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## Latin America Update: The Enhancement of Governmental Powers and Restriction of Freedoms in Guatemala and Venezuela

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# LATIN AMERICA UPDATE: THE ENHANCEMENT OF GOVERNMENTAL POWERS AND RESTRICTION OF FREEDOMS IN GUATEMALA AND VENEZUELA

*Allen C. Unzelman\**

## I. GUATEMALA'S PUBLIC ORDER LAW AND THE TWO MONTH SIEGE OF ALTA VERAPAZ

**G**UATEMALA has a drug problem. The drug-related violence of Mexico has spilled over Mexico's southern border into Guatemala's northern regions.<sup>1</sup> As the Mexican government increases pressure on drug cartels within its own borders, the cartels are fleeing south to Guatemala.<sup>2</sup> At stake are valuable drug smuggling routes that connect South American drug sources to the United States.<sup>3</sup> Among these cartels is Los Zetas, one of Mexico's most feared drug cartels, who has already set up camps in the northern regions of Guatemala.<sup>4</sup>

Following Mexican President Felipe Calderon's aggressive crackdown on drug cartels, governments such as Guatemala's are attempting to rid their jurisdictions of the cartels and are turning to the United States for assistance in doing so.<sup>5</sup> Guatemalan President Alvaro Colom, for example, requested assistance from both the United States and Mexico in fending off cartels.<sup>6</sup> The U.S. Drug Enforcement Agency has already commenced its support by cracking down on air trafficking of drugs throughout the region.<sup>7</sup> Although this has helped to significantly reduce air trafficking of drugs into Guatemala, it has only increased the value of

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1. See William Booth & Nick Miroff, *Mexican Drug Cartels Draw Guatemalan Army to Jungles Where it Fought Civil War*, WASH. POST, Feb. 10, 2011, <http://www.washingtonpost.com/wp-dyn/content/article/2011/02/09/AR2011020906919.html>.

2. Jennifer Griffin, *America's Third War: Fighting Drug Cartels in Guatemala*, FOXNEWS.COM, Dec. 13, 2010, <http://www.foxnews.com/us/2010/12/13/americas-war-fighting-drug-cartels-guatemala/>.

3. *Id.*

4. *Id.*

5. Booth & Miroff, *supra* note 1.

6. *Id.*

7. *Id.*

land trafficking routes through Guatemala.<sup>8</sup>

Historically, Guatemala has served as a pivotal bridge for the transportation of drugs, primarily cocaine, from South America to the United States.<sup>9</sup> After arriving from Ecuador and Colombia via the sea, drugs are transported north by land through Guatemala and Mexico en route to the consumer base in the United States.<sup>10</sup> In the midst of a number of these drug routes exists Guatemala's northern province of Alta Verapaz and its capital city of Cobán.<sup>11</sup> The high importance of transportation routes and the desire to monopolize these northern bound arteries pits drug cartels against one another and fosters vicious and bloody turf wars.<sup>12</sup> Currently, the Los Zetas cartel is in a fierce battle with Mexico's Gulf drug cartel over precious transport routes.<sup>13</sup> Recently, Los Zetas provided Guatemalans with a brutal reminder of the viciousness of these battles by leaving a number of decapitated human heads on the parliament steps.<sup>14</sup>

In December 2010, President Colom and the Guatemalan government took dramatic steps to up the stakes in their resistance to these cartels. In order to combat the Los Zetas cartel, President Colom imposed martial law in the Alta Verapaz province and deployed the military to the region to regain control of the area in an attempt to root out the cartel.<sup>15</sup> But as Guatemalans quickly discovered, ridding their territory of drug cartels through such policies will not come without significant costs to their freedoms.

#### A. THE TWO-MONTH SIEGE OF ALTA VERAPAZ

On December 19, 2010, President Colom declared martial law in the country's Northern Province of Alta Verapaz after concluding that the presence of the Los Zetas drug cartel made the area "ungovernable and lawless."<sup>16</sup> President Colom's effort to stabilize the region, which he claimed was authorized by Guatemala's Law of Public Order, was approved in an emergency legislative session on December 22, 2010.<sup>17</sup> On January 19, 2011 President Colom announced that the siege would be ex-

8. *Id.*

9. *Id.*; Griffin, *supra* note 2.

10. Griffin, *supra* note 2.

11. Booth & Mirotff, *supra* note 1.

12. Griffin, *supra* note 2.

13. *Id.*; The Zetas have already forced at least one other drug cartel out of Guatemala. *Id.* The cartel is comprised of former military personnel were initially members of the Gulf Cartel but later split and formed an independent cartel. See *Guatemala Ends 'Siege' In Drug-Plagued Province*, JAKARTA POST, Feb. 19, 2010, <http://www.thejakartapost.com/news/2011/02/19/guatemala-ends-039siege039-drug-plagued-province.html>.

14. Griffin, *supra* note 2.

15. Booth & Mirotff, *supra* note 1.

16. Kevin Kearney, *Guatemala Escalates Drug War With Declaration of Martial Law*, WORLD SOCIALIST WEBSITE, Dec. 29, 2010, <http://www.wsws.org/articles/2010/dec2010/guat-d29.shtml>.

17. *Id.*

tended for thirty days, explaining that “more need[ed] to be done.”<sup>18</sup> The siege lasted until February 19, 2011, when the government ended martial law in the region but indicated that the military would remain in the area.<sup>19</sup> The siege extended beyond attempting to curtail drug-related activity: it also allowed the military to “detain, without judicial oversight, anyone in the region suspected of ‘altering public order’ or ‘conspiring against the state.’”<sup>20</sup> Even further, the law required “that media sources ‘avoid publications that contribute to altering the public order.’”<sup>21</sup>

Drafted in 1965, Guatemala’s Public Order Law was originally enacted to control guerilla tactics in the region.<sup>22</sup> The introductory provision of the law explains that “it is the duty of the authorities to maintain security, public order and stability of state institutions, which requires certain circumstances, the restriction that the Constitution guarantees.”<sup>23</sup> At the same time, the introduction also contains a guarantee that “in the case of restriction of constitutional guarantees, [it must be assured]. . . that the application of appropriate legal action will be in the minimum [extent necessary].”<sup>24</sup> Chapter one of the law provides that “the law shall apply in cases of invasion of national territory, serious disturbance of the peace, public calamity or activities against security.”<sup>25</sup>

Where conditions warrant the application of martial law, the law provides the government and military forces a wide array of heightened powers.<sup>26</sup> Chief among these enhancements is the right of the government to restrict individuals’ freedom of movement,<sup>27</sup> to prevent public meetings or entertainment,<sup>28</sup> to “set minimum or maximum prices for basic necessities,”<sup>29</sup> and to “intervene in the functioning of public services and businesses.”<sup>30</sup> The law also dramatically increases the military’s powers by allowing it to, among other things, “intervene or dissolve without need of prevention or warning, any organization, entity, association, or group. . .”<sup>31</sup> and “order without warrants or duress, detention or confinement: . . . of anyone *suspected* of plotting against the established

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18. *Guatemala Extends Its State of Siege, President Says “Drug Traffickers Have Us Cornered”*, HISPANICALLY SPEAKING NEWS, Jan. 19, 2011, <http://www.hispanicallyspeakingnews.com/notitas-de-noticias/details/guatemala-extends-its-state-of-siege-president-says-drug-traffickers-h/4469/>.

19. *Guatemala Ends ‘Siege’ in Drug-Plagued Province*, *supra* note 13.

20. Kearney, *supra* note 16.

21. *Id.*

22. Simon Granovsky-Larsen, *Martial Law, Repression, and Remilitarization in Guatemala*, N. AM. CONG. ON LATIN AM., Feb. 17, 2011, <https://nacla.org/node/6879>.

23. Decreto Numero 7, Ley de Orden Público (1965) (Guat.), available at [http://www.mingob.gob.gt/archivosvarios/Ley\\_de\\_Orden\\_Publico.pdf](http://www.mingob.gob.gt/archivosvarios/Ley_de_Orden_Publico.pdf).

24. *Id.*

25. *Id.* ch. I, art. 1.

26. *See id.*

27. *Id.* ch. IV, art. 15(2).

28. *Id.* ch. IV, art. 15(4).

29. *Id.* ch. IV, art. 15(5).

30. *Id.* ch. III, art. 13(1).

31. *Id.* ch V, art. 19(1).

government. . . .”<sup>32</sup>

President Colom’s action came as a response to the growing presence of Mexican drug cartels in northern regions of Guatemala.<sup>33</sup> As a popular local saying emphasizes, “[o]ur neighbor is cleaning his house, and the cockroaches are fleeing here.”<sup>34</sup> Guatemalan Defense Minister Abraham Valenzuela even referred to the cartels as “narcoterrorists.”<sup>35</sup>

#### B. THE EFFECTS OF THE SIEGE ON LOCAL INHABITANTS

Many Guatemalans reacted skeptically to the heightened military powers by arguing that the siege was nothing more than a front for the government to achieve other ends, primarily to extinguish social reform efforts mounted by province’s relatively poor population.<sup>36</sup> For example, some feared that the law was simply a method for the government to quash land reform efforts of the local residents.<sup>37</sup> As evidence of this contention, two well-known land reform activists within the area were arrested after the siege was put in place.<sup>38</sup>

Understanding the history of the relationship between the government and the inhabitants of this region helps place these fears in context.<sup>39</sup> Many inhabitants of the region fled during the violent conflicts that took place during the 1970s.<sup>40</sup> When they returned, however, their property had been transformed into a national park, which created tension between the displaced settlers and the Guatemalan government.<sup>41</sup> The continued presence of this tension is evidenced by the over 300 agrarian disputes that currently exist in the region.<sup>42</sup>

Such reservations about the heightened power were fueled by incidents such as the one that occurred on February 8, 2011, when a well-known local activist was “beaten in front of his family” by the military and “detained in a private residence. . . and did not resurface.”<sup>43</sup> Although it was later discovered that the leader had been imprisoned, officials refused to acknowledge or provide information on his arrest.<sup>44</sup> Prior to this incident, on January 10, 2011, troops entered another settlement without warning, discharged weapons in the air, destroyed crops, and stole livestock.<sup>45</sup> One community member also accused a government official of

32. *Id.* ch. V, art. 19(2)(a) (emphasis added).

33. Lorne Matalon, *Mexico’s Drug War Comes to Guatemala*, PRI’S THE WORLD, Feb. 10, 2011, <http://www.theworld.org/2011/02/10/mexicos-drug-war-comes-to-guatemala/>; see also Booth & Miroff, *supra* note 1.

34. Matalon, *supra* note 33.

35. *Id.*

36. See *id.*

37. *Id.*

38. *Id.*

39. See Granovsky-Larsen, *supra* note 22.

40. *Id.*

41. *Id.*

42. *Id.*

43. *Id.*

44. *Id.*

45. See Granovsky-Larsen, *supra* note 22.

accompanying the soldiers during an attempted rape.<sup>46</sup> Suspicions of governmental foul play are fueled by the fact that this community is home to a large number of the land disputes cited above.<sup>47</sup> Another community, Saquimo Setano, which was also involved in a land dispute with a large landowner, was the subject of an armed attack on January 20, 2011.<sup>48</sup> Further, in the nearby town of Izabal, three activists were killed in February 2011.<sup>49</sup> Following the implementation of the siege, the number of indigenous arrests also drastically increased.<sup>50</sup> But, because the government restricted the ability of the media and the flow of information, it is not clear how many other incidents similar to these occurred during the two-month siege.<sup>51</sup>

Another report alleges that the government may have implemented the siege in order to prevent the local groups from meeting in opposition to dam projects in the region.<sup>52</sup> In the months prior to the siege, local communities began assembling in opposition to dams, which were planned “without the consent of [the] affected Qeqchi communities.”<sup>53</sup> But the siege prohibited such meetings and assemblies, and hence, some are sceptical that the siege was enacted at least in part as a reaction to these meetings.<sup>54</sup> According to one source, the construction of one of these dams would flood eighteen or more indigenous communities.<sup>55</sup> Here again, painful memories create concern for members of these communities.<sup>56</sup> Dam construction during the late 1970s and early 1980s involved military evictions that forced local inhabitants from their land.<sup>57</sup> Those who demonstrated and opposed the dam project were met with violent resistance, leading to a number of deaths.<sup>58</sup>

Others question why the government chose to single out Alta Verapaz for the siege but left other areas with similar problems unaltered.<sup>59</sup> As Haroldo Shetemul, a journalist with the local *Prensa Libre* newspaper, explained “57.7 percent of the country’s murders in 2010 happened in the

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46. *Id.*

47. *Id.*

48. *Id.*

49. *Id.*

50. Daisy Johnson, *State of Siege in Guatemala*, DEFENCE VIEWPOINTS, Feb. 2, 2011, <http://www.defenceviewpoints.co.uk/articles-and-analysis/state-of-siege-in-guatemala>.

51. Granovsky-Larsen, *supra* note 22.

52. Annie Bird, *Guatemala: State of Siege, Two Steps Backwards*, LATIN AM. BUREAU, Jan. 9, 2011, <http://www.lab.org.uk/index.php/news/66/798-guatemala-state-of-siege-two-steps-backwards>.

53. *Id.*

54. *See id.*

55. Jason Boccaccio, *Guatemalan Mayans Under Siege*, INDIAN COUNTRY, Feb. 7, 2011, <http://indiancountrytodaymedianetwork.com/2011/02/guatemalan-mayans-under-siege/>.

56. *See id.*

57. *Id.*

58. *Id.*

59. Chris Arsenault, *States of Siege Wrack Guatemala*, AL JAZEERA, Jan. 5, 2011, <http://english.aljazeera.net/indepth/features/2011/01/2011141174178915.html>.

region around Guatemala City, the capital.”<sup>60</sup> For Shetemul, this calls to question why Alta Verapaz was the only area chosen for the siege if the government’s objective was really to restore order and security.<sup>61</sup>

Although it is still too early to gauge the success of the siege in removing drug cartels from the region, the results seem mixed. According to Interior Minister Carlos Manocal, the crime rate decreased by fifty percent during the period of martial law, the number of homicides declined drastically, and a number of planes and weapons of traffickers were seized.<sup>62</sup> At the same time, however, others point to the lack of Los Zetas arrests and drug-related arrests as indicia of the siege’s failure to deter the cartels.<sup>63</sup> Moreover, it took the government until February 2011 to arrest their first high ranking member of Los Zetas.<sup>64</sup>

Corruption and bribery between Los Zetas, the military, and the Guatemalan government also makes it difficult to crack down on the cartel.<sup>65</sup> In 2009, for example, weapons seized from the Los Zetas cartel were traced back to the Guatemalan army.<sup>66</sup> In addition, Los Zetas actively recruits Guatemalan soldiers by offering higher wages than the government, a tactic that has proved successful in luring a number of soldiers into the cartel.<sup>67</sup> Los Zetas has also infiltrated the police force of Alta Verapaz, leading one government official to conclude that police in the area were “totally infiltrated by the Zetas.”<sup>68</sup>

### C. CONCLUSION

Although the siege has been lifted, Guatemalans will face a difficult situation going forward. While the Guatemalan government will likely continue to take measures to resist the drug cartels, likely with funding and assistance from the United States and other foreign sources, the siege that lasted from December 2010 until February 2011 is indicative of the toll that such measures may take on the country’s population. The historic tension between the government and indigenous communities, coupled with corruptive nature of drug cartels such as Los Zetas, creates a situation ripe with distrust and suspicious motives. The end of the siege did not represent an end to either the land disputes of the Alta Verapaz region or of the presence of the Los Zetas cartel in the Guatemala. Hence, both the drug problem and the vulnerability of indigenous groups remain an issue in Guatemala and should be monitored going forward. Furthermore, it will be important for the international community to be

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60. *Id.*

61. *Id.*

62. Luis Angel Sas, *Guatemala Ends ‘Siege’ in Drug-Plagued Province*, YAHOO! NEWS, Feb. 18, 2011, [http://news.yahoo.com/s/ap/20110219/ap\\_on\\_re\\_la\\_am\\_ca/lt\\_guatemala\\_state\\_of\\_siege](http://news.yahoo.com/s/ap/20110219/ap_on_re_la_am_ca/lt_guatemala_state_of_siege).

63. Granovsky-Larsen, *supra* note 22.

64. *Id.*

65. See Johnson, *supra* note 50.

66. *Id.*

67. *Id.*

68. Arsenault, *supra* note 59.

mindful not only of the drug problem present in Guatemala, but also to ensure that efforts to rid the country of such drug problems are not pursued at the cost of the livelihood of its inhabitants.

## II. VENEZUELA'S CRACKDOWN ON DISSIDENTS AND RESTRICTION OF PRESS FREEDOMS

### A. CHAVEZ'S CRACKDOWN ON DISSIDENTS

A wide variety of Venezuelans, ranging from journalists to political opponents of Venezuelan President Hugo Chavez, have been victims of the President's recent crackdown on those who oppose or question his governance.<sup>69</sup> The President has now taken action against at least twenty-four individuals who dissidents contend are being targeted as political prisoners.<sup>70</sup> Other targets of Chavez have fled Venezuela and sought asylum in other countries.<sup>71</sup>

One of the dissidents who fled Venezuela was Manuel Rosales, who lost the presidential election to Chavez in 2006.<sup>72</sup> Rosales, one of the President's chief opponents, has sought asylum in Peru.<sup>73</sup> Corruption charges against Rosales, which had previously been abandoned because of a lack of evidence, were reinstated during a subsequent election period.<sup>74</sup> As President Chavez declared, "I am putting myself at the head of Operation 'Imprison Manuel Rosales.'" <sup>75</sup>

Another target of Chavez is Judge María Lourdes Afiuni, who was detained in December 2009 after allowing the release of another political prisoner who had been detained without trial for nearly three years.<sup>76</sup> The judge, who cited not only Venezuelan law but also a statement by the United Nations on the individual's detainment when ordering his release, was jailed in harsh conditions.<sup>77</sup> According to *El Universal*, Afiuni was also psychologically tortured while in jail.<sup>78</sup>

On another front, others fear that recent legislative measures passed by the Venezuelan government may further restrict the freedoms of the press in Venezuela.

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69. See *Criminals or Dissidents*, *ECONOMIST*, Feb. 17, 2011, [http://www.economist.com/node/18184396?story\\_id=18184396](http://www.economist.com/node/18184396?story_id=18184396).

70. *Id.*

71. *Id.*

72. Carla Salazar, *Manuel Rosales, Chavez Critic, Skipped Court, Seeking Asylum, Now in Peru*, *HUFFINGTON POST*, Apr. 21, 2009, [http://www.huffingtonpost.com/2009/04/21/manuel-rosales-chavez-cri\\_n\\_189547.html](http://www.huffingtonpost.com/2009/04/21/manuel-rosales-chavez-cri_n_189547.html).

73. *Id.*

74. *Criminals or Dissidents*, *supra* note 69.

75. *Id.*

76. *Id.*

77. *Id.*

78. *Maria Lourdes Afiuni: Torture and Abuse After Her Globovision Exclusive*, *EL PALOMO*, Nov. 16, 2010, <http://elpalomo.info/2010/11/maria-lourdes-afiuni-torture-and-abuse-after-her-globovision-exclusive/>.

## B. NEW MEDIA LAWS FURTHER RESTRICT PRESS FREEDOMS

In December of 2010, the Venezuelan government passed legislation that will place further limitations on the media in a country where many contend the government has already overstepped its bounds in regulating the press.<sup>79</sup> Two pieces of legislation alter Venezuela's Organic Telecommunications Law and the Social Responsibility on Radio and Television Law.<sup>80</sup> The changes make the "use of telecommunications networks. . . a public service," perhaps to enhance the government's ability to patrol such media.<sup>81</sup> Expanding on limitations implemented in 2004, the changes bring internet content under the government's scope of regulation and make "webpage managers 'responsible for the information and content' published on their websites" by requiring them to "now 'establish mechanisms to restrict, without delay, the diffusion of messages. . . that are included in the ban.'"<sup>82</sup> The law "prohibits messages and images that 'disrespect public authorities,' 'incite or promote hatred' or crimes, or could create 'anxiety in the citizenry or alter public order.'"<sup>83</sup>

Despite the government's touted objective of ensuring social responsibility, a number of sources suspect that the law is aimed at curtailing the broadcasting reach of its critics, such as Globovision.<sup>84</sup> Chavez's recent actions have led some to conclude that the President has been looking for methods to silence his opposition, especially Globovision.<sup>85</sup> Criminal charges were even filed against Globovision's leader, who is currently seeking asylum in the United States.<sup>86</sup> Prior to the passage of the latest restrictions, the government had already taken control of two companies that owned approximately twenty-five percent of Globovision's shares.<sup>87</sup> As explained by Carlos Lauría of the Committee to Protect Journalists, "[t]hese reforms, passed without any debate, are a clear attempt by the Venezuelan government to further its clampdown on critics and indepen-

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79. Christopher Toothaker, *NGO: Press Freedoms Threatened in Latin America*, MERCURYNEWS.COM, Feb. 15, 2011, [http://www.mercurynews.com/breaking-news/ci\\_17394633?nclick\\_check=1](http://www.mercurynews.com/breaking-news/ci_17394633?nclick_check=1).

80. *Controversial Media-Law Changes Approved in Venezuela*, CNN, Dec. 21, 2010, [http://articles.cnn.com/2010-12-21/world/venezuela.media.laws\\_1\\_internet-providers-social-responsibility-venezuelan-government?\\_s=PM:WORLD](http://articles.cnn.com/2010-12-21/world/venezuela.media.laws_1_internet-providers-social-responsibility-venezuelan-government?_s=PM:WORLD).

81. *Id.*

82. *Venezuela Passes Media, Internet-Muzzling Law*, PHYSORG.COM, Dec. 21, 2010, <http://www.physorg.com/news/2010-12-venezuela-media-internet-muzzling-law.html>.

83. Toothaker, *supra* note 79.

84. *See Controversial Media-Law Changes Approved in Venezuela*, *supra* note 80; Toothaker, *supra* note 79; *Venezuela Passes Media, Internet-Muzzling Law*, *supra* note 82.

85. *See Venezuela Passes Media, Internet-Muzzling Law*, *supra* note 82.

86. *Id.*

87. *State-Controlled Media in Venezuela: A Worrying Trend*, MEDIA L. & FREEDOM OF EXPRESSION BLOG (July 23, 2010), <http://ibamedialaw.wordpress.com/2010/07/23/state-controlled-media-in-venezuela-a-worrying-trend/>.

dent media.”<sup>88</sup>

Of particular concern is the broad and ambiguous phrasing of the new laws.<sup>89</sup> Sources fear that the use of phrases such as “fomenting anxiety” and “altering public order” could enable the government to preclude the broadcast of almost any message critical to its objectives.<sup>90</sup> Overly broad internet regulations also pose a danger to human rights groups and other groups who are opposed to the government’s position by making it exceedingly difficult to reach citizens through the internet and to organize human rights movements.<sup>91</sup>

### C. CONCLUSION

Although it is not clear to what degree the government will use these powers to quash the voices of its opposition, these latest changes represent yet another step in the Venezuelan government’s recent attempts to enhance control and regulation of the press in Venezuela. These changes, combined with the other attempts by the Venezuelan government and President Chavez to silence dissidents, will likely continue to garner international attention going forward.

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88. *CPJ Condemns Two Venezuelan Media Laws*, COMM. TO PROTECT JOURNALISTS, Dec. 21, 2010, <http://www.cpj.org/2010/12/cpj-condemns-two-venezuelan-media-laws.php>.

89. Richard Allen Greene, *Critics of Venezuela’s New Media Laws Fear ‘Dangerous’ Crackdown*, CNN, Dec. 22, 2010, [http://www.humanrightsfoundation.org/news/documents/122210\\_CNN.pdf](http://www.humanrightsfoundation.org/news/documents/122210_CNN.pdf).

90. *Id.*

91. *Id.*

