



making space for peace

Peace Brigades International Guatemala Project

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Impunity in Guatemala's Maquila Industry

Social Issues and Human
Rights in Petén

5

Agrofuels, a Special Focus
on Petén

8

Justice and Reconciliation
in Guatemala:

Between Frustration and Hope

11

Two Years on: Peasant
Farmers from La Mocca Farm
Continue without Land

13

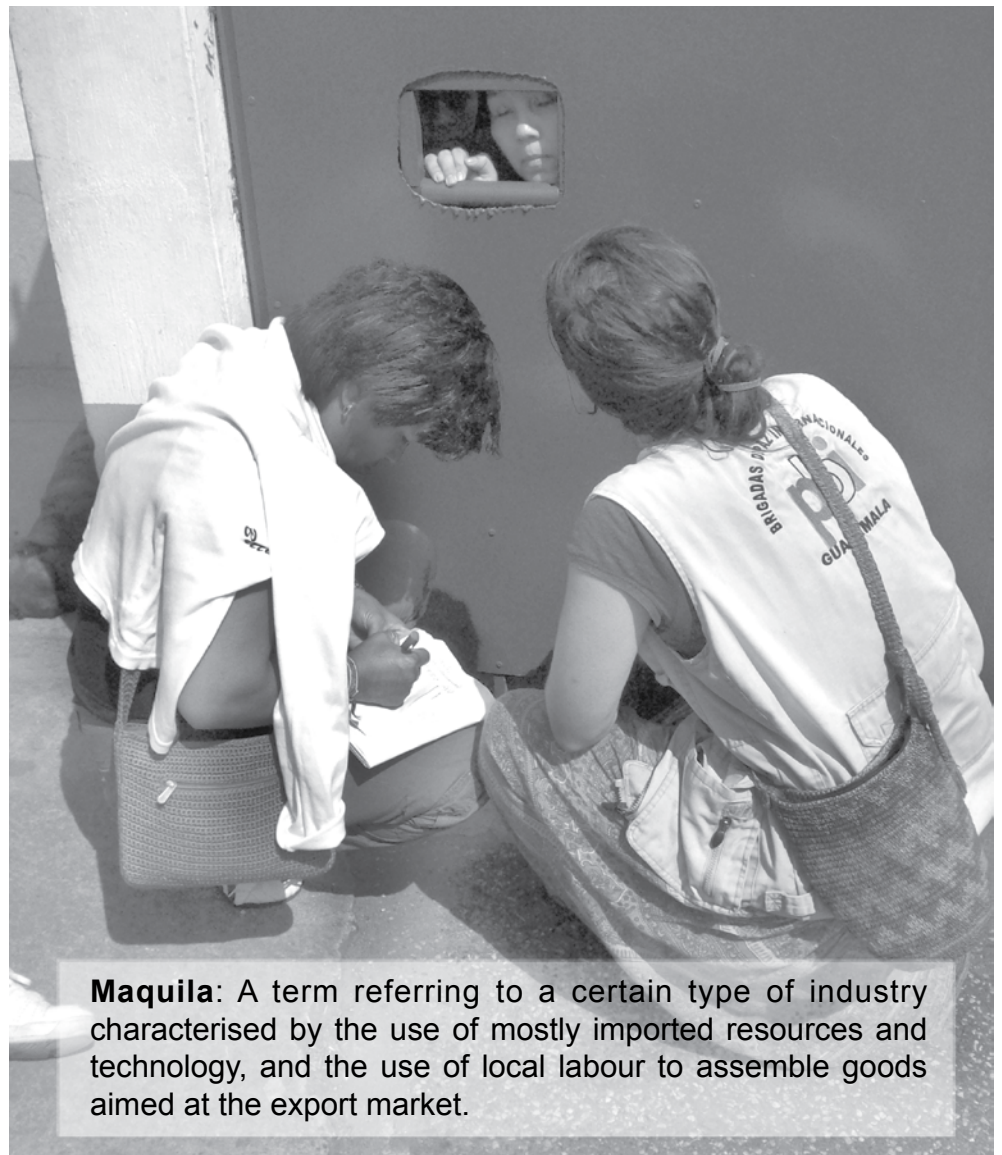
News from the Team

14



Peace Brigades International
PBI in Guatemala
Mission and Objectives

16



Maquila: A term referring to a certain type of industry characterised by the use of mostly imported resources and technology, and the use of local labour to assemble goods aimed at the export market.

Visiting workers of the union SITRACHOI while their peaceful occupation favoring the company's re-opening in November of 2008. PBI 2008

Impunity in Guatemala's Maquila Industry

The economy can be one more sphere for the enhancement of human freedoms but only if people are able to actively participate in their community's economic life.
Human Development Report for Guatemala, 2007-2008 UNDP

Approximately 13 million people live in Guatemala, 51% of which are women. 75% of the population lives below the poverty line. Guatemala's workforce has surpassed the 2 million mark, now reaching almost 4 million. This is mostly due to the increasing integration of women in the economically productive population. The percentage of women in the workforce has increased, reaching 40% in 2005¹. 7.5% of these women are unemployed whereas 76% form part of the informal economy. In this context, in recent decades² the maquila industry has acquired an important role in providing work for women, now representing 12% of formal labour.³

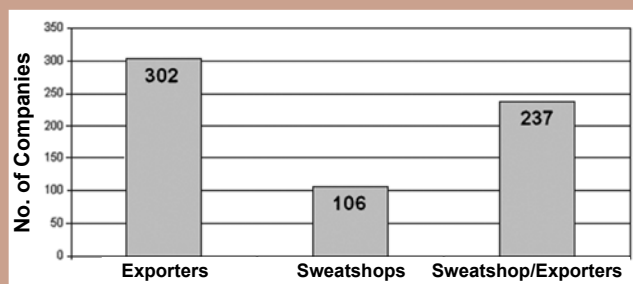
The "Maquila" in Central America: From its Beginnings to the Present⁴

In 1982, following the recommendation of the *Kissinger Report* on the political crisis in Central America, the Reagan administration launched the Caribbean Basin Initiative (CBI). Its goal was to promote economic development in the region via national and foreign investment in non-traditional sectors, including maquilas. Even though garments were not listed under the CBI's preferred products, the initiative resulted in a number of American businesses transferring their textile and garment industries to Central America. As a result, 1986 saw an intensification of the maquila industry in Guatemala. According to a report by the Guatemalan Association

for the Advancement of Social Sciences (Asociación para el Avance de las Ciencias Sociales, AVANCSO), this scenario was favoured by the political situation at the time – marked by the installation of a civilian government and relative control over the internal armed conflict. The Guatemalan Exporters' Association (Gremial de Exportadores de Guatemala, GEXPRONT), with financial, technical and political support from the United States Agency for International Development (USAID), was able to assist businesses in their negotiations with the federal government and make certain important inroads into government-regulated areas. These changes, considered "advances" by the exporters' association, are reflected in the Law for the Development and Promotion of Export Activities and the Maquilas (Ley de Fomento y Desarrollo de la Actividad Exportadora y de Maquilas, Decreto 29-89). As the law stipulates, businesses are exempt from paying industrial real estate tax (Impuesto Sobre la Renta, ISR) for 10 years, and are permanently exempt from certain tariffs and import taxes, including the Value Added Tax (Impuesto sobre el Valor Agregado, IVA) on machines, equipment, and other production related materials. Moreover, the law decrees that a maquila factory can be set up anywhere in the country. In 2005 alone, these exemptions cost the Guatemalan government up to 4 billion Quetzales (US\$505,273,789.40), which is more

than the amount spent on infras-structure, security, and the justice system during that same year⁵. According to the International Centre for Human Rights Investigations (Centro Internacional para la Investigación de los Derechos Humanos, CIIDH) this contravenes the Fiscal Accord (Pacto Fiscal), signed in 2000 under the Peace Accords, which had called for a review of existing privileges

Importance of the apparel industry
16% (106) of all companies are fundamentally sweatshops
Number of companies according to type
Company reports 28-89



¹ Idem.

² Guatemalan National Coordinator against the Flexibilization of Labour *Report on the situation of women workers in Guatemala's garment factories (maquilas)* 2007.

³ Interview with Rolando Figueroa of the Clothing and Textile Industry Commission (Comisión de la Industria de Vestuario y Textiles, VESTEX), which forms part of the Guatemalan Exporters' Association (Gremial de Exportadores de Guatemala, GEXPRONT).

⁴ See AVANCSO *The role of the Maquila in Guatemala* Investigative Report No. 10.

⁵ Martín Rodríguez *Millions lost because of maquila law*, 5 June 2006, <http://www.prensalibre.com/pl/2006/junio/05/143415.html>.

and economic exemptions granted to businesses, with a view to eliminating them before 2009⁶. The export and maquilas law was modified by Decree 38-2004, which further enhanced preferential treatment for businesses, by changing the definition of maquilas to include companies which export at least 51% of their production⁷. 700 export companies were registered in Guatemala in 2007; 308 of these were in the “maquila” garment industry and the rest were mining companies or exported liquor or shrimp. One example of this is the Montana Exploradora⁸ mining company, identified in 2003 as “an export company under the temporary admission regulations”. The company was given the right to extract and process silver and gold, exporting the minerals outside of Central America. Even though the law was originally aimed at attracting greater foreign investment to Guatemala and to promoting the export of garments, a great number of Guatemalan businesses take advantage of the maquila regulatory regime, despite the fact that, as illustrated in the table above, they are not foreign-owned nor do they export textiles.⁹

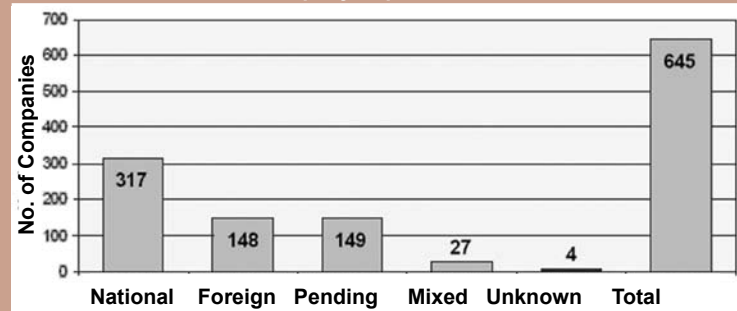
Labour Conditions for Women in Guatemala’s Garment “Maquilas”

Data from the Labour and Social Security Ministry (Ministerio de Trabajo y Previsión Social), shows that 75% of garment maquila employees are young women between 22 and 41 years of age. Most of them are single, have no access to education and come from rural areas. According to a report by the National Coordinator against the Flexibilisation of Work (Coordinadora Nacional contra la Flexibilidad Laboral¹⁰), which is made up of various labour unions, in recent years there have been reports of human rights

Only 22.9% (148) of all companies originated with foreign capital:

The Sweatshop Law has not fomented the attraction of foreign investment

Number of companies according to origin of capital
Company Reports 29-89



violations within the maquilas. Employees work long days, of between 10 to 12 hours; the companies may default on social security payments; workers face verbal or physical assault; there is sexual harassment¹¹; ongoing violations of health regulations and labour rights, such as not being allowed to drink water or use the bathroom during work hours, etc. The report concludes that the main reason these conditions persist is the fact that impunity reigns in the country: “instead of protecting workers’ rights, officials in the justice system tend to side with the companies and are more likely to permit them to set up somewhere else or change their name, rather than demand that they fulfil their obligations as required by law”. According to data of the Maquila Industry’s conciliation or arbitration division (Sección de Conciliaciones), in 2004 more than 60% of the complaints received by this department referred to inappropriate dismissals¹². Similarly, the office of Guatemala’s Human Rights Ombudsman (Procuraduría de Derechos Humanos, PDH) noted that there were labour rights violations associated with the closures of 20 garment maquilas in 2008.¹³ Labour groups have denounced the enormous obstacles blocking the organisation of unions in Guatemala’s maquila

⁶ Centro Internacional para la Investigación de los Derechos Humanos (CIIDH) *Report on the Maquila Law- a Fiscal Dialogue*, February 2007.

⁷ Idem.

⁸ The licence was granted via a resolution issued on 23/12/2003, by then Economy Minister Patricia Ramírez.

⁹ Op cit CIIDH.

¹⁰ Made up of the Guatemalan Workers’ Labour Union (Unión Sindical de Trabajadores de Guatemala, UNSITRAGUA), the Center for Legal Action in Human Rights (Centro para la Acción Legal en Derechos Humanos, CALDH), Peasants Committee (Comité de Unidad Campesina, CUC), National Coordinator of Peasants’ Organisations (Coordinadora Nacional de Organizaciones Campesinas, CNOC), National Federation of Guatemalan Government Workers’ Unions (Federación Nacional de Sindicatos de Trabajadores del Estado de Guatemala, FENASTEG), Press Workers Union (Sindicato de Trabajadores de la Empresa Prensa Libre y Anexas, STEPLEA) and the Labour Union of Banking and Insurance Employees (Federación Sindical de Empleados Bancarios y de Seguros, FESEBS).

¹¹ Guatemala has not fulfilled its commitment under the peace accords to adopt laws that prohibit and punish assault and sexual harassment. See: <http://www.albedrio.org/html/noticias/lh020207.htm>.

¹² See <http://www.segeplan.gob.gt/>, website of the Presidency’s Secretariat for Programming and Planning (Secretaría Programación y Planificación de la Presidencia, SEGEPLAN).

¹³ Data from the PDH, provided by Marco Vinicio Hernández, of the Defense of the Rights of Workers and Unionists.

industry. The threat of being blacklisted or fired paralyses the workers and has mostly prevented them from coming together to form a union in the factories.¹⁴ At the request of some workers, in late 2008, the PBI team was present at the closure of the Choi Shin Ltd maquila, owned by the Korean company **Choi & Shin's Co. Ltd** based in **South Korea**. The company's subsidiaries, CIMA Textiles and Choi Shin, exported most of their production to the US firm Liz Claiborne (LC). Workers at both CIMA Textiles and at Choi Shin had formed unions, named SITRACIMA and SITRACHOI respectively, something which was quite unique in the garment industry, and had even negotiated a collective agreement. CIMA Textiles closed in 2007, at the end of its 10-year period of financial exemptions, leaving hundreds of people out of work. The union pressured the company and a large percentage of the laid-off workers were hired by the twin company, Choi Shin, which had been operating for 20 years. Nevertheless, in the beginning of 2008 Choi Shin declared bankruptcy, ceasing production in July 2008. According to Rafael Antonio Sánchez Morales, lawyer for the Food, Agro-Industrial and Allied Workers Union (Federación Sindical de Trabajadores de la Alimentación Agro-Industrias y Similares, FESTRAS), members of the union contacted representatives of the LC company, who provided them with documentation that showed that LC's demand for the product supplied by the Choi Shin factory had remained steady. At the same time, the Guatemalan Labour and Social Security Ministry asked the company to provide proof of bankruptcy. The company failed to comply with this request and a Guatemalan judge ordered the factory to resume operations. A group of employees decided to stay at the site every night after the factory had shut down production.

Part of the interview with Ingrid Gómez, member of the General Assembly of SITRACHOI a few days before leaving the company: *We asked them to pay us all the full compensation, established by the law, for the work we have done...My family is in a bad state, my youngest is alone at home. They cut off our water, our electricity. We all have debts to pay and with what they give us We will be completely unable to face the debts. Some of my work fellows are ill, they have to go to the hospital, we can't stay here anymore and now we are no longer motivated. They have taken all the machinery, the fabric and they didn't even bother to sit with us once to negotiate.*

After three months of this vigil, and despite visits by the PDH, the company, with the support of the Guatemalan Labour Inspection Office,¹⁵ resolved the situation by providing "severance pay". 568 employees were paid 50% of the minimum monthly salary of one month for each year they worked, while 50 other employees received 100% of the minimum salary. According to the Guatemalan Labour Code,¹⁶ severance pay should be based on the salary being earned by the employee in the last 6 months of work. The dismissed Choi Shin workers had been working for the company for an average of 10 years and were therefore earning more than the minimum monthly salary. Six members of the SITRACHOI leadership decided to continue pressing for the workers'

rights by staying inside the factory until mid-November 2008, when the last remaining members of the union finally stopped working at Choi Shin.¹⁷ According to representatives of FESTRAS, the shutting down of both factories was directly linked to the fact that the workers had set up unions. They believe that production has shifted to Nicaragua, where the company runs other garment factories. SITRACHOI and SITRACIMA were rare examples of labour organising in Guatemala.

The workers succeeded in forming the unions in 2001 and subsequently signed a collective agreement in 2003. Since 2005 they had been in a renegotiation process of the collective agreement, exerting constant pressure on the company.¹⁸ The LC brand is part of the Fair Labour Association (FLA), which is currently investigating possible links between the shutting down of the factories and the existence of unions.¹⁹



Entrance of the sweatshop CHOISHIN, S.A., closed in July of 2008. PBI 2008

¹⁴ Interviews with David Morales of FESTRAS.

¹⁵ The Labour Inspection Office has 280 inspectors for the whole country. According to the Guatemalan Ombudsman for Human Rights, the Labour Inspection Office has not fulfilled its overseeing role. Instead it acts as a negotiator between companies and employees and as such has lost the workers' trust.

¹⁶ See Art. 82 of the Guatemalan Labour Code.

¹⁷ Interview with David Morales, Rafael Antonio, Shenny Godinez of FESTRAS and interviews with members of the SITRACHOI Leadership (07/11/2008 and 11/11/2008). Choi Shin factories.

¹⁸ See the report of the Commission for the Verification of Codes of Conduct (Comisión para la Verificación de Códigos de Conducta, COVERCO), on the formation of unions in the CIMA and Choi Shin factories.

¹⁹ See <http://www.lizclaiborneinc.com/rights/conduct.htm>: the LC company's Code of Conduct stipulates freedom of association and collective agreements.

Social Issues and Human Rights in Petén

In November of 2008 the team of PBI in Guatemala realized an exploratory trip to Petén to continue its investigation work carried out in February of 2007, with the aim of renewing contact with organizations and state institutions as well as collecting information about the present situation of the department. The two following articles are results of the observations and interviews.

Petén, the largest and least populated department of the country, is situated in the north of Guatemala and is bordered by Mexico and Belize. Until the 1960s its population numbered about 12,000, with forest covering 90% of the area. Since then there has been a political strategy to promote internal migration to Petén as a response to demands for access to land in the rest of the country. By 2006 the population had risen to 442,000¹ and average annual deforestation was 0.572% in the preceding years.² As is the case in the rest of the country, the population of this remote department faces poverty,³ crime, and a lack of social infrastructure (health, education), especially in the most remote regions. With 60% of the department officially designated as a Protected Area, the invasion of these areas is particularly significant.⁴ Although most evictions are carried out

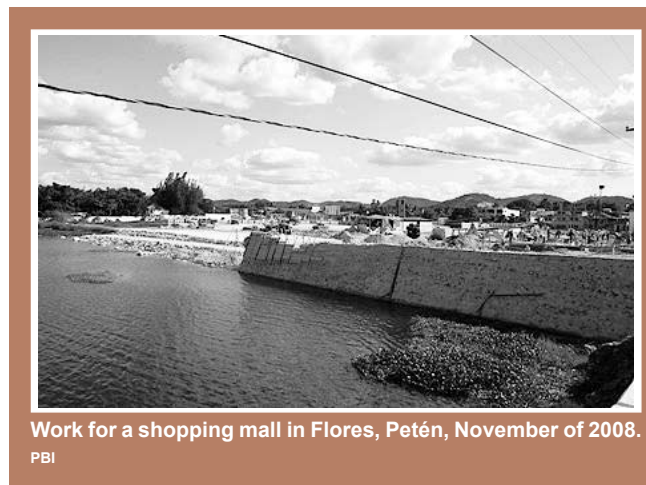
without violence, they culminate in the burning of houses at the hands of the police, and fierce reactions from the people affected. The Human rights Ombudsman (PDH) is trying to encourage a more humane approach, asking the police to wait until the inhabitants have removed their

possessions before setting the houses alight.⁵ The harshest blow to Petén in 2008 was the devastation brought by tropical storms throughout the department in July and October, exacerbating challenges faced by the population.

Flooding

Although people are accustomed to the rainy season which causes the uncontrollable swelling of the rivers, what took place in 2008 had not been seen for 30 years. At the end of October, the amount of rain that fell in 10 days surpassed the annual average. According to the director of the Presidential Secretariat of Planning and Programming (SEGEPLAN), Jose Guerca, the flooding affected 12,000 people throughout Petén. The worst flooding occurred in the areas adjacent to the Pasion, Salinas and Usumacinta rivers, where whole communities in both urban and rural districts were inundated with the floodwaters,

causing death and destruction of crops, roads and bridges, schools and public buildings. Rescue work was carried out by the National Disaster Reduction Committee (CONRED) which co-ordinated shelter, food and medicine, as well as rescuing and evacuating people to refuges.⁶



Work for a shopping mall in Flores, Petén, November of 2008.

PBI

¹ National Statistics Institute (INE) *National Survey of Conditions of Life (ENCOVI) 2006*. www.ine.gob.gt.

² Ramos Victor Hugo *Monitoreo de Deforestación e Incendios Forestales en la Zona de Uso Múltiple de la Reserva de Biosfera Maya, Petén, Guatemala, 2004*.

³ According to ENCOVI 2006, 57% of the population lives in poverty, of these 14.5% in extreme poverty. Nationally, the figures are 51% and 15.2% respectively. Op cit INE.

⁴ The Council of Protected Areas (CONAP) registered in 2006 and 2007 eleven land invasions and 34 pressure points (see the document *Invasiones y Puntos de Presión en AP en Petén*, Marzo 2008). The Nature Defenders Foundation, which manages the Sierra de Lacandón National Park, registered in 2008 twelve invasions within this same park (interview with Javier Márquez, Director of the Foundation, 12.11.2008, Santa Elena). Also see the article *Agro-fuels, a Special Focus on Petén*, in this edition of our Bulletin.

⁵ Interview with José Estuardo Puga Castellanos, auxiliary of the Human Rights Ombudsman's Office (12.11.2008, San Benito).

⁶ Interview with José Guerca, SEGEPLAN (17.11.2007, Flores).

According to various community leaders interviewed by PBI; although social organizations and NGOs collaborated, state support was insufficient; food packages were thrown together and failed remote regions lacking road access; no appropriate measures were taken to ensure long term support, such as compensation for lost harvests or funds to rebuild houses that had been destroyed.⁷

Security

Petén is considered the most violent department in Guatemala. Homicide rates are the highest in the country: an average of 57.8 per one hundred thousand of the population. The former director general of the National Police, Isabel Mendoza, attributes this situation to the proliferation of organised crime and drug smuggling. Because Petén is so inaccessible, criminals from all over the country use it as a refuge.⁸ According to information from the deputy inspector of San Benito's Police station, Armado Samuel Barrios García, there are 513,843 inhabitants in an area of 35,854 square kilometres in Petén, with around 500 police officers serving seven police stations,⁹ of which only 145 officers

are active on any one shift. Barrios García estimates that the Police need an additional two thousand officers to establish and maintain security for the population and to confront the crime problem.¹⁰ The State has sent in more armed forces "to safeguard the national border areas, given that the country is threatened by drug-trafficking and organised crime".¹¹ The magazine *Inforpress Centroamericana* notes that the installation of armed forces is expected in regions

where there is a high level of social conflict relating to access to land and the presence of megaprojects such as plantations of African palm.¹²

Confronting the Past

Civil society organisations have not welcomed the increasing presence of military units carrying out internal security work¹³. Nor have they been welcomed at the departmental level, especially by the organisations and movements seeking justice for massacres, tortures and other violations committed by the army in the years of the armed conflict. Of the three cases and clandestine cemeteries most recognised in Petén, El Chal/Dolores, Josefinas/La Libertad and Dos Erres/La Libertad, only the last of these has resulted in some sort of economic compensation. On the 7th of December 1982, the Special Forces known as Kabiles entered Dos Erres village in the municipality La Libertad and slaughtered more than 250 children, women and men. The Association of the Families of the Detained and Disappeared of Guatemala (FAMDEGUA) presented the case before the Inter-American Commission for Human Rights (CIDH), and in the year 2000 they signed an



Manifestation of FAMDEGUA in the Capital to demand justice in the case of Dos Erres, 7.12.2008. PBI 2008.

agreement of friendly settlement with the State of Guatemala, which committed itself to investigate the case and to compensate the communities and survivors.¹⁴ Until now, the State has not fulfilled this responsibility to investigate and prosecute those responsible for the massacre, so on the 7th of December 2008, the families of the victims demonstrated in front of the Presidential Palace in the capital, demanding justice.¹⁵

⁷ Interviews with members of the Lutheran World Church (17.11.2008, Santa Elena) y of the Petén Front Against Dams (18.11.2008, Flores).

⁸ Prensa Libre *Departamento de Petén es el más violento*, 22.07.2008.

⁹ San Benito, San Andres, La Libertad, Santa Ana, Poptun, Sayaxché and Melchor de Mencos.

¹⁰ Interview with Armado Samuel Barrios García, Deputy Police Inspector (17.11.2008, San Benito).

¹¹ Prensa Libre *En marcha plan para subir número de tropa*, 01.09.2008.

¹² Inforpress Centroamericana, N° 1773 *Ejército se posiciona como un actor protagónico en seguridad*, 10.10.2008.

¹³ CERIGUA *Grupos civiles critican aumento de efectivos militares* 01.09.2008.

¹⁴ See PBI *Petén Special Bulletin*, Abril 2007.

¹⁵ Communique of FAMDEGUA *La Masacre de las Dos Erres. 26 años esperando que la justicia llegue*, 05.12.2008.

Human Rights Defenders and Defenders of Environmental Rights

During 2006 and 2007, a wave of threats, repression and surveillance followed human rights defenders and defenders of environmental rights,¹⁶ causing psychological trauma, abandonment of work, flight from the country, and abandonment or decreased political activity in certain thematic areas. This has applied especially to those human rights defenders who work protecting the environment, and whose work relates to the diverse problems threatening the Protected Areas, problems such as the extraction of natural resources, invasion, illegal logging, forest fires and

negotiate agreements surrounding the benefits and conditions of tourist projects, like the National Park 'El Mirador' and the 'Cuatro Balam'. According to the ecological organisation Tropicó Verde, these communities perceive an imbalance among the powers involved and argue that their needs are not being met or sufficiently taken into account.²¹

The potential construction of hydroelectric plants on the department's rivers is understood from the government's perspective to be one of the developmental alternatives for the region.²² Until now there have not dams in Petén, but there are plans for the construction of three: on the Motan river, in the municipality of Melchor de Mencos, and on the Machaquila and San Juan rivers, both in the Sayaxche municipality. The San Juan River project will affect more than 30 communities and will be run by the hydroelectric company SINERGICA S.A.

The San Juan River project will affect more than 30 communities and will be run by the hydroelectric company SINERGICA S.A.

The first step taken to make the project viable, according to the Petén Front Against Dams (FPR), has been the eviction of the community of San Miguel El Alto II.²³ A study carried out by the Ministry of the Environment and Natural Resources, revealed

drug-trafficking.¹⁷ These activists have modified the focus of their work towards research, abandoning activism and seeking less provocative strategies with a lower public profile. According to the activists themselves, they feel less protected in Petén when in comparison to other parts of the country.

numerous negative effects including: the physical destruction of San Miguel, risks posed to an additional 30 communities in the flood zone; loss of land; and family as well as community disintegration in the region. The communities at risk have organised themselves with the help of the Petén Front against Dams. They reject the hydroelectric project because of aforementioned impacts, and because they currently have access to electricity -in this respect the project will not offer any benefit.

Development Options

The new economic development strategy outlined by the government for the department of Petén refers to megaprojects (oil refineries, hydroelectric plants, African palm) and tourism -taking advantage of the archaeological riches of the region.¹⁸ A multi-sector roundtable has been established in which representatives from the community, businesses,¹⁹ State entities and ecological organisations²⁰

*"We are not against development, but against the negative effects of megaprojects. We do need large hydro-electric plants, but small ones, built for the benefit of the communities and managed by those communities. We ask that the communities be involved in the planning and realisation of a study of the possible effects, about which we want to be informed."*²⁴

¹⁶ Op cit PBI, *Special Bulletin*

¹⁷ Interviews with Mujeres Ixquik (11.11.2008, San Benito), Pro Petén (17.11.2008, Flores), Trópico Verde (18.11.2008, Flores).

¹⁸ Interviews with Rudel Mauricio Álvarez, Governor of Petén (11.11.2008, Flores), Wildlife Conservation Society (WCS) (14.11.2008, Flores), SEGEPLAN (op cit).

¹⁹ Cementos Progreso, Wal-Mart-Centroamérica, Ingenio Pantaleón, Cervecería Centroamericana, Banco Industrial, Claro, Disagro and Citibank have formed the Foundation for Mayan Cultural and National heritage "to coordinate efforts with other international foundations (GHF and FARES) to provide significant financial and business help for the conservation of Guatemala's natural and cultural heritage. The aim will be the development of sustained tourism for the region and with it increased wellbeing for Guatemalans in general, and the people of Petén in particular." (Communique of GHF Global Heritage Fund y PACUNAM, 26.05.2008).

²⁰ Among others the NGO Balam, ACOFOP, WCS, Pro Petén, Rainforest, Trópico Verde.

²¹ Op cit interview.

²² Op cit interviews SEGEPLAN y WCS.

²³ According to the Petén Front Against Dams, the families of San Miguel El Alto II who have lived there for more than 40 years, initially accepted the company's offer of indemnity. Although they later changed their minds and wanted to stay, they were finally evicted. (op cit interview).

²⁴ Op cit interview with Agustín Tebalán of the Petén Front Against Dams.

territory¹², and are extending towards the municipalities of Poptún¹³ and San Luis, in the West -taking advantage of land close to the river Pasión.¹⁴

Why Are They Selling?

The Social and Pastoral care branch of the Catholic Church, which, among other programs, works with communities in land legalization processes, became aware of a situation whereby families were receiving their land titles, and directly selling them off.¹⁵ Observing this situation, the Association for Development and Progress in Petén (ADECOP Iitzam) organized a workshop to address this phenomenon, asking communities why they were selling. The most frequent responses were: a) poor land productivity; b) economic necessity (with this in mind

productivity to an absence of adequate rural agrarian policies promoted by the Government. As a result families do not attribute value to their land. Others are of the opinion that deficient social infrastructure gives them no reason to stay.¹⁸

Social, Economic, Cultural and Ecological Consequences

One of the major concerns resulting from the selling of land in Petén and other in areas, particularly the departments of the Northern Transversal Strip, is migration into the North, where principal protected areas are located. The response from the State, according to Luis Solano, has been to carry out evictions.¹⁹ In 2008, the National Council for Protected Areas (CONAP), together with state security forces, evicted 20 families that had settled in the area around Aguateca Cultural Monument, a protected area in Sayaxché, after having sold their land to an African palm company. A further 30 people voluntarily left the Dos Pilas Cultural Monument in the same area after CONAP's intervention.²⁰ Meanwhile, the pressure is felt in the Mayan Biosphere Reserve, located in the North of the department, with evictions of new settlements reported in Sierra Lacandón and Laguna del Tigre National Parks.²¹ According to the National Network for the Defence of Food Sovereignty (REDSAG), in a country with a long history of agrarian problems this situation can only generate more conflict.²² Furthermore, in relation to land access, the Land Fund (FONTIERRA), a state body that facilitates land access by means of credits for families and communities, explains that in recent years land has become difficult to come by, and due to a shortfall in state land they find themselves competing with private interests in a milieu of rising prices and limited by their own long and bureaucratic process.²³

Finca San Román Case

During the armed conflict, many Qeqchi' families, displaced from Alta Verapaz, arrived at the San Roman Estate, southeast of Sayaxché, in search for land upon which they could live. Finally, in 2001, after a long process, the Land Fund (FONTIERRA) gave 2113 families their own individual titles to the land. During the process of handing over the deeds, a large scale buying and selling of the land began. In June 2008 it was estimated that 60% of the land had been bought by African palm companies.¹

¹ Action Aid. Agro-fuel crop plantations and the loss of food producing land in Guatemala. Guatemala, August 2008.

selling seemed an immediate money earning solution); and lastly c) pressure from economically powerful actors, including pressure from within communities by infiltrators or leaders "bought" by the same interested power. Threats, coercion and violence have been used to acquire land from families, in Petén especially; similarly, sums of money significantly higher than typical local prices have been offered.¹⁶ Furthermore, the lack of community organization and awareness creates vulnerability to coercion and pressure to sell.¹⁷ There are those who attribute weakness in campesino

¹² Specifically the areas around Santa Rita and San Miguel El Alto are home to large extensions of plantations. Interview with Byron Barrientos, Regional Director, Secretary of Agrarian Affairs (SAA) (14.11.2008, San Benito).

¹³ Specifically, land in the communities of Jabali Bravo and Nacimiento Oriental, Poptún, has been bought. Op cit Interview with ADECOP Iitzam.

¹⁴ Op cit Interview with ProPetén.

¹⁵ Interview with the Social and Pastoral Care Branch of the Catholic Church, Petén (13.11.2008, Santa Elena).

¹⁶ Op cit Action Aid.

¹⁷ Op cit interview with Alianza para la Vida y la Paz.

¹⁸ Op cit interviews with Alianza para la Vida y la Paz and with ADECOP Iitzam

¹⁹ Op cit Solano L. *Reconversión*.

²⁰ Interview with Claudia Mariela López Díaz, Regional Director, CONAP Petén (14.11.2008, San Benito).

²¹ Op cit Solano L. *Reconversión*.

²² Op cit REDSAG.

²³ Interview with FONTIERRA (14.11.2008, Santa Elena).

The shift towards monocrops destined for the production of agro-fuels brings with it, according to the Institute of Agrarian and Rural Studies (IDEAR), the loss of local campesino food production such as corn, beans etc.²⁴ This not only has economic costs but also social and cultural costs -like changes in family, community and ancestral traditions in production. In 2008 the Inter American Development Bank (IDB) observed a significant rise in food prices, and it has been documented that the global demand for agrofuels has contributed to this increase, as much in rural as urban areas. With this rise it is predicted that poverty will become more widespread in countries like Guatemala.²⁵

Although companies claim that monocrops will generate employment and wealth for the economy,²⁶ IDEAR points out that in the area of Polochic, Alta Verapaz, palm and sugarcane generates much less employment per manzana,²⁷ compared with the campesino agricultural produce.

Furthermore, despite producing wealth at a national level, it does not filter down to a local level. In some cases families remain on land they have sold in order to work

in the new plantations often under hard, badly paid and frequently temporary working conditions.²⁸

Monocrops are a fuel source thought to mitigate the negative effects of climate change; yet according to the Food and Agriculture Organization of the United Nations (FAO), when taking into account crop production methods and the process of transforming them into fuels, the monocrops industry can in fact generate more greenhouse gases than fossil fuels.²⁹ There are also notable affects on the environment including the use of agrochemicals that contaminate the soil and water sources; deforestation, and the excessive use of water. Additionally, the areas dedicated to palm production have a threshold of between 20 and 30 years, from whence the land is rendered useless.³⁰

Responses and Resistance

Criticisms have been made at the lack of Government intervention, and in certain cases, at state institutions which open doors to mono-crop companies. According to Laura Hurtado from Action Aid Guatemala, companies

access information from the Information Registry and FONTIERRA, facilitating their search and purchase of land and its regularization -a process that normally takes an average of two years, but in the case of such companies is reduced to six months.³¹ Various social organizations in Petén, such as the Social and Pastoral Care Branch of the Catholic Church, Ixmucané, ADECOP Iitzam, Alianza para la Vida y la Paz, and the Coordinator of Campesino-Indigenous Organizations in Petén are adjusting the way they work with communities in reaction to this new challenge. They carry out workshops to raise awareness, community organization and farming so that families learn to value fully and utilize their land, comprehending the negative consequences of selling. Martín Jiménez of Alianza para la Vida y la Paz, is hopeful for the future because, as a result of these workshops, the sale of land has ceased in the village of Las Camelias and in three other communities.³²

Who's buying?

- Palmas de Ixcán, is a subsidiary of Green Earth Fuels, United States transnational company, with national capital from the Arriola-Torrebiarte family and international capital from the Carlyle group and Goldman Sachs.¹ In addition to owning plantations in Quiché and Alta Verapaz, they have acquired around five thousand hectares in the San Román area (see box), La Soledad, Las Delicias, El Roto Viejo, El Roto Nuevo and Tierra Blanca, in Sayaxché.²
- Hame S. A./Suprema S. A., receives capital from the Molina Botrán Group and owns large extensions of plantations, estimated at 33 thousand hectares, in the municipalities of Sayaxché and San Luis.³ Beltranena Orive owns plantations in La Cachimba an area on the border between the departments of Petén and Alta Verapaz.
- The Campollo Codina and König Groups also own plantations in Sayaxché.⁴

¹ Op cit Alonso Fradejas A., Alonzo A., Dürr J.

² National Network for the Defence of Food Sovereignty in Guatemala (REDSAG), Presentation of the study *Costos sociales, culturales, económicos y ecológicos de los agro-combustibles*, 27.11.2008.

³ Op cit Alonso Fradejas A., Alonzo A., Dürr J.

⁴ Infopress Centroamericana, N° 1760, Solano L. *Palma Africana se extiende; bio-diésel próximo paso*, 11.11.2008.

²⁴ Op cit Alonso Fradejas A., Alonzo A., Dürr J.

²⁵ Inter-American Development Bank, *Countries need to spend more to prevent food crisis from deepening poverty*, August 2008. <http://www.iadb.org/news/detail.cfm?lang=en&id=4718>.

²⁶ See El Periódico *Prevén crecimiento del cultivo de la palma africana en el país* (23.06.2007).

²⁷ 7,056 square meters, approximately 1.74 acres.

²⁸ Op cit Alonso Fradejas A., Alonzo A., Dürr J.

²⁹ Op cit FAO.

³⁰ Op cit Solano L. *Reconversión*.

³¹ Presentation by Laura Hurtado *National Conference on Agro-fuels*, Guatemala.

³² Op cit interview with Alianza para la Vida y la Paz.

Justice and Reconciliation in Guatemala: Between Frustration and Hope

For organized civil society in Guatemala, one cannot consider peace without a process of justice and reconciliation. Guatemala has recently been a focus of international attention due to the genocide case being tried in the Spanish National Tribunal against eight former Guatemalan civil and military officials. The PBI team has interviewed two human rights defenders who are working for justice and reconciliation: Feliciano Macario, in charge of the Victim Dignification Program of the National Council of Guatemalan Widows (CONAVIGUA), and Mario Minera, director of the Human Rights Legal Action Centre (CALDH). CALDH is the legal advisor of the Association for Justice and Reconciliation (AJR), an organization of witnesses and family members of victims that attempt to bring about justice through cases against genocide, a process that is taking years.

What does the process of reconciliation mean for you and your organization?

Feliciano: First of all, justice and the clarification of history are primary in bringing about reconciliation. After that we can think about democracy, development and true peace. There is a process to follow and we still have not completed all the steps. This process is really important for the families of the victims.

Mario: We have not reached the end result [of reconciliation] in Guatemala. What we have are individual, isolated steps: two reports of historical clarification on one side, several open judicial processes over here, economic reparations on the part of the state as consequences of the Inter-American Court of Human Rights (CIDH) rulings on another side [...] But right now there is no coherent process that one could call reconciliation.

What are the obligations of the state with respect to justice?

Mario: The state is obligated to try in court [the crimes committed during the armed conflict], not only because of the Peace Accords, but because the state, due to its political position since 1985, continues to reaffirm itself

as a democratic state that respects the rule of law [...] One of the central elements of its functioning, therefore, should be justice.

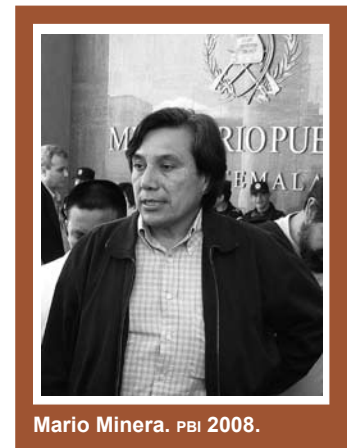
The state is obligated to investigate, prosecute criminal actions and move towards an administrative justice system, not only for past crimes but those of the present. However, we find that the state does not comply with this [...] the system of justice and especially the Public Ministry continue without completing the functions that they are legally bound to do.

[...] Because of this, human rights organizations like CALDH are the groups that provide and carry out legal assistance to those involved in cases and, in certain instances, the investigation of what happened [...]. The systematization of this collection of information can involve risks to our security. It would be well worth running these risks if public prosecutors were continuing with investigations in the process of historical clarification, but we realize that this entity has done nothing.

Is the genocide case advancing on a national level?

Mario: We have an interesting phenomenon in Guatemala: in the year 2000 the legal case against genocide began. From 2000 to 2006 the Public Ministry did practically nothing to advance the investigation.

In October of 2006, AJR presented a petition calling for the first declaration to be taken from one of the accused state personnel. From there, two problems arose: the first was the use and abuse of appeals by the defence and the second were the excessive amounts of time needed to resolve such appeals by the Constitutional Court of Guatemala. These are two clear examples of the obstruction of justice.



Mario Minera. PBI 2008.



Inhumation in Cumbre de Tecpan. PBI 2008.

What are the other obstacles in the judicial proceedings dealing with events of the armed conflict in Guatemala?

Feliciana: In the cases of human rights and genocide there is no willingness to completely carry out justice. I do not believe it is even permitted. In Guatemala, any judge or other functionary who wants to advance a case can be threatened or assassinated; for example, the death threats suffered by judge Cojulum, responsible for taking witness testimonies in the genocide case.

In spite of many years of waiting, there is still a lot of fear among the victims, but even more when they live amongst ex-military officers, ex-local troop member, ex-guerrillas, etc. In the process of carrying out exhumations we have had to get around a lot of obstacles. For example [...] in 2004 they threatened us, saying, [...] "If you insist in taking out those bones from the graves, then take them. But don't worry; yours are going to be there shortly".

Are there cases against humanity or war crimes carried out on a national level?

Mario: There are a number of processes [...] that have led to a sentencing; for example, there was a certain amount of success in the Dos Erres case in Peten. But later, at a national level, the case was compromised due to the use and abuse of appeals. We also have the case of Rio Negro. At a more local level and for very specific crimes, the first court case involving forced disappearance implicated military officer Felipe Cusanero Coj of Choatalu from Chimaltenango, in being the material author in the disappearance of three women and three men. The case advanced but has been stalled due to the fact that the state of Guatemala cannot charge a man for a crime that, at the time of the offence, was not defined by law.

What other procedures exist in order to try these cases?

Mario: Considering the malfunction of the justice administration system and the signing of the Peace Accords, the Inter-American System has started to be utilized. The Inter-American Human Rights Commission (CIDH) started to receive cases of forced disappearances, extrajudicial executions and also of cases involving labour violations because the national system [...] does not operate

based on the law, in other words the cases were presented at the CIDH due to the denial of justice in Guatemala. The most disturbing case reported was that of a massacre, a result of the so-called Plan de Sánchez¹. [...] The CIDH has condemned the state of Guatemala for a number of cases [...]. For all the cases that have been tried the state has been asked to open national court cases in order to criminally prosecute the material and intellectual authors. For none of these cases has a national legal investigation been opened. The only part in which the state of Guatemala

has complied is in material reparations, [...] which are important but totally insufficient, reducing the fight for justice to a material retribution.

What is your opinion of international conventions and judicial processes?

Mario: The Statute of Rome² functions as a guarantee to avoid the repetition of these kinds of actions against humanity, in this way it is possible to judge continuing offences in the International Criminal Court.

The International Convention regarding Forced Disappearances reinforces the doctrine of universal jurisdiction for continuing offences

[...] in other words; crimes that do not expire if the victim does not appear.

[...] The judicial process open in the Spanish National Tribunal is an example of the international criminal justice exercising universal jurisdiction and has made it possible for crimes against humanity and war crimes to be judged outside the country. From this angle the result is positive, already reflecting the fight against impunity and favouring the access to justice.

Feliciana: The act of giving testimonies has really generated many expectations for the families and the victims that have participated in the process. I have hope that the Spanish judge is able to do what we cannot do here in Guatemala.



Inhumation in Pachay, San Martin Jilotepeque. PBI 2008.

¹ The massacre took place in the location of the same name in the state of Baja Verapaz, the 18th of July of 1982. More than 250 people were assassinated.

² Instrument of the International Criminal Court, introduced in July of 2002.

Two Years on: Peasant Farmers from La Mocca Farm Continue without Land

The Campesino Development Association of San José Mocca (ACDSJM) has been struggling since 2003 to resolve labour issues with the Hempstead Dieseldorf family, owners of the La Mocca estate in Alta Verapaz. In 2006, as a way to press for a resolution of the case, members of the Association occupied another farm belonging to the same family. The occupiers suffered two violent evictions, which left three people dead. Since then, they have had no other option than to remain on the highway in front of the farm.

In November 2008, PBI travelled to Alta Verapaz to visit members of ACDSJM, to monitor the situation of the families described in the article published in PBI's bulletin no. 10:

La Mocca: Chronicle of a Death Foretold. Since the violent eviction they suffered at the Cabaña farm in July 2006, only 182 of the 256 original families remain settled on the highway pavement, living in very difficult conditions. According to Emiliano Sic Xe, one of the Association's leaders, they suffer from illnesses and hunger as a result of the lack of access to land for their own survival, and he emphasises the urgent need to resolve the situation¹. Two years after two years living by the roadside, and after nearly six years of struggle for the clarification of their labour rights, there remain outstanding issues in the resolution of the conflict, and the cases of the three who died during the eviction have yet to be clarified in the courts. This continues despite the recommendations of the Human Rights Ombudsman's Office (PDH)² and the

prioritisation of the case at the national roundtables. Emiliano Sic Xe says that during all these years nobody has visited them to monitor the case. Carlos Morales,



Visit to San José La Mocca in November 2008. PBI 2008

Coordinator of the Union of Campesino Organisations for the Verapaces (UVOC), and case adviser, condemns the lack of political will to arrive at an agreement³, despite the efforts of the Secretariat for Agrarian Affairs (SAA) to find an agreement that is positive for both parties⁴.

¹ Interview with Emiliano Sic Xe, Peasant Farmer Development Association of San José Mocca (ACDSJM, 04.11.2008).

² Attorney's Office of Human Rights (PDH), Memorandum 49-2006/tasr (18.06.2006).

³ Interview with Carlos Morales, Coordinator of the Verapaz Union Peasant Farmer Organisation (UVOC, 12.12.2008).

⁴ Interview with Carlos Sosa, responsible for monitoring the Mocca farm case, Secretariat for Rural Affairs (SAA, 10.12.2008).

News from the Team

“In the first year of the National Union for Hope Party (UNE), despite the 100 day plan and actions undertaken by the Government, the Human Rights Defenders Protection Unit (UDEFEQUA) describes, in its preliminary report, how aggressions and attacks against human rights defenders have increased by 29.44%, compared with the first year of the previous Government”.¹

In our accompaniment and observation work we have seen a particularly tense situation for human rights defenders and organizations that work in issues related to megaprojects, the effects of globalization, land problems and labour rights.

In recent months we began accompanying the **Guatemalan Association of Mayan Lawyers and Notaries (AANMG)**, following up the Alert we published in July after violence intensified in San Juan Sacatepéquez where an attempt was made against the life of Amilcar Pop, a member of

the AANMG. We have accompanied Amilcar Pop and Carmela Curup in their work, where they consult and support the communities of San Juan Sacatepéquez concerning the construction of a cement plant by the company Cementos Progreso in the area. The company is currently preparing the terrain to begin construction of the plant this year, in spite of strong opposition from a large part of the surrounding population, who has concerns over the possible negative affects on the environment as the result of the construction.

We also accompany the **Association for the Protection of the Granadillas Mountain (APMG)** in Zacapa, during their activities carried out in the

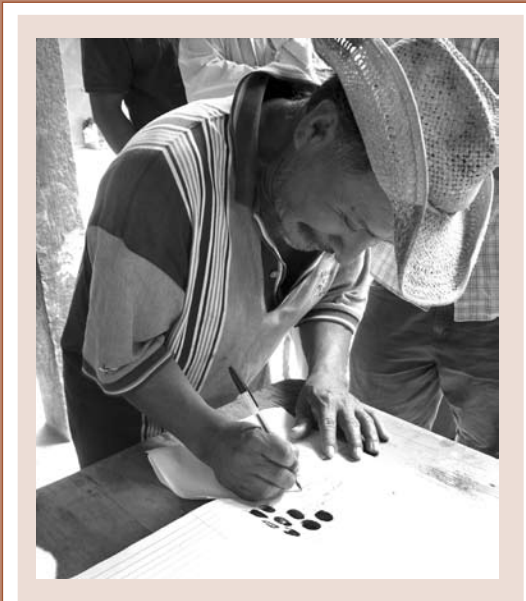
mountain; activities such as tree planting, public meetings and in negotiations between communities and landlords, mediated by the local human rights ombudsman, aimed at ensuring access to the mountain for the sake of its environmental protection (which is at risk). We remain very concerned at the continuing

threats to the APMG. At the beginning of 2009 three of its members were investigated by the Public Ministry, as the result of denunciations made by private landlords who own land on the mountain and who were reacting to community protests taken in support of protecting the mountain, for the charges of coercion, incitement to commit crimes and disturbance of private property. One of the accused, the Lutheran Reverend, Jose Pilar Alvarez Cabrera, who appeared before the judge after being detained, had his freedom restricted under house arrest, with the obligation to report to the court every 15 days, and was denied access to the mountain where he works. On the 6th of February 2009, the judge in charge of the case declared that the

charges lacked evidence, ceasing the persecution and criminal prosecution against the three members of the Association.

In addition, we followed the development of the situation in El Estor through our regional contact: the **Friends of Lake Izabal Association (ASALI)** since the Guatemalan Nickel Company officially announced the closure of the Fénix Project.

We also observed the **community referendums** on mining brought about in the department of Huehuetenango. We were present in Cuilco in October 2008 and in Santa Barbara in November, during the two days of the preparation for the referendum as well as throughout the exercise of the referendum, observing



Visit to San José La Mocca in November of 2008.
PBI 2008.

¹ UDEFEQUA Preliminary Report of the Situation of Human Rights Defenders, January – October 2008.

the process in different communities. The results from the two referendums will be submitted to Congress.

Our concerns continue for the security of the members of the **Verapaz Union of Peasant Organizations (uvoc)**, who work in Alta Verapaz and



March to commemorate the Day of the Revolution, the 20 of October in the City of Guatemala. Carrying the banner, with the black beret, Alfonso Bauer Paiz, minister of work during the governance of Jacobo Árbenz. PBI 2008.

in the capital and who continue to suspect that they are being watched around their office whilst carrying out their daily chores. We accompany the members of this organization to the negotiating tables between communities and state institutions in Coban.

In October 2008, we, as international observers, participated in various activities of the 3rd Americas Social Forum (ASF), celebrated in Guatemala City. A number of human rights defenders that PBI accompanies participated in themed discussions which amongst others included mining, hydroelectric projects, agro-fuels, transnationals, historical memory, justice and the re-militarization happening around the country. Other topics also explored the situation of the indigenous community and women. On the 12th of October we observed the closing march at the ASF and the celebration of the 'Day of Communities in Resistance', which saw the participation of 7000 people. On the same day and in commemoration of the same event, in Coban, Alta Verapaz, we observed a rally of 400 people organized by uvoc. On another occasion, in the capital, we observed the 20th of October March, organized by various social organizations and unions to

commemorate the 1944 Revolution. And on the 25th of November we observed a march on International Day for Non-Violence Against Women.

In October, we prepared and organized a speaking tour in Europe, coordinating with some of PBI's various country groups, in which two members of the organization we accompany, **Organization for the Support of Integral Sexuality in the Face of AIDS (oasis)** participated. Jorge López Sologaitoa, its Director and Zulma Robles, a transgender person and witness to the extrajudicial killing of an oasis collaborator, visited five European countries with the aim of increasing awareness of the violence and impunity that Guatemala's lesbian, gay, bi-sexual and trans-gender community faces. During the tour (which encompassed countries such as Spain, France, Belgium, Switzerland and Germany), accompanied by people from PBI's project committee and office, they met with authorities from various public state institutions, members of parliament/congress and the European parliament and political figures in the various countries, European Union, and United Nations (Office of the High Commission for Human Rights, in Geneva) officials

along with social organizations, journalists and members of the European press. We accompanied the **Coordinating Body for Guatemalan Widows (CONAVIGUA)** in exhumations and inhumations in different departments of the country and the **Liberated Lesbian Collective (Lesbiradas)** in the capital. Fortunately, during recent months, the security situation has improved for some of the people and organizations that we accompany. This has led to us being able to reduce the intensity of the accompaniment of the following organizations: Centre for Human Rights Legal Action (CALDH), San Rafael Pie de la Cuesta Organization for Peaceful Resistance (CRP), Peasant Workers Movement (MTC), due to the closure, in August 2008, of the judicial procedure against Julio Archila and his son; National Coordinating Body for Settlers in Marginalized Areas (CONAPAMG), although we remain attentive to possible evictions of communities in Zone 21 of the capital. We keep in regular contact with members of these organizations as we do with the Guatemalan Association of Indigenous Authorities and Mayors (AGAAI) and the Women's Sector through phone calls and visits to their offices.

Peace Brigades International

PBI is an international non-governmental organization (NGO) which protects human rights and promotes nonviolent transformation of conflicts.

At the request of threatened social organizations, it provides international accompaniment and observation. The presence of international volunteers backed by a support network helps to deter violence. In this way, PBI creates space for local activists to work for social justice and human rights.

PBI in Guatemala

PBI maintained a team of volunteers in Guatemala from 1983 to 1999. During those years, it carried out accompaniment work with human rights organizations, unions, indigenous and campesino organizations, refugees and churches. In 1999, after an evaluation process, it was decided to close the project since the country had greatly advanced in the opening of

space for the work of human rights organizations. Nevertheless, PBI continued attentive to the happenings in Guatemala through a follow-up committee.

From the middle of 2000, PBI began receiving a number of requests for international accompaniment. Due to these requests, PBI carried out an investigation in the field that made evident a turn in the direction and a losing of space for human rights defenders. In April of 2002, PBI decided to reopen the Guatemala Project in order to carry out international accompaniment and observation in coordination with other international accompaniment NGOs. In April 2003, the new PBI office was opened in Guatemala.

The accompaniments realized by PBI after receiving a petition by the Guatemalan organizations are focused in three areas: fighting impunity, right for land and negative effects of the economic globalization on human rights.

Mission

To improve the human rights situation in Guatemala and contribute to the democratization process of the country through an international presence that works to maintain open political space for human rights defenders, lawyers, union members, campesino and indigenous organizations, and civil society groups that are suffering repression due to their work supporting human rights.

Objetives

1. To provide an international presence that contributes to the opening and protection of the political space of Guatemalan organizations that are working for an end to impunity, national reconciliation and compensation to the victims of

human rights violations and the fulfillment of the commitments achieved through the Peace Accords.

2. To inform the international community of the human rights situation in Guatemala through the regular communication of information as well as frequent contact with international authorities and the diplomatic community both within and outside the country.

3. To inform the International Community of the need for creating and applying policies, tools, and mechanisms for the protection of human rights defenders.

4. To share experiences and tools with Guatemalan Organizations that help in achieving the general objectives of PBI in Guatemala.

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