



**UN expert on independence of judges and
lawyers calls for major reforms
in Guatemala**

10 February 2009

The United Nations Special Rapporteur on the independence of judges and lawyers, Leandro Despouy, issued a statement in Spanish on 30 January 2009, which is summarized below. A link to the full Spanish version can be found at the end of this summary.

The UN Special Rapporteur on the independence of judges and lawyers, at the end of a recent visit to Guatemala, said there is "a general climate of impunity" in the country that risks causing irrevocable damage to state institutions, and made a series of preliminary recommendations regarding new policies and judicial and management reforms which could help rescue the situation.

According to available information, only four out of every 100 crimes end up before the courts, Despouy said. Moreover, the risk of penetration by drug-trafficking and organized-crime networks may have an irreversible effect on the country's institutions, he said, adding that he believed the State needed to revise its policies concerning the justice system, impunity and compensation for victims.

"Structural factors and the pressure exerted on judges, prosecutors and lawyers are the main causes of impunity in Guatemala," Despouy stated.

The Special Rapporteur conducted a fact-finding mission in Guatemala from 26 to 30 January 2009 during which he met government officials, including ministers and senior judicial authorities, as well as a number of local and international NGOs, judges, lawyers and prosecutors.

The lack of public policies in the area of justice and crime prevention could be addressed by the creation of a Ministry of Justice, Despouy said. He suggested that a Judicial Council, or similar body, should be created to relieve the Supreme Court of the task of administering and managing the judiciary, which would enable the Court to concentrate on its main task which is to impart justice. This would also strengthen its independence, he said.

The imminent election of new Supreme Court judges provides the country with an opportunity to conduct a transparent process on the basis of objective criteria, enabling the election of independent, principled and competent judges. The Special Rapporteur stated that he will follow up the election.

The Special Rapporteur also proposed that criminal investigation mechanisms should be created within both the Attorney's General Office and the National Police, and be given adequate funding and resources. In this connection, the Special Rapporteur recommended supporting the reforms undertaken by the current National Police administration. He also recommended strengthening the Institute of Forensic Sciences of Guatemala (INACIF), as well as supporting the work of the International Commission Against Impunity in Guatemala (CICG).

"The five-year term for judges weakens the judiciary and affects their independence and their professional development," Despouy said. He stated that irremovability of judges should be protected through legislative mechanisms, which also provide for the existence of a veritable judicial career.

The Special Rapporteur called on the Guatemalan Parliament to adopt a law on control of arms and munitions, in order "to prevent Guatemala descending into a war scenario." He also called on the Government to ratify the Rome Statute of the International Criminal Court, and the International Convention for the Protection of All persons from Enforced Disappearances.

Despouy also expressed concern at the obstacles that prevent people from accessing justice, in particular indigenous peoples and the poorest sectors of society. In this respect, he recommended adopting measures in accordance with international human rights standards, in particular ILO Convention 169.

Leandro Despouy is the United Nations Special Rapporteur on the independence of judges and lawyers. Currently he also serves as President of Argentina's Auditoría-General.

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