Peace Brigades International



Monthly Information Package from Guatemala

Number 121 – October 2013

1. CURRENT SITUATION

Monthly selection of news on the situation in Guatemala as highlighted by the press, related to the main thematic areas of PBI Guatemala' work: the fight against impunity, land issues and the negative effects of globalisation on human rights.

CALDH regards amnesty for crimes of genocide and crimes against humanity not applicable; case filed against the Guatemalan State at the CIDH due to impediment of access to justice.¹

One of the plaintiffs in the trial for genocide against the Ixil people, the Centre for Human Rights Legal Action (CALDH), has reiterated that no amnesty should be applied for retired General Efrain Rios Montt, who has been charged and convicted of crimes against humanity and genocide and humanity. CALDH emphasised that the National Reconciliation Act provides amnesty for political crimes committed during the internal armed conflict (1960-1996), but excludes its application in cases of genocide, torture and forced disappearance: The NGO underlines in its statement that these acts that violate human rights are inadmissible and cannot go unpunished while it also included a call for the international community to monitor the compliance of the Guatemalan State's obligations on human rights, and in particular to prevent an amnesty for crimes such as those mentioned.

CALDH lawyer Hector Reyes, also announced this month that he will file an accusation based on the denial of justice to victims of grave human rights violations at the Inter-American Commission on Human Rights (IACHR), after the sentence of May 20th, which had sentenced Rios Montt to 80 years in prison, was revoked 10 days later. Rios Montt was one of those responsible for the murder of at least 1,771 people, Ixil Mayans, in El Quiché between March 1982 and August 1983. Reyes indicated that they would turn to the Inter-American Commission in an attempt to overturn the resolution of the Constitutional Court (CC) which had caused this situation of denial of justice: Ríos Montt was sentenced on May 10th by the Higher Risk Court A, for crimes against humanity and genocide. On May 20th, the CC accepted an appeal by the defence citing errors in the court proceedings and its resolution overturned the sentence. This denial of justice by the CC takes place in a context where impunity is one of the structural problems of violence in the country, according to Reyes.

Confronted with CALDH's announcement, Antonio Arenales Forno, Secretary of Peace, commented that the suit was without merit and that the IACHR has no jurisdiction over legal proceedings that are ongoing or pending in the country, nor on events occurred before 1987 (Guatemala formally accepted the jurisdiction of the IACHR on 03.09.1987, nine years after ratification and adherence to the American Convention on Human rights, 1978). However according to Reyes, the Institutions of the inter-American system of human rights protection (the Commission and the Court) can be called upon to accept complaints of denial of justice in the course of court proceedings pending in the courts of the country, even if the acts in question were prior to that date.

All this took place shortly after a decision by the CC, on October 24, which provides that the First Chamber of the Court of Appeals requested at Major Risk - A by Judge Carol Patricia Flores, legally substantiating the rejection or acceptance of the extinction of criminal responsibility, which was requested by the defence of Rios Montt based on an amnesty decree issued in 1986, during the de facto regime Víctores Mejia (Decree 8-86). The National Reconciliation Act, which currently governs amnesty or extinction of criminal liability in certain cases, was approved and came into force in 1996.

Communities of Barillas propose a referendum on the planned hydroelectric project Hidro Santa Cruz $^{\rm 2}$

Earlier this month representatives of the communities of Santa Eulalia, San Mateo Ixtatán Soloma San Pedro, San Juan

¹ Prensa Latina, 10.24.2013 <u>http://www.prensa-latina.cu/index.php?option=com_content&task=view&id=1984871</u> Center for Informative Reports on Guatemala (CERIGUA), 10/24/2013 La Prensa, ACAN - EFE Guatemala, 10/24/2013 <u>http://www.prensa.com/impreso/mundo/se-abre-camino-amnistia-rios-montt/217735</u>

² Centro de Reportes Informativos sobre Guatemala (CERIGUA), 9.10.2013 <u>http://cerigua.org/1520/index.php?</u> <u>option=com_content&view=article&id=15848:pobladores-piden-consulta-para-rechazar-hidroelectrica&catid=6:sociedad-civil<emid=10</u>

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Ixcoy, San Rafael and Santa Cruz Barillas, Huehuetenango, met with the president, Otto Perez Molina, other government officials, representatives of the energy company which operates in the area and witnesses of honour present during the dialogue. Among other things, they suggested a community consultation to be held on the hydroelectric project. Along with this, they demanded a stop to the operations of Hidro Santa Cruz as well as other oil and mining projects, while the dialogue was ongoing as well as the revoking of arrest warrants against members of the community charged in connection with this conflict. The 30th October was set as the deadline for a response to their demands and proposals. The government promised to send a commission of the Ministry of Energy and Mines (MEM), on 16th October, to check the existence of mines: According to the local population these date back to 1900 while the government ensures that there are no current licenses for mining in the area.

One of the members of the community delegation that participated in the meeting, Rigoberto Juarez, Mayan Kanjobal of Barillas, indicated that the attitude of the government officials was evasive as they did not respond especifically to the demands of the communities. For over a year, the population of the communities of Barillas has expressed its disapproval of the work in the area of Hydro San Cruz, and has rejected the hydroelectric project (the project "Cambalam" promoted by the Guatemalan subsidiary of the Spanish company, Hidralia). Among other consequences, in the course of this conflict, several people have been killed and injured to date. In 2012 a state of siege for the municipality was declared in response to protests and riots following the assassination of a member of the community.

Other News

The Guatemalan state is accused of criminalization of social protest at the IACHR 3

Social organisations, human rights and indigenous peoples filed a case at the IACHR, during the 149th session of this body - pointing to the responsibility of the Guatemalan State for the criminalisation of social protests. State officials confirmed that the present administration has met with the protesters to get to know their demands in the cases where protest mechanisms were used that did not affect third parties.

Ruben Jimenez, a community representative of Santa Maria de Xalapán, in Jalapa, confirmed that criminalisation is systematically used and affects defenders of human rights. He said that the law is used against community leaders defending their territories against mega projects, accusing them of crimes such as theft, kidnapping or illicit association and in the worst of cases, of terrorism or murders. Carlos Bezares, legal representative of the association Ceiba, said the existing loophole in Guatemala regarding prior consultation of the peoples on decisions affecting their territories, has resulted in an abuse of criminal jurisdiction, so that those who use their right to protest are charged with terrorism. He also pointed out that this cannot be used as an excuse not to implement community consultations and in no case can it be used to widen the criminal spectrum against social movements.

Two former workers of the El Tambor mine are convicted for assaulting journalists in the protest camp of La Puya⁴

Judge Carlos Aguilar, of the Second Criminal Court, sentenced two people working for the mine El Tambor, in the area of La Puya, to two years imprisonment, commutable to Q15.000, for having assaulted five independent journalists. Juan José Reyes Carrera Fuentes Orozco and Paul Silas committed crimes of threat and coercion on November 22nd, 2012 against a group of independent journalists who were covering the tense situation unfolding in La Puya at the entrance to the mine (see PIM No. 110, November 2012 for more information). "We'll cut off your hands if you keep filming" was one of the threats recorded on one of the videos that were part of the evidence at trial. One of the attacked, Gustavo Illescas, hoped that this sentence will encourage respect for the right of independent journalists to report on corporate entities.

Citizen Action demand transparency in nominating committees integration⁵

The organisation Citizen Action (AC), stated that the deans of several Guatemalan universities have attended "private meetings convened by central government operators" to discuss issues related to the process of electing judges of the Highest Justice Court, Appeals Courts and the Supreme Electoral Tribunal, Attorney General, Head of General Accounting as well as the Head of the Institute of Public Defence. According to AC these illegal meetings, pose a risk to the legitimacy and legality of the election process, which could result in the appointment of unsuitable persons to positions of prime importance to the State. Manfredo Marroquín, president of AC, says that transparency, objectivity and publicity should mark the process of the nominating commissions, as established by the Act regarding the Nominating Commissions.

³ CERIGUA. 29.10.2013 <u>http://cerigua.org/1520/index.php?option=com_content&view=article&id=16158:presentan-denuncias-contra-</u> guatemala-ante-cidh&catid=37:derechos-humanos&Itemid=10

⁴ Siglo XXI, 17 y 18.10.2013 <u>http://www.s21.com.gt/nacionales/2013/10/17/condenan-dos-empleados-minera-amenazar-periodistas</u> ⁵ El Periódico, 15.10.2013 http://www.elperiodico.com.gt/es/20131015/pais/236182/

2. ACCOMPANIMENTS

PBI accompanies social organisations and individuals who have received threats for their work in the defence and promotion of human rights. In this context we are accompanying social processes in the fight against impunity, the issue of land and the negative impacts of globalisation on human rights.⁶

This month we accompanied members of the Twelve Communities of San Juan Sacatepéquez three times during weekly meetings in Santa Fe Ocaña. On the 23rd October we attended a court hearing in which three of its members were accused of acts which took place in October 2011⁷, but was suspended. It is expected to be resumed in mid-November

Towards the end of this month we were also present in the town centre of San Juan Sacatepequez, as we received information about attacks on participants of a peaceful sit-in in the community Chivoc Assumption. The sit-in began at dawn on 28th October, in protest against the company Cementos Progreso SA's moving of machinery and trucks on the community road. Two people were injured at the camp and assaults were reported by people close to the company. Two days later we observed a reconciliatory meeting was held between the parties in the Court of San Juan Sacatepequez.

We were in constant communication and visited the Peaceful Resistance of La Puya. In October it will be 20 months since the start of this community resistance at the entrance to the El Tambor mining project in the municipalities of San José del Golfo and San Pedro Ayampuc. Since June 2013, a dialogue has been ongoing with the Prime Minister to address the concerns and demands of the La Puya resistance. In mid-October we observed preparatory activities as a response to the letter from President Otto Perez Molina of September 13 was formulated. They plan to send the response in November, while they continue to enjoy the support of the Madre Selva Collective.

On October 31st during a visit we made to La Puya, members of the organisation expressed concern about the passing of a military vehicle that same morning, with eight army officers who stopped and intimidated people present in the permanent protest camp opposite to one of the entrances of the mine. This concern is compounded by the increased patrols of the National Civil Police (PNC) which were noted last month.

During this month we also continued accompanying Omar Jerónimo and other members Chortí New Day Campesino Coordination (CCCCND). On the 7th October we attended a community meeting at Las Flores, Jocotán (Chiquimula), which was also attended by a delegation of German journalists and a representative from the organisation " Bread for the World ".



Later this month we accompanied several members of the Coordination as well as the Lutheran Reverend José Pilar Álvarez Cabrera to the Public Ministry (MP) in Chiquimula, following the allegations against two members of the community of Las Flores, who were in custody accused of serious crimes (see, in the same section, Monthly Information Package No. 120, September). Due to lack of evidence the case has been provisionally closed, so that both persons were released from prison the same day. Their liberation is conditional, granting a period of two months to the Public Ministry to investigate and, if necessary, present evidence (see Press statement in part 6. NGOs). The next day, we accompanied the representatives of the coordination back to Las Flores, where the community welcomed the two people who had been imprisoned and UDEFEGUA facilitated a workshop on national and international protection mechanisms for human rights defenders.

Assembly of the community of Las Flores, Jocotán (Chiguimula), 07.10.2013 . Photo: PBI 2013

In October, we have also continued to monitor the process of the defence of the Las Granadillas mountains through periodic calls to **losé Pilar Álvarez Cabrera**.

⁶ For information on our accompaniments see: http://www.pbi-guatemala.org/field-projects/pbi-guatemala/who-we-accompany/

⁷ PBI Alert: Legal accusations, orders to arrest people from the Kaqchikeles communities of San Juan Sacatepequez 26.07.2013. http://www.pbi-guatemala.org/field-projects/pbi-guatemala/latest-news/news/? no cache=1&tx ttnews[tt news]=3894&cHash=ddec104d3f706d9c80f03871886c08ba

In September 2013 we had started to accompany the Peoples Council of K'iche ' (CPK) in El Quiché. In mid-October we accompanied one of its members, Lolita Chavez, to a meeting with the director of the PNC, Telemachus Perez, in which she expressed concern about actions taken against Carlos Canil, the agent assigned to protect her as part of the precautionary measures (granted by the Commission following threats due to her work in the CPK). Canil had been signalled as having taken part in a demonstration held in Chichicastenango in March 2013. Chavez fears that this allegations represent a strategy to remove Canil as the agent assigned for her protection.

However Council members were pleased with the acceptance of their appeal in the case against the mining company Los Cimientos, which affects communities of the municipalities of Uspantán Chicamán (El Ouiché) and Cubulco (Baja Verapaz).

In El Quiché, we also maintained contact with the **Cunén Communities Council**, in the municipality of Cunén, making regular calls to their members.

We accompanied members of the Association of Indigenous Women of Santa María de Xalapán in Jalapa

(AMISMAXAJ) in a meeting with civil society organisations in the mountains of Xalapán. Numerous organisations attended social from different departments. The struggle for territory and claiming the collective rights of indigenous peoples were the central talking points. A joint statement denouncing the violation of indigenous peoples' rights and their enforcement was composed, rejecting the militarisation and violence against women.

We observed a healing encounter with the participation AMISMAXA) as well as the organisation Aq'ab'al which works on sexual and reproductive education with youth in communities. During the workshop the Barillas resistance was also presented through visits to communities of the area. The population continues to be concerned by the increasing militarisation of the area following last months events.



Meeting of the civil society organisations in Guatemala in the mountains of Xalapán, Jalapa, 10/06/2013. Photo: PBI 2013

We continue to accompany the Verapaz Union of Campesino Organisations (UVOC) during October. We accompanied several of its members to a meeting with the Secretary of Agrarian Affairs (SAA) where, along with other communities of the region, responses to the problems arising from land disputes, issues of ownership and legal action against them were demanded.

On October 18th we visited La Primavera, where several members of the organisation were alarmed by the increase in attacks against them and the lack of response from the Guatemalan authorities to requests and complaints from residents of the community. Later this month, we accompanied members of the community part of UVOC to a meeting with the Human Rights Ombudsman (PDH) in which they expressed concern and demanded that the responsible public institutions address their complaints.

This month we continued the accompaniment of the lawyer Edgar Pérez Archila and Human Rights Law Office. We were present as international observers at a hearing in the Cotzal Case in which a dignifying and integral reparation to the victim's family was demanded. We also accompanied Edgar Pérez to El Salvador, where the Lutheran World Federation in Central America awarded a Prize recognising his work as a human rights defender in the region. We continued to accompany Choc Santiago Cu, another lawyer of the firm, who had been intimidated during the genocide trial.

We held regular meetings with members of the Unit for the Protection of Human Rights Defenders in Guatemala (UDEFEGUA) and visited their office on a weekly basis. This month we also attended a workshop facilitated by the organisation (see CCCCND). Recent reports published by UDEFEGUA highlight the increase in criminal proceedings against leaders of social organisations and the economic, organisational and human consequences these bring to these people and their environment.

We accompanied the National Coordination of Widows of Guatemala (CONAVIGUA) in a burial in Zacualpa (El Ouiché) at the end of the month. Specialists from the Forensic Anthropology Foundation of Guatemala (FAFG), and representatives of the National Compensation Program (PNR) also attended. In 1982, dozens of people in this town were killed; so far only nine have been able to be identified. After a religious ceremony and a vigil in commemoration of the victims, the remains of nine people were buried.

We continued to maintain contact with the **Historical Archive of the National Police (AHPN)**. According to its latest report, so far this year, they have handed over a total of 112 903 copies of documents, mostly to the MP (44.37 %), individual users (27.74%), and PDH (14. 26%).

3. INTERNATIONAL OBSERVATION

PBI Guatemala provides international observation of public events as requested by Guatemalan social organisations, to bring attention and international interest and to communicate outside the country what we observe.

Earlier this month we visited San Rafael las Flores, in Santa Rosa, where we met Father Nestor Melgar, the Catholic priest of the town and other members of the Committee in Defense of Life and Peace; they expressed concern about the increase in patrols by the PNC in the area and the fact that they had been brought in from different departments.



On October 4th we observed a march to commemorate the **first anniversary of the** Totonicapan massacre. On the rising ground of Alaska at kilometre 169 of the Panamerican Highway where a year ago 8 people were killed during a peaceful demonstration, about 3,000 people gathered, mostly from the 48 cantons of Totonicapan. A Mayan ceremony was conducted and a march to the town centre of Totonicapan took place. People of the communities of the region expressed concern given the standstill in the judicial process against the army personnel accused of the slaughter. In mid-October we observed a hearing in Guatemala City in which the **Committee of the 48 cantons** of Totonicapan requested protective measures for the families of the victims of this slaughter, after being the target of intimidation and pressure to abandon the judicial process. No response was received at this hearing and it ended with no date for resumption.

Memorial for those killed in Totonicapan, at the summit of Alaska, a year ago. Totonicapan, 10/04/2013. Photo: PBI 2013.

On October 11th in Guatemala City the **Day of Indigenous Resistance** was commemorated. We observed a march of about 8 kilometres to the Central Park in the capital. A multitude of organisations and communities from across the country were present, claiming their rights as indigenous peoples, the struggle for justice and rejection of impunity.

On day 22, we observed a meeting held by the population of the Nacahuil community in the municipality of San Pedro Ayampuc together with PDH. They asked to monitor the situation of the municipality and expressed concern about the strong police and military presence in the area.

Finally, at the end of the month we observed a demonstration outside the Constitutional Court in which several social organisations and other people expressed their rejection of a possibility of amnesty for crimes against humanity (see section 1. Notes on Current Situation)

4. POLITICAL ACCOMPANIMENT

Meetings with the diplomatic corps, international organisations and Guatemalan authorities.

Meetings with national and international authorities are an important tool for PBI to make known our objectives and work. In these meetings, where this is necessary, we express concerns in a restrained way about critical situations we know first- hand from the work we do on the field.

This month we have met with several members of the diplomatic corps and international organisations present in the country. We met Alberto Brunori, Carlos de la Torre and Christina Papadopoulou of the Office of the High Commissioner of the United Nations for Human Rights (OHCHR) in Guatemala, we shared concerns about the violation of human rights defenders' human rights and other threats as well as attacks against those who claim, or defend and promote human rights. With the same objective and in order to promote their protection, we held meetings with officials from the co-operation and human rights programmes of the European Union Embassy, Jennifer Echeverria, with the Spanish Ambassador in Guatemala, Manuel Lejarreta, and with German Ambassador in

Guatemala, Matthias Sonn. We expressed specific concerns relating to various local situations in which we develop the work of international accompaniment and observation, with the increase in threats and other security incidents affecting Guatemalan social organisations, as well as actors in the international community.

From the Guatemalan public authorities and institutions, in October we met with lorge de León Duque, Human Rights Ombudsman and Mario Minera, director of the Mediation Unit of the Human Rights Ombudsman (PDH). At departmental and local level, we held a meeting with Carlos Guillermo, PDH auxiliary of Alta Verapaz, in which we addressed concerns about threats and attacks reported by members of the community of Finca La Primavera, in San Cristóbal (see Accompaniment UVOC). We also met with the Second Councillor of the municipality of Santa Cruz Barillas, Juan Salvador Toledo Ixtahuacán Luz Clara, commander of the police station in San José del Golfo and Blanca Estella Assuncion Quinones, Sub-station chief of the National Civil Police (PNC) of San Juan Sacatepequez. In addition to presenting our work to these authorities and demonstrating the international community's interest in human rights and the protection of those who defend and promote them, we also expressed concerns about threats, attacks and security incidents and concern identified in different regions.

Meetings with civil society organisations

The team in the field meets regularly with civil society organisations, with the aim of monitoring the situation of human rights defenders' human rights, to inform each other about the work being done and to gather information to help develop the analysis of the political situation. We coordinate aspects related to the field of international involvement.

In October we remained in contact with various organisations and civil society representatives in Guatemala. We met with members of the Committee in Defense of Life and Peace of San Rafael las Flores (Santa Rosa), Father Nestor Melgar, priest of the Catholic church in the same city and with members of the Committee of the 48 cantons of Totonicapan (see paragraph 3. observations). We also made regular visits to the headquarters of the Collective Madre Selva and the Women's Sector.

As for foreign or international social organisations present in Guatemala, we maintain regular contact and regular meetings with the Coordination of International Accompaniment in Guatemala (ACOGUATE), with the Forum for International NGOs (FONGI) and Guatemalan Human Rights Commission (GHRC).

5. ACTIVITIES OF PBI GUATEMALA OUTSIDE GUATEMALA

Outside the country we constantly develop and strengthen the network of support for the Guatemalan PBI project, as this is one of the essential tools necessary to protect defenders of human rights. Regional Representatives, the Project Office Coordinator and other members of the committee and the Project Office and national groups of PBI, conduct public relations campaigns with many NGOs, agencies and national governments, parliamentarians and others. In this context we develop actions and public relations campaigns, and / or advocacy aimed at protecting defenders of human rights.

Between 7th and 9th October, the European representative of the project participated in the "7th Dublin Platform for defenders of human rights" in Dublin, Ireland, organised by Frontline Defenders.

The project's coordinating committee, the office staff and the team of volunteers in the field, met this month in Guatemala. Taking advantage of their presence in the country, the European representative, Kerstin Reemtsma, and project co-ordinator, Cristina Barbeito, participated along with members of the team in meetings with actors of the international community present in Guatemala and mentioned in the previous section.

6. NON- GOVERNMENTAL ORGANISATIONS

In this section we publish statements (some abbreviated) from human rights organisations in which they express their concerns regarding recent events (original language - spanish)

ASOCIACIÓN INDÍGENA CAMPESINA CH'ORTI' NUEVO DÍA

LOS COMUNIDADES DE LA REGION CH'ORTI' POR ESTE MEDIO HACEN SABER:

Como pueblo Maya Chortí, hijos e hijas de la tierra y muchos hermanos de pueblos originarios que actualmente están defendiendo el derecho a la vida y el respeto a la madre tierra, frente estrategias de expoliación y destrucción que atentan con las formas propias ancestrales de los pueblos; de convivir en armonía con la madre tierra, hemos sufrido al igual que otros hermanos violencia y criminalización por resistir a la imposición de una hidroeléctrica en nuestro territorio.

Los hermanos Agustín García y Timoteo Suchite de la comunidad las Flores, Jocotán, Chiquimula fueron privados de su libertad al ser acusados de haber cometido delitos que no se le fue comprobado, quienes después de 4 meses y 15 días recuperaron su libertad. Ya es bien conocido por todos y todas que dentro de las comunidades en resistencia, en

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este caso, las flores al igual que otras a nivel nacional existen grupos que realizan una serie de acciones violentas culpando y criminalizando a los líderes comunitarios.

Actualmente existen varias denuncias y ordenes de captura en contra de lideres de las comunidades por diferentes delitos, mismos que han sido meticulosamente planificados para culpar a nuestros hermanos y hermanas que se resisten a la construcción de la hidroeléctrica del proyecto El Orégano de la Empresa Desarrollo de generación Eléctrica y Manejo de Recursos Naturales Las Tres Niñas.

El Estado de Guatemala sigue violando los derechos de los pueblos indígenas al facilitar estos proyectos sin realizar una consulta libre previa e informada antes de otorgar licencias para ejecutar provectos de empresas transnacionales, mismos que ponen en peligro las fuentes de agua, la salud, la cultura y la paz comunitaria de la región Chortí. Esta autorización solo se suma a los problemas en el área como lo es la seguía y la falta de tierras para producir generando más pobreza en la región.

El Estado de Guatemala es firmante de convenios y tratados internacionales que velan por el derecho a la vida, por lo que como pueblos Maya Chortí reafirmamos nuestra petición y postura de rechazar la imposición de estos proyectos que destruirán nuestro territorio.

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The following people have voluntarily contributed in translating this publication into English: Mary Scott.

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