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10/15/2020
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Crime in Guatemala Vs. United States

Introduction

The selected nation for the project in Guatemala, and the Pavon prison is the specific penal institution. Usually, Guatemala resembles the United States' adversarial criminal justice system. The different criminal prosecution stages in Guatemala correspond to US criminal cases. These entails hearing probable cause to show that there is sufficient evidence to charge defendants in a case), oral trial (evidence presentation and witnesses for guilty determination), and appeal procedure. In Guatemala, the judges, in some cases, have more power than those in the United States, making it unsurprising that they mostly face serious security threats. In Guatemala cases usually are determined by judges rather than a jury for the United States' case. Consequently, the judges in Guatemala have been under enormous criticism (House, 2017). Notably, this paper looks into selected crime, juvenile versus the adult system, crime statistics in Guatemala, the elected and researched prison, the criminal justice system explained.

The selected case for this project is Guatemala criminal justice system. The selected crime is the murder case of Archbishop Jan Gerardi in 1998 (Handy, 2017). The suspects for the murder case were Disrael Lima, a retired head of the military unit system, Byron Lima, son to Disrael Lima, and Jose Villanueva, a retired bodyguard of the presidential escort unit. The case was determined by a penal of 3 judges who charged the suspects with murder and subjected them to a prison sentence of 30 years (Handy, 2017). The accused are said to have committed the crime following the archbishop's release of a report blaming the Guatemala military system for the demise of around 200 000 civilians during the civil war (Handy, 2017). The ruling of death sentences in the United States is different from that of Guatemala due to the form of government employed by the United States. Different states in the United States may have different rulings on murder cases. For example, the murder case in Florida may be penalized to a death sentence. In California, murder cases involving the demise of peace advocate may be penalized for 10-25 years (Neubauer & Fradella, 2018). It is therefore evident that while Guatemala the ruling may be uniform across the country, in the United States, the ruling in cases like death penalty is highly determined by the laws of the states: some states may call for death sentence while others forbid it.

Guatemala's juvenile versus adult system is crucial point to be examined. The Guatemalan law requires that juveniles be presented before judges with immediate effect. The judges should prompt juveniles in private areas, and the National agents should submit to the judge a factual report of the case. The agent should inform the parents of the family members of the juvenile. Before arresting adults in Guatemala, the law requires the police to issue a court warrant unless the suspect was convicted at the crime scene. Police are only allowed to detain suspects for 6 hours arrest warrants should be executed between 6 pm and 6 am, and suspects can access lawyers. They should also be accorded bail terms (Zimmerman, 2017). It is clear that the

juveniles have more rights than the adults because of childhood innocence or provision of chance to be better adults in future.

In Guatemala, juveniles are subjected to juvenile criminal systems to re-educate and correct the juveniles. On the contrary, adults are taken to courts to punish them for their wrongdoing and prevent them from committing similar crimes in the future. Similarly, in the United States, the adult criminal system goals are punishing the adult while the juvenile crime system is interested in rehabilitation. In both systems, the juvenile and adults have rights like the right to an attorney, the right not to incriminate oneself, the right to know the charges against oneself, the right to cross-examine the witnesses, the prosecution has to prove charges against the defendant, and others. While in the juvenile system, the courts are informal, in the adult system, the courts are formal, rules regarding the evidence admission in the adult juvenile system are more lenient than the adult system. It is evident that both the United States and Guatemala take the interest of the juveniles seriously by trying to correct them instead of punishing them since they are still growing and may be innocent in many ways.

Moreover, since the beginning of the 21st century, Guatemala has infiltrated its judicial system with corrupt activities. It is no longer similar to that of the United States. In Guatemala, the citizens can be part of a criminal case, thus form part of the litigation team. In America, citizens do not have any official mandate in criminal cases (Pallister, 2019). The judicial system in Guatemala has been infiltrated by staged and inadequate resources, both technical and financial. As a result, the country is ranked among the most corrupt in the world. The country's judicial system was also not independent and faced influence from powerful political personalities, affluent citizens, and gang groups, thereby leading to the establishment of the courts of high risks crimes.

However, in the recent past, the Guatemala judicial system has experienced some advancement, including new courts in rural areas. At the same time, the number of judges and prosecutors has also been increased. Also, the establishment of public prosecutor offices increases public trust in the country's judicial system. In short, for the past few decades, Guatemala has been using the US justice system, but in the recent years, things have deteriorated because of corruption from the elites, gangs, and drug lords that prohibit efforts to find justice in the courts.

The selected panel institute another distinguishing factor that should be considered. Pavon prison is one of the prison systems in Guatemala that was established towards the end of the 1970s (Fontes & O'Neill, 2019). Due to the increasing incarceration rate in the country, the prison became flooded with criminals after its construction. As a result, the law enforcement authorities decided to manage the prison's exterior and let the prisoners control the interior. Initially, the prisons could host around 1,000 inmates. Due to the increasing rate of criminal activities in the country, the capacity was expanded to host about 4000 prisoners. In the United States, Angola is the biggest maximum-security prison with 6 300 prisoners and 1800 staff, including janitors, corrections officers, wardens, and maintenance. In other words, both Guatemala and the United States have a high number of incarcerated people; or rather Guatemala has adopted the US adversarial criminal justice system that focuses on incarceration, but not rehabilitation and parole.

Criminal statistics is another critical issue to be considered in this project. The rate of criminal activities in Guatemala is high, and it ranges from corruption infiltrated the judicial system to

gang activities. Most of the criminal activities in the country are burglary and theft. According to The Overseas Security Advisory Council, the country experienced at least 100 murder cases in 2018 (Kuris, 2019). Former military officers influenced by political figures and drug lords have been highly associated with the country's increased rate of criminal activities. Also, Guatemala is connected to Mexico and Honduras and is strategically located to facilitate the movement of highly demanded drugs in the United States. Human trafficking, particularly commercial sex, is also practiced in the country. In Guatemala, citizens can be part of a criminal case and form part of the litigation team. Simultaneously, Guatemala is ranked 51 percent more than the United States (Guatemala is 84, while the United States is number 55) in crime levels. The rate of influence by corruption is minimal in the United States, considering the existing laws are strict and institutions are working. However, the biggest issue facing the United States' criminal justice system is the claims of racism. It is claimed that blacks, Latinos, and other minorities are unfairly targeted because of their skin color. Such is why there are disproportionate numbers of incarcerated people in the country.

Conclusion

Guatemala's criminal justice system is similar to that of the United States. It includes hearing the criminal case, oral trial whereby evidence is presented, and witnesses attest before a court system, and then the appeal follows. However, as discussed, Guatemala's judicial system is corrupt as it is infiltrated by staged crime. There are also inadequate resources (both technical and financial) to ensure that the criminal justice system runs smoothly and effectively without being hijacked by criminal elements. Such is the reason the criminal levels in Guatemala are high (more than that of the United States, which has over 300 million citizens). Therefore, this is important for adopting a campaign that will restore the impartiality and independence of the justice system. International and legal experts must carry out a true evaluation process of the candidates in the justice system. International Human Rights Watchdog Organizations may help Guatemala rescue its institutions and provide needed tools to allow the country to objectively determine the candidates who meet the highest standards to be judges and magistrates in the country's highest courts. Such will ensure that the drug lords and criminals compromising the system are dealt with and that justice is served where necessary.

References

- Fontes, A.W., & O'Neill, K. L. (2019): Prisons and Survival in Guatemala. *Journal of Latin American Studies*. 51 (1), 85-107.
- Handy, J. (2017). The violence of dispossession: Guatemala in the nineteenth and twentieth centuries. In *politics and history of violence and crime in central America*(pp.281-323). Palgrave Macmillan. New York
- House, F. 2017. Freedom in the world 2017-Guatemala. Civil liberties, 31, 60.
- Neubauer, D. W., & Fradella, H.F. (2018). *America's Courts and The Criminal Justice System*. Cengage Learning.

Pallister, K. (2019). Guatemala: The fight for accountability and the rule of law. *Revista de Ciència política*, 37 (2). 471-492.

Zimmermann, L. (2017). More for less. The interactive translation of global norms on post conflict Guatemala. *Intentional Studies Quarterly*, 61 (94), 774-785.