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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS  
IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND  
OTHER DEPENDENT COUNTRIES AND TERRITORIES

ADVISORY SERVICES IN THE FIELD OF HUMAN RIGHTS

### Note by the Secretariat

The attached document is circulated as an official document of the forty-fourth session of the Commission on Human Rights at the request of the Inter-American Commission on Human Rights of the Organization of American States, in accordance with Economic and Social Council resolution 1159 (XLI) of 5 August 1966.

Annex

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ANNUAL REPORT OF THE  
INTER-AMERICAN COMMISSION ON HUMAN RIGHTS  
1986-1987

(Official English Translation)

(Excerpt)

GUATEMALA

The Inter-American Commission on Human Rights has been devoting special attention to the status of human rights in Guatemala, and has followed very closely the events occurring in that country, which have for a number of years reflected a situation of serious and widespread violence, with the consequent violations of human rights for that country's people.

The Commission has been describing such events in its annual reports to the General Assembly, and has also prepared three special reports on developments in the human rights situation in Guatemala: the first, approved on October 13, 1981, covers the period up to the government of General Romeo Lucas Garcia and his immediate predecessors; the second, approved on October 5, 1983, covers the period after General Efraín Ríos Montt assumed power (March 23, 1982 to August 8, 1983); and the third, approved on April 9, 1986, covers the period of the government of General Oscar Humberto Mejía Vitores. (August 8, 1983 to January 16, 1986), when his administration ended and Vinicio Cerezo Arevalo became president of the Republic.

In its third and last special report on the status of human rights in Guatemala, the IACHR made special recommendations on the need to investigate and punish, to the full extent of the law, those responsible for such abominable acts as the forced disappearances of persons, illegal executions, arbitrary arrests, torture and other crimes against human rights.

These recommendations, while they were directed to the Government of General Oscar Humberto Mejía Vitores, remain in force for this current administration, because they concern the investigation and punishment of severe violations of the essential rights of human beings and of existing international human rights rules.

In its last report to the General Assembly, covering the period of September 1985 through September 1986, the IACHR stressed the progress made in human rights during the first nine months by the new Guatemalan Government, and pointed out that from the time President Vinicio Cerezo took office as the Guatemalan Chief of State, perceptible changes have occurred in the human rights situation in that country, which were reflected in a drop in political assassinations, abductions and forced disappearances of persons, as well as raids and searches of homes and the exodus of the indigenous and rural population, all of which, as indicated, constituted substantial progress in the human rights situation in that country. At the same time, the Commission indicated that, nonetheless, disappearances continued to occur, and other problems affecting the full observance of human rights in Guatemala continued, resulting mainly from signs of decentralization of the violence, which the President of the Republic appeared not to be able to control.

Likewise, the Commission voiced concern in its last report at the failure to investigate the forced disappearances of persons. Although President Vinicio Cerezo had expressed his decision not to investigate such cases directly, he had undertaken to support and back the work conducted on this problem, as a result of the complaints to the judiciary, particularly, the examining magistrate appointed, by the Supreme Court to investigate cases of abductions and disappearances reported by the Mutual Support Group (GAM).

During his visit to Washington in May 1987, President Vinicio Cerezo publicly stated on this subject that regarding the problem of investigating the disappearances of persons before his government took office, he had taken the political decision not to intervene in the investigation of those abuses and that his position had always been clear that the disappearances were a thing of the past. However, he personally would guarantee the independence of the investigations of any complaint submitted to the courts in his country.

During the period of this report, the Commission has received reports on the efforts being made by President Cerezo's government to promote and defend human rights in Guatemala. For example, on January 30, 1987, Guatemala became the first country to deposit its instrument of ratification to the Inter-American Convention to Prevent and Punish Torture.

On March 16, Guatemala became the ninth country to accept the compulsory jurisdiction of the Inter-American Court of Human Rights, through a communication delivered on that date to the OAS General Secretariat by the Permanent Representative of Guatemala to the OAS.

In addition, there is the important role that President Vinicio Cerezo has been playing in the peace efforts for Central America, and the priority that he has given, within his plan of government, to consolidating democracy and representative institutions in Guatemala.

In addition, the difficulties that originally had been encountered and that had caused President Cerezo to veto and return to Congress the bill establishing the post of human rights prosecutor, because he considered that the bill gave that official too much power, were overcome. After the bill was passed, on August 17, 1987, the distinguished jurist Gonzalo Menendez de la Riva, appointed as the first human rights prosecutor in Guatemala, and on August 19, he took the oath of office before the Congress of the Republic.

However, during the period of this report, the Commission has observed that, despite all of President Vinicio Cerezo's declared good intentions to maintain control of the 'human rights situation, a perceptible decline in the observance of human rights occurred immediately after the first months of his government.

No serious effort has been made by the responsible agencies to carry out the Commission's recommendation to investigate the cases of forced disappearances of persons. This has caused the families of such persons, who have joined together in the Mutual Support Group (GAM), to protest continuously through many public demonstrations to exert pressure and arouse public opinion domestically and internationally on the need to investigate the crimes committed against hundreds of persons, which are attributed to paramilitary groups and to the Guatemalan armed forces themselves in their antisubversive struggle.

The activities of the GAM will be discussed further below, but at this point the IACHR wishes to express its discouragement at this lack of investigation that has led to the failure to punish those responsible for answering for such acts, and that the families of the victims felt was designed to cover with a mantle of impunity the persons responsible for planning and carrying out the murder of many Guatemalan citizens.

The fact that disappearances of persons has "started again in the period of this report is a cause of deep concern for the IACHR. The Commission has reports that from the time the present government took office to date, after an initial period of relative calm, distressing cases of the disappearances of Guatemalan citizens has begun to occur again. It has not been possible to determine the reasons for their detention or abduction, nor to obtain any information about their whereabouts, despite the fact that, in most cases, there is evidence that the Guatemalan security forces are responsible for these disappearances.

In addition, the Commission has been informed that almost all of the investigations by the families of the disappeared persons and their efforts to obtain information from the police and administrative authorities about the whereabouts of their loved ones, during the period of this report, have produced no results whatever. Nor have any positive results been obtained from judicial proceedings initiated by the families of disappeared persons before the agencies having jurisdiction over such matters, which in most cases have ruled as without justification writs for amparo and habeas corpus filed in the hope of obtaining an investigation by the judiciary of the forced disappearances of persons. ^ This exhausts all of the valid domestic legal remedies available.

During the period of this report, the IACHR has opened 90 cases of complaints involving 117 victims of alleged human rights violations against the Republic of Guatemala. These involve violations of the right to life and in almost all of them disappearance of the persons involved, who had been previously abducted. The families of the victims in these cases have filed writs of habeas corpus, which have been dismissed by the Guatemalan judiciary.

In addition to the seriousness of the human rights situations in these cases, the IACHR is concerned that they involve a serious setback in the progress made at the beginning of President Cerezo's administration, the resumption of methods and systems for eliminating persons en mass, and the reappearance of the dreadful death squads. In addition, the Government has displayed an apparent unwillingness to cooperate with the Commission in determining the facts of these new cases, with regard to which, the IACHR, because its requests have been disregarded, has had to again request information and reiterate its recommendations that these cases be investigated.

By a decision made by the IACHR at its 69th session in September 1986, the Guatemalan Government was asked to allow a member of the IACHR,

accompanied by staff of its Secretariat, to make a short visit to that country to interview the President of the Republic and other officials of the Guatemalan Government, in order to discuss the human rights situation in that country and to learn about the investigations of recent cases of disappeared persons, whose increase, as stated, seriously concerns the Commission. The Commission trusts that that visit will take place during 1987.

Regarding the right to a fair trial and due process, the Commission had stressed in its previous report the judiciary reorganization ordered by the new government of President Cerezo to restore the judiciary's credibility, independence and autonomy. In addition, the report highlighted the establishment of a new Central Control Registry of Prisoners, which was intended to serve as an organ of consultation for any person wishing information about the status of any family member being detained. Unfortunately, the IACHR must now criticize the ineffective way the judiciary has participated in the investigation of the new cases of the forced disappearance of persons and the fact that the Central Control Registry of Prisoners has been of little use in resolving this kind of problem, despite the hopes that the Commission—which had recommended it—had placed in this registry.

In this connection, the Commission must again mention the problem of the ineffectiveness of habeas corpus remedies or orders to bring the accused before the court (exhibicion personal), which, in the past, have become inoperative, as a guarantee of legal protection against illegal detentions, abductions and disappearances, to protect the right to liberty, security, humane treatment and the right to life.

The inoperativeness of the habeas corpus remedy has been shown during the period of this report by the many habeas corpus writs filed that have been dismissed by the judiciary solely on the basis of police reports that the persons detained or disappeared were not being held at any of the country's detention centers, and in other cases, on the basis of a mere visit by the judge with whom the habeas corpus writ was filed, to inspect the record books showing entries of persons into some of the prisons or detention centers in the Republic, thereby frustrating the hopes and efforts of the victims' families.

The Commission once again reiterates its recommendations in previous reports that it is essential to re-establish the legal guarantees that make it possible to check abuses of power by the security forces, so that existing legal measures to defend human rights can be really effective in practice.

Regarding the rights to personal liberty and humane treatment, the Commission has received during the period of this report persistent reports of illegal detention and mistreatment of prisoners. Some of these cases have turned into forced disappearances of persons, as reviewed in

the portion of this report dealing with the ineffectiveness of habeas corpus remedies. In this connection, the Commission is particularly concerned at the status of a number of Guatemalan union leaders, an area that has been given special consideration by the Commission. Some of these leaders have been arrested, some mistreated and others have even been murdered.

Regarding the activities of nongovernmental human rights organizations, the Commission has been informed that, in addition to the Mutual Support Group (GAM), the Guatemalan Catholic Church has initiated steps to set up a new office of this kind, similar to the Salvadoran Archdiocese Legal Aid Office (Tutela Legal), which would operate under the name of Vicariat of Christian Solidarity (Vicaria da la Solidaridad Cristiana).

Regarding the activities of the Mutual Support Group, the Commission regret3 the continuous confrontations that group has had with security forces and with the head of state himself in demanding investigations of the disappearance of their family members.. During the sixteenth session of the OAS General Assembly in November 1986 in Guatemala City, the Mutual Support Group demonstrated before the meeting place of the diplomatic representatives of the OAS member countries in order to voice their protest at the lack of investigation of the cases of forced' disappearances of their family members. The demonstration took place in front of the National Theatre where the OAS General Assembly meeting was held, at a time when President Cerezo and 31 delegates and foreign ministers of the countries of the Americas were attending. The demonstrators demanded that the members of the Assembly intercede with President Vinicio Cerezo to urge him to set up a committee to investigate the disappearances. At that time, the then Chair man of the IACHR, Dr. Luis Adolfo Siles Salinas, met with the leaders of the group and offered to urge, as in fact he did, the President of Guatemala to comply with the recommendations in the Commission's report to the General Assembly, that investigations be made of those responsible for illegal executions, disappearances, arbitrary arrests and torture in the country, and that they be punished to the full extent of the law.

Later, President Vinicio .Cerezo met- with the- disappeared persons' family members who are memebtrs of the Mutual Support Group. The meeting took place at the Central Plaza next to the National Palace on April 7 of this year. President Vinicio formally announced the establishment of a Government commission to investigate the whereabouts of disappeared persons. Members of the Commission would be the following: a representative of the President of the Republic; a representative of the Ministry of Foreign Affairs; a representative of the Ministry of the Interior; a representative of the Human Rights Commission and a representative of the Congress of the Republic\*

The Commission was charged with the following duties: report within three months about the whereabouts of the persons claimed to have

disappeared; communicate the results of the investigations to each of the persons interested in getting information about the situation of their family members; and suggest alternatives to regolve the social and economic problems of the families of disappeared persons. Since the Commission designated by President Carezo did not include nongovernment sectors, this caused the GAM to demand that some individual persons and institutions participate, in order-as they said-to make the Commission multisectoral. It should be noted that the deadline originally set for the Commission has been considerably exceeded and that the findings of its investigations are still not known.

On June 30, 1987, on the occasion of the yearly celebration of Army Day, the GAM announced that it would demonstrate publicly in large numbers. The Guatemalan Army called that announcement a new provocation by the GAM, and recalled that on September 15, 1986, during a parade of the Guatemalan Army, GAM members, headed by Mrs. Nineth de Garcia, heckled the marching columns and joined the end of the parade carrying placards and shouting slogans. To prevent a similar disturbance, the Army posted a column of troops firing tear gas to break up the GAM demonstration.

On July 16, GAM marchers peacefully occupied the National Congress by surprise and demanded that President Vinicio Cerezo keep his promise to order that the Commission to Investigate Disappeared Persons set up last April start to work; that the GAM be received by the President of the Republic; and that persecution of GAM members cease. They also voiced their frustration at what they termed the indifference of the authorities to their demand that the Investigating Commission proposed by President Cerezo be set up, and they also declared that they considered themselves to be deceived and flouted by what they called the false promises of the chief of state. Twenty-four hours later, the GAM vacated the National Congress, after the President of the Congress and the Human Rights Commission of the Parliament delivered a letter to the GAM leaders guaranteeing that they would be received by President Cerezo to resolve all aspects of the issue of the Investigating Commission.

To attend the audience granted by President Vinicio Cerezo, which had been scheduled for Thursday, July 23 at 4:00 p.m., over 200 members of the Mutual Support Group went to the National Palace where they found that an anti-riot squad of national police had surrounded the Palace since early in the morning. When the GAM leaders tried to enter the Palace for the interview, they were informed "by an official that they would not be received by the President." At 3:00 p.m., a half hour before the interview, the GAM members were told that the President had left and that they had orders to clear the area. When the GAM refused to leave, the police forces, according to reports, proceeded to disperse them brutally with their night sticks, so that a number of GAM members—men, women and children—were so severely beaten that they had to receive medical care. As a reaction to that attack, the GAM members shortly after 4:00 p.m. took refuge in the Metropolitan Cathedral of Guatemala, where the President of

the Congress arrived to reiterate his desire to serve as intermediary with the President. On the following day, a press release from the President of the Republic reported that the GAM would be received. President Cerezo did receive them on July 30 at 12:00 noon, stating that the previous meeting had not been held because allegedly the GAM did not show up at the scheduled time.

The Commission much regrets the above events and recommends that a careful investigation be made to determine whether there is a connection between these events, and also recommends that full guarantees be given for labor union activities, in order to avoid having the situation become even worse, as happened with previous governments.

In summary, the Commission notes that, despite the efforts of President Cerezo's government to consolidate the state of law and democratic institutions, serious restrictions and obstacles still persist in Guatemala regarding the observance of fundamental human rights. This situation results primarily from decentralizing the violence that has for many years characterized this country, the preponderant role still played by the armed forces, which are not subject to effective government control, and the judiciary's lack of effectiveness, despite some progress made, in serving as an instrument capable of promptly correcting human rights violations.