press.

In 1998 the US Department of State declassified a document that linked both Donald Álvarez and Lucas García to death squad activities. Álvarez served in Lucas García's 1978-82 administration.

The 1980 raid on the embassy killed thirty-seven people, including Vicente Menchú, the father of Rigoberta Menchú. Vicente Menchú was among a group of Guatemalans who occupied the Spanish Embassy in 1980, asking the diplomatic mission to help stop attacks against Guatemala's indigenous population. Instead, police staged an operation to retake the embassy, during which the protesters were killed.

### **Trial Date Set for Appeal in Gerardi Case**

**2/22/05** - The hearing to appeal the sentence for the 1998 murder of bishop Juan Gerardi will take place on March 10, when defense lawyers will attempt to appeal the convictions against three military officers and one priest who have previously been found guilty. According to the official justice system's press office, the hearing will be presided over by judges in the Second Court of Appeals.

In June 2001 a court sentenced military officers Byron Disrael Lima, Byron Miguel Lima Oliva, and José Obdulio Villanueva to thirty years in prison each for extrajudicial execution. Priest Mario Orantes Nájera was sentenced for twenty years as an accessory to the crime.

However, in October of 2002, military lawyers succeeded in overturning the convictions of the four men linked to Gerardi's murder and were awarded a new trial. In February, 2003, Jose Obdulio Villanueva was killed in a prison riot. Over the duration of the trial, two judges, three prosecutors, and various witnesses fled the country due to death threats. Early in 2003 the Constitutional Court upheld the June 2001 ruling.

Gerardi was killed with a concrete block in the garage of his Guatemala City seminary in April 1998, days after presenting a lengthy report blaming the military for 80 percent of the deaths during the country's 1960-96 civil war.

### **Government Budgets Funds for PNR**

**2/25/05** - On February 25, also Victims' Day of Dignity, the government created a trust worth Q300 million (approximately \$37.5 million) to compensate those adversely affected by the armed conflict.

The National Reparations Program (PNR), created by groups representing individual and communal sur-

vivors of the armed conflict, is slated to last for thirteen years, and is designed to address both long-term and short-term compensation objectives. Until now, the PNR has only been allotted Q30 million (approximately \$3.75 million).

Government accord 68-2005, published in the official State newspaper on February 24, confirmed the assignment of the Q300 million and that additional funds can be added at the government's discretion or through international donations.

Reparations under the PNR for the over 250,000 affected individuals is intended to include: psychological assistance and therapy for families of the victims, cultural recuperation of each community, dignification of the dead, and direct economic indemnification. Recently, the government ruled to not include as available for compensation the act of genocide. (See UPDATE Vol 17 No 5 "Genocide Not Considered for Compensation")

### **One of Zamora's Attacker Sentenced**

**2/26/05** - In the case of attacked journalist José Rubén Zamora, one of his alleged aggressors, Eduviges Funes, was sentenced to sixteen years in prison, while the other, Bélder Álvarez, was absolved.

Funes was found guilty of threats, coercion, illegal detention, aggravated robbery and for breaking and entering Zamora's home on June 24, 2003. The court, presided over by judges Leonel Meza, Carol Flores, and Rudy Pineda ruled that the former intelligence officer from the now-disbanded Presidential High Guard (EMP), participated in the illegal acts and was clearly identified by the victims.

In the case of Álvarez, the judges decided that the Public Prosecutor's Office (MP) did an insufficient job of proving his guilt.

The court denied the petition to initiate legal proceedings against former president Alfonso Portillo for his alleged participation in the attack. Zamora argues that Portillo is complicit due to the chain of command as the de facto head of the EMP, however the court ruled that the MP would have to build the case, not the court.

## **RIGHT TO A CLEAN ENVIRONMENT**

### **CAFTA Countries Sign Environmental Cooperation Agreement**

**2/20/05** - On February 20, Under Secretary of State for

Global Affairs, Paula Dobriansky, and senior representatives from five Central American governments (Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua) and the Dominican Republic signed an Environmental Cooperation Agreement at the Organization of American States in Washington, DC.

An Understanding Regarding the Establishment of a Secretariat for Environmental Matters under the Dominican Republic-Central America-United States Free Trade Agreement was signed by Assistant US Trade Representative Regina Vargo and her counterparts representing the six countries at the same ceremony.

The Department of State and the Office of the US Trade Representative were assisted by several other US government agencies, including the Agency for International Development and the Environmental Protection Agency, in concluding these instruments. These US agencies, among others, will join in the implementation of the Agreement's work program.

The Environmental Cooperation Agreement establishes a comprehensive framework for cooperation to build capacity for environmental protection with strong public involvement.

## **PEACE ACCORDS**

### **Government Sends OHCHR to Congress**

**2/22/05** - Vice-President Eduardo Stein sent a certified copy of the accord regarding the installation of the United Nations Office of the High Commissioner for Human Rights (OHCHR), agreed upon by the UN and the Guatemalan government. According to Stein, the initiative is in the hands of the Congressional Commission on Human Rights and expects its eventual ratification. If passed, the OHCHR will observe the human rights situation in the country and will advise both governmental and non-governmental organizations and institutions.

## **OTHER INFORMATION**

### **COPREDEH Promises to Investigate Social Cleansing**

**2/16/05** - Frank LaRue, Presidential Human Rights Commissioner, announced on February 16 that he plans to execute an investigation into the report of alleged social cleansing put forth by legislatures from the Guatemalan





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, Sglo Veintiuno, and Patrullaje Informativo. \* Dates written before the text indicate when the incidents were reported.

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ISSN #1085-0864

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