

**EMERGENCY ALERT ABOUT ATTACKS, THREATS AND INTIMIDATIONS OCCURRING IN THE
COMMUNITIES OF SAN JUAN SACATEPEQUEZ IN GUATEMALA**

An ‘Emergency Alert’ is a letter sent out by the Peace Brigades International (PBI) Guatemala Project on occasions of particular concern, or in which grave human rights violations have occurred in Guatemala, and which approaches the issue from a non-violent, non partisan and non-interfering perspective. The letter is distributed to people, organisations and institutions that express their support for the PBI Guatemala Project.

Dear Sir/Madam,

Greetings from the PBI Guatemala Project. The intention of this “Alert” is to express our concern to you regarding a violent and repressive situation that is occurring in various Mayan Kakchikel communities in the Municipality of San Juan Sacatepequez (Guatemala) where PBI has been present since 2008, initially accompanying the Association of Mayan Lawyers and Notaries. Since December 2009 PBI has accompanied Q’amolo Ki Aj Sanjauni, The Let Us Unite San Juan People’s movement, which brings together various neighbourhoods of the communities in the Municipality, and whom actively take part in the promotion of the collective rights of the indigenous peoples, and in particular defending their land and natural resources.

Since 2006 the Guatemalan company, Cementos Progreso Ltd, opened the San Juan Project, which included the construction of a cement factory and the digging of a quarry in various communities of the Municipality, more specifically in the country estate of San Gabriel Buena Vista and in the hamlets of San Jose Ocana and San Antonio Las Trojes I and II. In this project the Guatemalan company Productos Mineros Ltd, a subsidiary of Cementos Progreso Ltd, owns 80% of the shares, with the remaining 20% owned by the Swiss multinational company Holcim¹. Since then the communities affected by the project have stood up in opposition to it, demanding information regarding their rights as well as asking for their opinions to be heard.

Recent Events:

On the 2nd and 5th of June 2010, there were renewed **acts of aggression and serious threats issued in the community of San Antonio Las Trojes and other surrounding communities**. These acts were reported to the Public Prosecutor, the National Civil Police (NCP) and to the Justice of the Peace. It is claimed that that they were committed by personnel belonging to Cementos Progreso Ltd. Allegedly these personnel firstly assaulted and threatened members of the community, who were at the time repairing a road that had been destroyed by hurricane Agatha, and secondly disrupted a community meeting that was organising for the arrival of the United Nation’s Special Rapporteur for the Rights of Indigenous Peoples, and in which participated older men and women as well as children. Many people were hit and injured and firearms were used, and there were threats to kill various community leaders and warnings of more attacks to come. Defamatory flyers have also, as in the past, once again appeared in the streets of the communities. According to the testimony of community members the presence of the NCP was petitioned, but they were slow to arrive, and various injured people were thus left unattended. In addition to the above community members claim that when the NCP did finally arrive, they refused to stay the night so as to provide protection and so as to prevent further attacks, claiming that their own lives (those of the NCP) were at risk. Subsequently, on the afternoon of the 6th of June, the police returned accompanied by an anti-riot unit².

¹ El Observador, “Frente a los Megaproyectos: lucha y resistencia social”, Año 3 No.14 Guatemala, September 2008.

² Unidad de Defensoras y Defensores de Derechos Humanos (UDEFEQUA), Denuncia 6 – 2010. June 2010.

Background Summary:

For four years the communities of San Juan Sacatepequez affected by the San Juan Project have denounced the lack of respect accorded to them and the violations of their human rights to numerous authorities, both within Guatemala and internationally, some of which have also been formally presented to Guatemalan public institutions (such as the Human Rights Ombudsman, PDH, and the Constitutional Court, CC) as well as to international institutions. The intensification of the conflict is of great concern and worry to the communities affected, and also to those who support, assist and accompany them³. Below we have highlighted some of the examples of the lack of respect accorded to the communities and of the human rights violations they have suffered:

- Lack of information for the communities and the absence of prior, free and informed consent:

As has repeatedly been expressed by the communities, since the origin of the conflict there has been the omission or complete lack of detailed information given to them regarding the plans for the cement-works, both on the part of the company and on the part of the State, and closely connected to this, the absence of a community referendum prior to the start of the construction, as guaranteed by the International Labour Organisation's (ILO) Convention No 169 for Indigenous and Tribal Peoples of Independent Countries (ratified by Guatemala) and as ensured by the Guatemalan Municipal Code. In addition to this, the judgement issued by the ILO's Committee of Experts on the Application of Conventions and Recommendations in February 2010 stipulated that "it is the obligation of the Government to ensure that the indigenous people be consulted, in conformity with the Convention, and not private individuals or businesses." It was within this context, where the Guatemalan public institutions had failed to live up to their obligations and promises, that the initial acts of buying up land and of digging up the quarry took place, without informing the communities of what was going on and without their prior, free and informed consent, thus provoking from the start, fears and rumours and the eventual social rejection of the Project⁴. After various efforts to obtain information about the Project and to find out about the negative and positive effects that a quarry and a cement factory might have on the area, the Community Council for Development (a local state structure which is part of the state municipality) decided to organise a community referendum in 2007, which resulted in a practically unanimous rejection of the Project. The Mayor and the Municipal Council promised to take the referendum results into account before granting a licence permitting construction; but according to later accusations from the communities who took part in the referendum, the works and the conflicts continued⁵.

³ This concern was expressed in a press release issued by UDEFEGUA on 11 March 2010: "The right to petition, to organisation, to peaceful resistance, are constitutional rights which are being repressed by illegal entities dedicated to act in a violent manner through extra-judicial executions, through the burning of vehicles, violations, threats, intimidation and in the last few weeks, through the burning of various houses and fields. Of written defamation "in order to discredit social organisations". UDEFEGUA, Comunicado: *Ante la difamación constante contra los y las defensores y defensoras del derecho a un medio ambiente más sano y al derecho a la consulta de los pueblos indígenas*. Guatemala, 11 March 2007.

⁴ The Report also underlined that the provisions of the Convention in consultation should be read together with article 7, in which is recognised the right of indigenous peoples to decide their own developmental priorities and to participate in the formulation, application and evaluation of the development plans and programmes which may affect them directly. Recall that, in the General Observations of the Convention, the Commission highlighted that the failure to have referendums and that the exclusion from participation of the affected communities "has grave repercussions for the application and success of plans and programmes, specifically of development, given that in this form it is unlikely that they reflect the aspirations and needs of the indigenous and tribal peoples.;" ILO, 2010 Report of the Committee of Experts on the Application of Conventions and Recommendations for Tribal and Indigenous Peoples, 99th labor day meeting. February 2010.

Along with that, see the declaration of the Constitutional Court on the 21st of December 2009, in which it recognises that it is imperative for the States who have ratified the 169 Convention of the ILO, to observe the "efficacy of the right to referendum, which assists the indigenous peoples in relation to their national boundaries with the implications that this imposes."

⁵ 8,950 people took part in the referendum, of which 8,946 voted against and 4 in favour of the construction of the cement factory. The recording of the referendum of good faith presented to the Municipality by the 11 communities in resistance. San Juan Sacatepequez, November 2007.

At the beginning of 2008 a formal dialogue was initiated between those involved⁶ which aimed to resolve the conflict, as well as its contradictions. However, according to the communities the cement company continued working on the construction whilst the talks were going on, thus not fulfilling its obligations (such as, for example, not waiting for the Environmental Impact Assessment before starting construction of the Project's installations.) Since then the talks have been interrupted and /or debilitated on various occasions because the communities feel that their opinions and demands about the San Juan Project have not been taken into consideration⁷.

- The Human Rights Ombudsman (PDH) has received **numerous complaints of assaults and violations of rights, particularly during the period where the State declared the area subject to Martial Law**: Since the referendum the inhabitants of San Juan Sacatepequez have reported numerous abuses of their rights, which has contributed to the worsening of the conflict. According to a PDH report, in 2007, there were violations of the right to dignity, order, security and equality, committed by members of the police (NCP) in the hamlet of Santa Fe Ocana⁸. The tension between the company and the communities, as well as between and within the communities themselves, has continued to intensify, leading to violent acts including murders; all of which has still not been cleared up.

During the 15 days under which the region was subject to Martial Law, declared initially on the 21st June 2008, the Human Rights Ombudsman received numerous complaints from members of the neighbourhood about abuses committed by the security forces and by the army, amongst which were ignored demands for food so as to feed families, the blocking of freedom of movement and offences against women. Accusations were also presented to the Human Rights Ombudsman relating to illegal detention, executions and evictions without judicial warrants. Also, since the start of the conflict, various formal complaints of threats and physical attacks against members of the community who actively oppose the cement works, as well as attacks against Guatemalan social organisations that support, assist and accompany them, have been presented to the Public Prosecutor's Office by members of the communities. These same people have repeatedly called attention to this fact, during the formal dialogues and in other public venues, within and outside of Guatemala, highlighting the failure to investigate and the lack of a quick judicial follow-up to these accusations.

- **Criminal persecution of the social protagonists actively opposing the cement-works construction**: Since the start of the process the organised communities of San Juan Sacatepequez have publicly complained about the criminalisation campaign waged against them, which worsened during the period of Martial Law decreed in June 2008⁹. A Guatemalan NGO called Human Rights

⁶ At the initial talks the Office of the High Commission of the United Nations for Guatemala (OACNUDH), the Human Rights Ombudsman (PDH), the Rigoberta Menchu Tum Foundation, representatives of the National Co-ordination of Indigenous and Country-dwellers (CONIC), representatives of Cementos Progreso all participated. Also, Mr. Jean-Pierre Villard, the Swiss Ambassador was invited, and a representative from the German Embassy, Mrs. Catalina Soberanis, who participated as the actual Director of the so called 'National System of Talks' (the official name of the dialogue process).

⁷ In March 2009, the communities decided not to return to the talks as long as the company continued to construct the cement-works, in spite of complaints presented before governmental authorities participating in the talks; meanwhile people were detained without charges and without knowing what they were accused of. In addition to this the Environmental Impact Assessment had not been completed and presented to the Minister of Natural Resources (MARN). *Conclusions of the meeting of the leaders of the 11 communities in resistance in San Juan Sacatepequez and the Rigoberta Menchu Tum Foundation, who accompanied the communities.* Guatemala, May 2009.

⁸ Human Rights Ombudsman (PDH), *Actions of the PDH in the case of the Cement factory project in the municipality of San Juan Sacatepequez*, Preliminary Executive Report. Guatemala, June 2008. In the expedient Ref. Exp. Ord. Gua 590 – 2007/DCP, the PDH noted the existence of numerous cases of human rights abuses against the inhabitants of the municipality.

⁹ On the "1st June 2008, an operation by the security forces in San Antonio las Trojes, finished with the detention of 43 people accused of crimes such as demonstration and illegal meetings, disturbances and resisting authority, resulting, months later, in the cases being dismissed before the tribunals. Actually, 4 neighbours of the communities stayed in prison accused of the murder of Francisco Tepeu Parir, a worker for the cement company. The Association of Mayan Lawyers and Notaries, which gave legal advice and accompanied the communities, expressed their concern that due legal process was not followed, and at the lack of investigation and judicial progress of the rest of the accusations of threats and assaults against

Defense Unit (UDEFEFUGA), that monitors violence against human rights defenders across Guatemala, concluded, in reference to the situation in San Juan Sacatepequez, that the imposition of Martial Law imposed on to the Municipality in June-July 2008 “constitutes a clear demonstration of a state policy whose aim is to discard the process of dialogue in favour of legal persecution through the abuse of authority”¹⁰.

- **Campaigns to discredit communities and social protagonists:** Following the declaration of Martial Law, there have been various articles in the Guatemalan press in which the resisting communities have been the subject of derision¹¹. Alongside this, on at least 3 occasions, defamatory flyers have been spread around the Municipality (in the form of printed pamphlets and on one occasion through an email distributed internationally) with the aim of discrediting, insulting and intimidating those who oppose the construction of the cement-works¹². All of this adds to the insecurity and to the risk of social criminalisation.

In addition to the injuries, the murders, the threats, the intimidations, the criminalisation and the detentions perpetrated against the communities over the last 4 years, the conflict over the cement-works has contributed to generating and fuelling divisions and tensions within the communities, as well as between them¹³.

While in 2009 the conflict was characterised by moments of high tension, from the beginning of 2010 PBI has observed a worrying upsurge in the number of assaults and attacks against those who oppose the cement-works: while representatives of the communities were in Geneva this March for example, denouncing the situation before the Committee for the Elimination of Racial Discrimination (CEDR), defamatory flyers were spread around the communities which accused those resisting the Project of social manipulation and of being involved in a variety of crimes¹⁴. A little afterwards the communities reported threats and acts of violence perpetrated by the employees and personnel from the Cementos Progreso company¹⁵.

In March CEDR, when referring to the situation in San Juan Sacatepequez, publicly expressed its “serious concern about the growing tension with indigenous peoples in relation to the exploitation of natural resources, highlighting the grave situation experienced as the result of the installation of a cement mine”. The Committee repeated its concern that the Guatemalan State continues to permit the exploitation of land which historically has been the property of the indigenous peoples, and which has been duly registered in the correct public registries. The Committee also expressed its concern that the

those who opposed the interests of Cementos Progreso.

¹⁰ El Observador, Op. Cit.; UDEFEGUA, *La tendencia creciente de la criminalización del movimiento social guatemalteco*. In this article the case of San Juan Sacatepequez is highlighted by UDEFEGUA as a paradigmatic case in which “the public accusation of terrorism has been used from the State at the highest levels and within the media.”

¹¹ Some of these articles are here referenced: Humberto Preti, “¿Está en agenda?”, Prensa Libre, 28 June 2008; Alfredo Kalstchmitt, “Una mentira mil veces”, Prensa Libre, 4 July 2008.

¹² UDEFEGUA, in a report of March 2010, mentioned that the circulation of these types of flyers reminded them of the “tactics used in the past to accuse defenders in the era of the guerrillas, now being used to accuse the communities in resistance of terrorism” UDEFEGUA, Op.Cit. Comunicado 2010.

¹³ One of the most recent complaints was expressed by the National Co-ordination and Convergence of Mayan Peoples (or Waqib’ Kej), as follows: “The communities of San Juan Sacatepequez have denounced the destruction of Mother Nature and the systematic assaults due to the activities of this company; the likes of which has divided populations and which has attacked men, women and children who demonstrate against these violations and who have been repressed by the security forces; costing the lives of some of our leaders.” Waqib’ Kej, Condemn and denounce these systematic assaults against the communities of San Juan Sacatepequez. Ixim ulew, Guatemala, 4 June 2010.

¹⁴ The first flyers circulated carried the title: “Stupidity - asinine and empty” and “Danger in Europe”. This last flyer labelled as terrorists the diverse social organisations that supported the communities of the Municipality. The flyers were distributed in the communities of San Juan Sacatepequez in printed form and by email.

¹⁵ Report from the 12 communities to the west of San Juan Sacatepequez, Q’amolo Ki, and the National Co-ordination and Convergence of Mayan Peoples (or Waqib’ Kej), to national and international media. Guatemala, 27 April 2010.

indigenous peoples right to prior, free and informed consent has not been fully respected. It recommends the State, amongst other recommendations, to complete effective referendums with the communities affected by development projects and by exploitation of natural resources, during every stage of such projects, with the objective of obtaining their free, prior and informed consent before the conclusion of these projects¹⁶.

In its turn, the ILO's Committee of Experts on the Application of Conventions recommended, in February 2010, that "the activities cited be suspended immediately until the completion of formal talks and until the evaluations of the social, spiritual, cultural and environmental impacts of the proposed activities have been measured, and which includes the participation of the peoples whose interests are affected, in accordance with the articles 7 and 15 of the Convention"¹⁷. Despite the fact that the tension and the violence arising from the conflict have recently been accentuated, these recommendations have, at the time of writing, not yet been attended to.

CONCERNS AND RECOMMENDATIONS:

PBI Guatemala would like to express its **concern** at the vulnerable situation in which the communities of San Juan Sacatepéquez find themselves, and at the risks incurred by the people in the communities, especially those who actively promote and defend the implementation of their human rights in the Municipality, and in particular the collective rights of the indigenous peoples.

We ask that you remain attentive to the situation in San Juan Sacatepéquez in light of the visit of Prof. James Anaya, the United Nations Special Rapporteur on the Rights of Indigenous Peoples.

To the members of the international community, both within and outside Guatemala, we would be grateful if you could express your concern to the appropriate Guatemalan authorities regarding the situation in San Juan Sacatepéquez, utilising the contacts that you deem relevant, and that in particular you express your concern at:

- the persistence of a conflict which over the last four years has profoundly affected the communities and civil society organisations of San Juan Sacatepéquez;
- the risks incurred by the communities and by the Q'amolo Ki Aj Sanjuán movement, who participate in the social resistance against the cement-works;
- the failure to carry out the recommendations issued by national and international entities like the Constitutional Court and the Committee for the Elimination of Racial Discrimination (respectively) on the part of the Guatemalan public authorities.

We also **ENCOURAGE** the international community to actively approach Guatemalan human rights defenders, organisations and social movements, to offer support and protection, as set out in the European Union Guidelines for the Protection of Human Rights Defenders, as well as in other appropriate instruments and mechanisms.

Yours sincerely,
PBI Guatemala Project

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¹⁶ CEDR, Examination of the reports presented for the State in conformity with article 9 of the Convention. Final Observations of the Committee for the Elimination of Racial Discrimination; March 2010.

¹⁷ILO, Op. Cit.