

GUATEMALA – A CRACK IN THE WALL OF IMPUNITY:

- **WAR CRIMES & GENOCIDE LEGAL CASES ADVANCING PRECARIOUSLY IN GUATEMALA COURTS**
- **SUPPORT & INTERNATIONAL ATTENTION NEEDED**

July 27, 2010

RIGHTS ACTION Comment: Recently, we have reported on how certain legal cases, seeking justice for the war crimes, State terrorism and genocide of the 1970s, 80s and early 90s, are again advancing in Guatemala courts:

April, we reported that certain trials were finally moving ahead again, however so slowly & dangerously: http://rightsaction.org/Alerts/Guatemala_war_crimes_possibility_042710.html

June 8, we reported how these trials are at risk, due to further repression:

http://rightsaction.org/Alerts/War_Crime_Trials_Guatemala_061210.html

June 14, we reported on a brutal backlash to the trials, including killings and beheadings:

http://rightsaction.org/Alerts/Guatemals_beheadings_061310.html

BELOW - A SERIES OF SHORT ARTICLES:

"Impunity & justice update", by Jennifer Harbury, jharbury@yahoo.com

"Ex-Guatemalan commando in Fort Lauderdale court admits lying about massacre", by Alfonso Chardy, achardy@elnuevoherald.com

"Guatemala: naming the "disappeared"", by Danilo Valladares, 18 January 2010

Support is needed for the people and organizations that are courageously pushing these legal cases forwards, despite repression and threats.

- To support and what to do, see below
- Please redistribute this information
- To get on/ off Rights Action's listserv: www.rightsaction.org

FOR MORE INFO: Annie Bird (202-680-3002, annie@rightsaction.org) & Grahame Russell (860-352-2448, info@rightsaction.org)

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[Rights Action comment: Jennifer is a U.S. lawyer, who married Efrain Bamaca, an indigenous leader of the armed guerrilla movement in Guatemala. Efrain – known as "Everardo" – was illegally detained in an illegal, clandestine Guatemalan detention center, tortured, and then "disappeared". The C.I.A. was directly involved in the illegal detention, torture and disappearance. Jennifer continues with efforts to have justice done in Guatemala.]

IMPUNITY & JUSTICE UPDATE

From: Jennifer Harbury [jharbury@yahoo.com]

Sent: Saturday, July 17, 2010

Dear Friends, The war crimes cases are still pressing forwards, but things remain extremely tense right now in Guatemala. There have been an unusually large number of attacks and killings throughout the country.

ATTACKS AND KILLINGS

A woman deeply involved in the anti-mining campaign was recently shot through the head. Another woman who was once involved in the Dos Erres massacre case as a court official has also been shot point blank in her home. Nothing was stolen in either killing.

My lawyer, Edgar Perez, came home with his family two weeks ago to find that his house had been broken into. Some money was stolen from a special closet, but the house was also ransacked. Someone also tampered with his car.

The fiscales (prosecuting attorneys) have been getting threats as well, and I remain under threat of arrest. To summarize, Conrado Reyes is gone from the Prosecutor's Office, and the de facto coup was averted by Castresana's amazing resignation speech (from CICIG, the international commission investigating and prosecuting organized crime that has infiltrated all institutions of the government, State and judiciary). But the situation remains very tense and very violent in all regions.

The human rights community continues to amaze me. Aura Elena and the women at FAMDEGUA (Family Members of the Disappeared) are pressing the Dos Erres massacre case, and have accepted the Panzos massacre case as well, despite the obvious risks.

Congress member Nineth Montenegro (co-founder of GAM, the Mutual Support Group, in 1984) is doing great work as a Congresswoman and is also receiving very serious death threats. Several local rights defenders as well as some officials are facing rather preposterous criminal complaints. As in my own case, these were filed just as Conrado Reyes was appointed (as the country's lead attorney general). With 20-20 hindsight it seems pretty clear to me that we were really going to get hauled off to jail as a warning to the others. The Fiscal's office is working to get these dismissed ... we will see what happens. None of us plan to leave.

Meanwhile, in Everardo's case (the illegal detention, torture and disappearance of Jennifer Harbury's husband, Efrain Bamaca) I keep finding more important materials and connections. Right now we are dealing with the half dozen amparos (legal motions) from the defense that are paralyzing the proceedings. These are all based on the claim that the case should not have been re-opened, (despite the Inter-American Court of Human Rights ruling) and that I should not be allowed to participate or present my evidence because I am not the wife (despite the Inter-American court ruling).

The only way they can win this is for the Corte de Constitucionalidad to rule that the Supreme Court had no right to apply international human rights law. Of course, no one is going to want to do that, so it will be interesting to see what happens.

PSY-OPS (PSYCHOLOGICAL OPERATIONS) & DEFAMATION CAMPAIGNS

Two days ago the human rights community put together a really interesting forum in Zona 10. The subject was Psy-Ops (psychological operations) and Defamation Campaigns as military strategies to maintain the official impunity. Everyone is pretty much sick of the campañas negras (black campaigns) here. It has been happening since Arbenz (1954) right through to the recent case of Castresana of the CICIG.

Some of the examples the panel discussed were the Gerardi case (Bishop Juan Gerardi, assassinated in April 1998), the criminalization of the anti-mining leaders, the public smear campaigns of the young women being slaughtered in the femicide killings, the case of Dianna Ortiz (U.S. religious sister illegally detained and tortured in the late 1980s – with direct C.I.A. involvement), and of course, yours truly.

The strategy is obviously to discredit and punish the victim, and divert all public dialogue away from the real issues, such as genocide and torture. We have all decided to work together to recognize the issue and deal with it as a serious human rights violation in its own right. In fact the Inter-American Court said as much a few years ago in Everardo's case.

Thanks once again to everyone for the calls and letters of support. They made a real difference, and really raised the morale in a number of offices.

Abrazos, Jennifer, jharbury@yahoo.com

[To learn more about and/or support Jennifer's untiring efforts, write her directly, or contact the Guatemala Human Rights Commission, 202-529-6599, amartin@ghrc-usa.org]

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[Rights Action comment: FAMEGUA (Family Members of the Disappeared in Guatemala) – a long time partner group of Rights Action – continues with efforts to seek justice for many State crimes of the past, including the “Dos Erres” massacre case.]

EX-GUATEMALAN COMMANDO IN FORT LAUDERDALE COURT ADMITS LYING ABOUT MASSACRE

By Alfonso Chardy, - achardy@elnuevoherald.com

<http://www.miamiherald.com/2010/07/07/1719541/ex-guatemalan-commando-admits.html>

Gilberto Jordán, a former Guatemalan military commando, admitted in Fort Lauderdale federal court Wednesday that he lied in his U.S. citizenship application by concealing his participation in a massacre that left 251 men, women and children dead in 1982.

Minutes after Jordán, 54, pleaded guilty, U.S. District Judge William J. Zloch classified him as a danger to the community, revoked his \$100,000 bond, told him the court intends to revoke his U.S. citizenship and warned that his plea may lead to his deportation to his homeland. Then two U.S. Marshals took Jordán into custody, ordered him to remove his belt, frisked, handcuffed and escorted him out of the courtroom through a side door.

The dramatic scene in Courtroom A on the second floor of the Fort Lauderdale federal court building closed a chapter in one of the worst massacres in Guatemala's history: the killing of the 251 victims in December 1982 at the Guatemalan village of Dos Erres during the Central American country's long civil war.

During questioning by U.S. Immigration and Customs Enforcement agents before his arrest, Jordán admitted that one of his first victims at Dos Erres was a baby. An ICE affidavit in the case said Jordán “readily admitted that he threw a baby into the well and participated in killing people at Dos Erres, as well as bringing them to the well where they were killed.”

As the hour-long court session unfolded, judge Zloch read parts of the affidavit that described in chilling terms how the victims were killed after being interrogated by soldiers belonging to a Guatemalan special forces commando unit known as kaibiles.

“During the interrogation, the special patrol proceeded to systematically kill the civilian men, women and children at Dos Erres by, among other methods, hitting them in the head with a hammer and then pushing them into the village well,” the judge read in solemn tones from the ICE affidavit.

“Members of the special patrol also forcibly raped many of the women and girls at Dos Erres before killing them.”

Moments later, when Judge Zloch expressed surprise that Jordán had been released on bond after his arrest, he asked the federal prosecutors and the defense lawyer how many more atrocities Jordán needed to commit before he could be considered a danger to the community.

“How many more heads have to be mashed?” Judge Zloch asked, looking at both the prosecutors and the defense attorney. “How many more women need to be raped? How many more?”

Judge Zloch, in blunt remarks, proceeded to note that Jordán “sounds like a mass murderer.”

Federal prosecutors in the courtroom said the government originally agreed to the bond because they expected Jordán’s “cooperation” in the case. But on Wednesday, the prosecutors asked the judge to revoke the bond and remand Jordán into federal custody.

Jordán’s attorney, federal public defender Robin Cindy Rosen-Evans, objected, noting that her client was not a danger to the community, not a flight risk and had complied with all bond conditions.

After leafing through court papers, the judge announced: “I am going to revoke his bond based on the nature and the circumstances that brought Mr. Jordán before us. I find him a danger to the community.” [. . .]

In 1996, Jordán applied for U.S. citizenship and submitted his application at the Palm Beach Gardens office of U.S. Immigration and Naturalization Service. On Wednesday, Judge Zloch advised Jordán that he could be sentenced up to 10 years in the penitentiary and payment of a \$250,000 fine.

Jordán had no visible reaction, other than responding with terse “Sí, señor” or “No, señor” to the judge’s questions. A tall man, Jordán stood erect in front of the judge, the translator’s earphones over his ears. He wore a brown checkered shirt, no tie or coat and brown pants.

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[Rights Action comment: Since 2000, Rights Action has been supporting the FAFG – the Guatemalan Forensic Anthropology Foundation – that, since 1992, has been carrying out mass grave exhumations throughout the country. The evidence dug up from the massacre sites throughout Guatemala, is crucial to many of the legal cases, including the genocide cases, working their way through Guatemalan and Spanish courts.]

GUATEMALA: NAMING THE "DISAPPEARED"

by Danilo Valladares, 18 January 2010

<http://upsidedownworld.org/main/news-briefs-archives-68/2319-guatemala-naming-the-qdisappearedq>

(IPS) - Through the "My Name Is Not XX" campaign, the Guatemalan Forensic Anthropology Foundation is working to identify the remains of thousands of victims who were forcibly disappeared during the country's 1960-1996 armed conflict, by inviting their relatives to provide DNA samples.

Ads reading "My Name Is Not XX: A Sample of DNA from My Relatives Can Identify Me. Call Phone Number 1598" have been posted in buses in the capital to draw attention to the campaign that was launched in November.

In Guatemala, where an estimated 45,000 people fell victim to forced disappearance, overwhelmingly at the hands of the armed forces and allied paramilitary militias, graves containing the remains of unidentified people are simply marked "XX".

According to the 1999 report by the United Nations-sponsored Historical Clarification Commission (CEH), the 36-year civil war between government forces and leftwing guerrillas claimed around 200,000 lives, mainly rural indigenous villagers killed or forcibly abducted by the state security forces and the local civilian self-defence patrols (known as PACs) set up by the army.

The victims included at least 45,000 people who were forcibly disappeared and buried in secret mass graves, local cemeteries or clandestine graves on the grounds of military bases.

The killings peaked during the early to mid-1980s scorched earth campaign, when hundreds of native villages were wiped out.

"My brother Rubén Amílcar Farfán, 38, was illegally seized on May 15, 1984. Since then, we have been working to find out what happened to him, but knocking on different doors and pleading for information has not been enough to get the authorities to tell us where he is," Aura Elena Farfán, head of the Association of Family Members of the Detained-Disappeared of Guatemala (FAMDEGUA), told IPS.

"Our family members, who were 'disappeared' or slaughtered in massacres and buried in clandestine cemeteries, do not deserve, as human beings, to remain 'XX'," she added.

The activist, along with her mother and another brother, had DNA samples taken by the Guatemalan Forensic Anthropology Foundation to help in the search for Rubén.

Jorge Molina, the coordinator of the campaign, told IPS that the main goal of the project is to bring dignity to the victims and a sense of closure to their families by locating the remains and making it possible for their relatives to hold a proper burial in line with their beliefs.

Stressing the importance of having DNA samples from relatives, he explained the complexity of the task of identifying bodies merely from their dental records, clothing, jewellery or specific features like broken bones.

"The clothes of many victims were changed, and other victims were taken to different places where it was impossible to identify them in terms of location, which is why we are resorting to comparing DNA samples," he said.

So far, around 2,000 people have come to the Foundation's laboratory to provide samples.

At least 12 victims have been identified so far using this method, and there are high expectations with regard to what can be accomplished.

Molina said graves in the potter's field at the La Verbena cemetery in the capital would be exhumed this month. There are more than 3,000 bodies buried there as "XX", "889 of whom we believe to have been victims of forced disappearance between 1979 and 1983."

MISSING CHILDREN - A DIFFERENT STORY

Although a significant proportion of the unidentified bodies in secret mass graves are those of children, many youngsters were orphaned as well.

Early this year, the Guatemalan government reported that it had found evidence substantiating what human rights groups have long held: that children whose parents were murdered during the civil war were often taken to orphanages and put up for adoption. Many were adopted by couples from the United States, as well as from Europe.

Different groups have been working to locate these missing children. Evelyn Blanco, head of the International Centre for Human Rights Research (CIIDH), told IPS that most of the children who had been searched for and located were found to be alive.

"We have located 450 people who went missing as children during the armed conflict, and most of them have been reunited with their (biological) families," she said.

According to the CEH, the victims of forced disappearance included 5,000 children.

Blanco said the campaign that the Guatemalan Forensic Anthropology Foundation is carrying out with support from the European Union is extremely important in the ongoing effort to identify the victims of the armed conflict.

She added that the CIIDH is currently involved in the process of obtaining DNA samples from six Guatemalans who were adopted during the civil war and are living in Italy and Switzerland.

"We have located over 60 cases in Europe," she said.

NATIONAL COMMISSION

Human rights groups are pushing for passage of a law that would create a National Commission to Search for the Disappeared, which would have its own budget and a 15-year mandate to carry out its work, as well as a databank to facilitate the effort to track down and identify missing individuals.

The aim is to centralise the efforts and the assistance given to the families of the victims of forced disappearance.

But the draft law has been stalled in Congress since 2006.

"I believe that giving a decent burial to all massacre victims is extremely necessary in the search for the truth, because most of them were stripped of their identity," the head of the National Coordinating Committee of Guatemalan Widows (CONAVIGUA), Rosalina Tuyuc, told IPS.

"Sadly, the National Reparations Programme has not provided funds for identifying all of the victims of massacres," said Tuyuc, who belongs to the Cakchiquel indigenous community.

The Programme, created in April 2003 with a budget of 35 million dollars a year, is a set of policies, projects and specific actions to compensate and provide recognition and dignity to victims of the armed conflict and their families.

But Tuyuc said it is not enough merely to identify the victims, and that justice must be done as well.

"To keep history from repeating itself, a precedent must be set in all of the cases, not only the ones involving forced disappearance, but also the cases of massacre and genocide, so that not only the material authors but the intellectual ones as well can be brought to trial," she said.

* * *

WHAT TO DO

"There are no magic answers, no miraculous methods to overcome the problems we face, just the familiar ones: search for understanding, education, organization, action ... and the kind of commitment that will persist despite the temptations of disillusionment, despite many failures and only limited successes, inspired by the hope of a brighter future." (Noam Chomsky)

Since 1995, Rights Action has funded and supported countless Mayan and campesino-community based effort seeking justice for the State crimes of the past and to create a country based on the rule of law and real democracy. Their efforts continue ... as will ours.

TAX DEDUCTIBLE DONATIONS

To support community organizations working for justice, the rule of law and real democracy in Guatemala, make check payable to "Rights Action" and mail to:

UNITED STATES: Box 50887, Washington DC, 20091-0887

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RECOMMENDED BOOKS: Eduardo Galeano's "Open Veins of Latin America"; Howard Zinn's "A People's History of the United States"; Naomi Klein's "The Shock Doctrine"; Paolo Freire's "Pedagogy of the Oppressed"; Dr Seuss's "Horton Hears A Who"

NEW BOOK: "CODE Z59.5: There Is Only One People Here", by Grahame Russell. Code Z59.5 is a series of diary excerpts (comments, facts, quotes, etc.) from the 1990s and 2000s, related to the author's work in Central America, Mexico and North America, in defense of human rights. TO ORDER: info@rightsaction.org

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FOR MORE INFO: Annie Bird (202-680-3002, annie@rightsaction.org) & Grahame Russell (860-352-2448, info@rightsaction.org)

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