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REFERENCE: jmn/mm/fg/follow-up/CAT

4 September 2007

Mr. Ambassador,

In my capacity as Rapporteur for follow-up on Conclusions and Recommendations of the United Nations Committee against Torture, I refer to the examination of the fourth periodic report of Guatemala (CAT/C/74/Add.1) by this Committee at its 36th session, from 1 to 19 May 2006. At the end of that session, the Committee's Conclusions and Recommendations (CAT/C/GTM/CO/4) were transmitted to your Permanent Mission. In paragraph 27 of those Conclusions and Recommendations, the Committee asked, pursuant to its rules of procedures, that Guatemala provide, within one year (by May 2007) further information regarding areas of particular concern identified by the Committee in paragraphs 12, 15, 16 and 17 (see extracts annexed).

The Committee has adopted a follow-up procedure to pursue issues that are serious, that can be accomplished by the State party in a one year period, and that are protective.

The information sought by the Committee has not been provided yet, although more than one year has elapsed from the transmittal of the Committee's Conclusions and Recommendations. Accordingly, I would be grateful for clarification as to the current status of your Government's responses on the matters, and as to when the information requested will be forthcoming. Upon receipt of this information, the Committee will be able to assess whether further action is needed.

The Committee looks forward to pursuing the constructive dialogue it has started with the authorities of Guatemala on the implementation of the Convention. In this context, the Committee seeks to receive your response to this enquiry.

Accept, Mr. Ambassador, the assurances of my highest consideration.

A handwritten signature in black ink, appearing to read 'Felice D. Gaer', written in a cursive style.

Felice D. Gaer
Rapporteur for Follow-up on Conclusions and Recommendations
Committee against Torture

H.E. Mr. Carlos Ramiro Martinez Alvarado
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**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 19 OF THE CONVENTION**

Conclusions and recommendations of the Committee against Torture
(Extracts for follow-up)

GUATEMALA

(...)

C. Subjects of concerns and recommendations

(...)

12. The Committee is concerned about reports of an increase in acts of harassment and persecution, including threats, killings and other human rights violations, experienced by human rights defenders, and about the fact that such acts remain unpunished (art. 2).

The State party should adopt effective measures to strengthen and guarantee the independence of the unit for the protection of human rights defenders within the Presidential Human Rights Commission, as well as to prevent and protect human rights defenders from any further violence. Furthermore, the State party should ensure the prompt, thorough and effective investigation and appropriate punishment of such acts.

(...)

15. The Committee is concerned with the impunity that persists regarding most of the human rights violations committed during the internal armed conflict, with over 600 massacres documented by the Historical Clarification Commission still to be investigated. The Committee notes with concern that in practice the 1996 National Reconciliation Act has become an obstacle to the effective investigation of the 1982 case of the Dos Erres massacre, which is making no headway due to procedural delays without any legal justification (arts. 11, 12 and 14).

The State party should strictly apply the National Reconciliation Act, which explicitly excludes any amnesty for the perpetrators of acts of torture and other grave human rights violations, ensures the initiation of prompt, effective, independent and thorough investigations of all acts of torture and other grave human right violations committed during the internal armed conflict, and grants adequate compensation to the victims.

16. The Committee is seriously concerned about the numerous allegations concerning:

(a) The "social cleansing" and killings of children living in the street and in marginalized areas, which often involve acts of torture and ill-treatment, and the fact that such cases are not thoroughly investigated;

(b) The increase in violent killings of women, which often involve sexual violence, mutilations and torture. The fact that these acts are not investigated exacerbates the suffering of relatives seeking justice, who, in addition, complain of gender discrimination by the authorities in the course of investigatory and judicial proceedings; and

(c) The lynchings of individuals, which casts doubt on whether the rule of law is applied in the State party (arts. 2, 12, 13, 16).

With regard to these practices, the State party should:

(a) **Take urgent measures to ensure that no persons within its jurisdiction are subjected to torture, or to inhuman or degrading treatment, and fully comply with its duty to prevent and punish such acts when carried out by private individuals;**

(b) **Ensure prompt, impartial and thorough investigations, free of any discrimination on gender, race, social origin or any other grounds, and bring alleged perpetrators to justice;**

(c) **Ensure the full implementation of the Law for the Integral Protection of Children and Adolescents, inter alia by providing sufficient funds to guarantee the security, well-being and development of all children;**

(d) **Carry out campaigns and training activities for police officers and members of the judiciary to make them duly aware of the existing social violence, in order to enable them to receive complaints and investigate them properly.**

17. The Committee is concerned about reports of sexual violence against women in police stations (arts. 6 and 11).

The State party should take steps to ensure that all arrested women are brought immediately before a judge and then transferred to a detention centre for women, if so ordered by the judge.

(...)

27. The Committee requests the State party to provide, within one year, information on its response to the Committee's recommendations contained in paragraphs 12, 15, 16 and 17. Widespread use of torture

(...)

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