GUATEMALA[1]

Guatemala is a state party to the United Nations Convention Relating to the Status of Refugees and its Protocol, as well as to the International Covenant on Civil and Political Rights and its First Optional Protocol. In 2000, 54 asylum applications were filed.[2] Guatemala received 58 asylum applications (representing 72 individuals) during 2001.[3] UNHCR, which adjudicates asylum claims in Guatemala, granted 21 individuals refugee status in 2001. Also in 2001, 32 asylum seekers were detained. An NGO report indicates that the U.S. pays $8.50 per day per migrant towards the cost of detention in Guatemala of extra-regional migrants.[4]

There is reportedly no policy of automatic detention of asylum seekers, but detention is based on illegal entry into Guatemala. Following a new Law Regulating Migration in 1999, Guatemala established a network of detention centers.[5] In addition to these small numbers of asylum seekers, it should be noted that there is a large population of migrants and refugees traveling through Guatemala to Mexico and the United States. Most of those detained are from regions other than Central America: including Sierra Leone, China, Sri Lanka, Pakistan, Sudan, India and Colombia.

Detention facilities have been documented as dirty, poorly ventilated, and overcrowded.[6] UNHCR and NGO representatives were not permitted to conduct private interviews with

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[1] Information in this section was generously provided by Guillermo Saenz De Tejada Herra, Director de Asuntos Juridicos y Tratados of the Ministerio de Relaciones Exteriores de la Republica de Guatemala; Stephanie Hochstetter, Second Secretary, Permanent Mission of Guatemala to the United Nations in Geneva; and Ubaldo Villatoro, a lawyer with the Asociacion de Apoyo Integral in Guatemala, whose unpublished manuscript, *Detention of Asylum Seekers in Guatemala* [hereinafter *Detention in Guatemala*] is on file with Debevoise & Plimpton.

[2] U.S. COMMITTEE FOR REFUGEES, WORLD REFUGEE SURVEY 2001 at 288, *available at* http://preview.refuges.org/world/worldmain.htm (Immigration and Refugee Services of America 2001) [hereinafter USCR WORLD REFUGEE SURVEY 2001].

[3] U.S. COMMITTEE FOR REFUGEES, WORLD REFUGEE SURVEY 2002 at 260, *available at* http://www.refugees.org/WRS2002. (Immigration and Refugee Services of America 2002) [hereinafter USCR WORLD REFUGEE SURVEY 2002].

[4] *Id.*

[5] Reply to Request for Information, from Ubaldo Villatoro, Asociacion de Apoyo Integral to Mateo Taussig-Rubbo, Debevoise & Plimpton (Dec. 3, 2001) (on file with Debevoise & Plimpton) [hereinafter Villatoro Correspondence].

[6] USCR WORLD REFUGEE SURVEY 2002, *supra* note 3, at 260.

detainees, and detainees were not allowed to receive visitors. Female detainees are not consistently separated from male detainees.[7]

Is there independent review of the detention decision? No. [8]

The decision to detain is typically made in the first instance by the National Civil Police and then reviewed by the Director General for Migration if it is confirmed that the individual is in the country illegally. Factors considered in the decision to detain include whether the alien is traveling without documents or with fraudulent documents. Asylum seekers are detained pending processing of documentation and pending deportation.[9] While an asylum petition is processed, and during refugee determination procedures, asylum seekers are kept in detention. This is the case both during initial applications and appeals. [10]

Are there limits on the period of detention? No. [11]

Detention usually lasts two months, during which time the application is processed. There have been instances where detention lasted for up to five months.

Is there periodic review of detention? No. [12]

Is there access to government-funded legal aid? No. [13]

However, depending on the circumstances of each case, NGO's may provide legal assistance.

Vulnerable groups: Men and women are sometimes separated in the detention centers. [14]

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[7] *Id.*

[8] Villatoro Correspondence, *supra* note 5.

[9] *Id.*

[10] *Id.*

[11] *Id.*

[12] *Id.*

[13] *Id.*

[14] *Id.*