

20 años de los Acuerdos de Paz

La situación de las
PERSONAS DEFENSORAS
de Derechos Humanos



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Minutes from the public forum “20 years since the signing of the Peace Accords: the situation of human rights defenders” that took place on October 5, 2016 in Guatemala City.

Design and layout: Pedro Ferrigno - info@iride502.com

Photographs: James Rodríguez, PBI.

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FOREWORD

On the twentieth anniversary of the signing of the Peace Accords in Guatemala, with support from Rosa Luxemburg Stiftung, we host a public forum to discuss the current situation of human rights defenders. The event covered topics like the advances made in recent years, to challenges of the past, present and future. The activity took place on October 5, 2016 with the participation of Rosalina Tuyuc, Andrea Ixchiu, Marcos Ramirez, Yuri Melini and Anabella Sibrián as the moderator. This document reflects the minutes from that conversation.

As an introduction to this topic, we include an essay: From enemy to partner? Changes in the States' conceptualization of civil society actors as an element of guarantees of non-repetition in Guatemala. This essay speaks of the role of civil society and of people who defend the Peace Accords as well as how public policy and legal framework created to provide (or not) space to exercise citizenship in Guatemala.

With this publication we hope to contribute to the discussion on the state of the Peace Accords 20 years after signing of them.



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FROM ENEMY TO PARTNER?

Changes in the States' conceptualization of civil society actors as an element of guarantees of non-repetition in Guatemala¹

This essay verifies the changes in perception of civil society actors in the focus on State security in Guatemala after the signing of the Peace Accords in 1996. Viewing civil society actors as *internal enemies* was one of the main concepts which permitted massive human rights violations committed by Guatemalan security forces against civil society during the armed conflict. For this reason, it is crucial that this concept be changed as an element of policy of guarantees of non-repetition.

Key elements of the armed conflict

December 1996 marked the end to the war that lasted more than 30 years in Guatemala. This armed conflict left more than 200,000 civilians dead, more than 40,000 people disappeared, more than 200,000 official refugees and more than one million people internally displaced. The United Nation's Commission for Historical Clarification concluded that more than 83% of identified civilians were Mayas and at least 93% of human rights violations were committed by state forces and paramilitary structures. These statistics barely reflect the horror and whose implications are still present today in Guatemala.

The causes or background of the conflict are found in the economic and political structure characterized by extremely unequal distribution of wealth, as well as strong marginalization and exclusion of most of the indigenous population. In the 1970s parallel to the emergence of small guerilla forces, social organizations, communities, student groups, and religious

groups became actively involved in diverse regions of Guatemala to peacefully resolve historical marginalization and oppression.

Embedded in cold war ideology and National Security Doctrine (EPE, KEPFER 2014), these struggles were interpreted by military governments as a threat to dominant economic structure and the status quo, a threat to the nation. The State reacted with violent repression. Hundreds of unionists, student leaders, members of campesino organizations and catechists from the Catholic Church were brutally murdered or disappeared. The army initiated operations against sectors of civil society with financial, political and social backing of the Guatemalan oligarchy (RODRIGUEZ PELLECCER 2013).

The development of the concept of *internal enemy* was a key element for the justification of this policy (SAMAYOA 2006). The Guatemalan army defined guerilla organizations as internal enemies. They also defined in the Counter Subversive War Manual an *internal enemy - those individuals, groups or organizations who without being communist try to break the established order* (cited in EPE, KEPFER 2014). In other words all people who were trying to promote change.

Ríos Montt, "The problem of war is not just a matter of who is shooting. For everyone who is shooting there are ten who are working behind them." .. And Press Secretary Bianchi continues, "The guerrilla has gained many indigenous collaborators. Thus, the indigenous are subversive. And how do you fight against subversion? Clearly you have to kill indigenous people because they are collaborating with the subversion. And then one would say that they are killing innocent people. But they were not innocent, they had sold themselves to subversion." (cited in FALLA 1982).

According to the UN's Commission for Historical Clarification, military operations converted into acts of genocide in some departments. Three decades after the events, on May 10, 2013 in a historical sentence handed down by a Guatemalan court, the former general and de facto Head of State Efraín Ríos Montt was convicted of genocide against the Ixil people. This sentence was revoked ten days later by the Constitutional Court (CC), arguing that there were formal errors. According to the dissenting opinion of two of the five members of the CC such formal errors did not exist.

A series of circumstantial factors led to peace negotiations that ended in December 2016 with signing of the long and lasting Peace Accords between

the Guatemalan government and the Guatemalan National Revolutionary Unity (URNG). Among such factors we can mention the end of the cold war, geostrategic changes, Guatemala's growing international isolation, as well as the capacity of survivors to rebuild and the capacity of civil society organizations to call attention to severe human rights violations.

Guarantees of non-repetition and the conceptualization of civil society.

Facing and overcoming the past is a central task to build peace after a violent conflict with severe human rights violations. It is imperative to open a process of reconciliation which will lead to



Foto: James Rodríguez, Guatemala City, May 10, 2013.

A group of maya Ixil people leaving the Supreme Court after hearing the sentence handed down against ex-president Efraín Ríos Montt (1982-83), accused of genocide against the Ixil peoples and sentenced to 80 years in prison. For the first time in history an ex chief of State was declared guilty of genocide and crimes against humanity by a national tribunal.

a society at peace. For this to happen, it is necessary to include measures that allow for deep recognition of what happened, try to repair damage, seek justice and implement reforms aimed at avoiding repetition.

In academic discussions and in international practice, a policy to confront the past is conceptualized within four segments: the right to truth, the right to justice, the right to reparations and guarantees of non-repetition. Although there is no one formula and for this reason each process must be developed individually. It can be affirmed that for a peace process to be sustainable, it is essential to take into account these four elements mentioned, without missing any of them (SWISSPEACE 2013).

The guarantees of non-repetition are focused on institutional reforms, correction and purification, disarmament, demobilization and reintegration former combatants, as well as democratic control over the security sector (SWISSPEACE 2012). However, they do not include measures of economic and political change, aspects that were at the root of the conflict. In any event, these are addressed in other parts of the Peace Accords and are not considered direct elements of the guarantees for non-repetition.

Therefore, the guarantees of non-repetition are focused on trying to guarantee that, via reforms directed toward State security actors, **how to undertake a conflict** so that it does not revert to being repressive and violating human rights. This is to say it does not include measures to prevent repeating the same conflict, but merely that it does not occur in a violent form. Pablo de Greiff, Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, in his September 2015 report speaks of two spheres of intervention, the potential of

which has not been frequently examined as part of the guarantees of non-repetition, specifically civil society and spheres of culture and personal disposition. In these sections the Special Rapporteur mentions the importance of legal empowerment and the creation of an environment conducive for civil society to play an essential role.

It is precisely this aspect of the role of civil society and within that the role of human rights defenders that is of interest to us. In light of the key elements that permit terrible crimes committed by the State during the armed conflict as well as the establishment of democratic controls of security forces, the definition and perception of civil society actors as *internal enemies* should be revised to prevent repetition.

Academic studies on guarantees of non-repetition consider it essential to give an integral focus on the concept of security. Delineating the functions of the police versus those of the army, the conceptualization of security focused toward State security or democratic citizen security, play a central role in the definition of how to treat conflicts (CIDH 2009).

To verify respect, protection and promotion of civil society actors, laws, doctrines, institutions and policies are key factors to measure the risk of repetition of severe human rights violations on behalf of the State.

The starting point: Firm and Lasting Peace Accords of 1996

The Peace Accords include 12 specific agreements, six of which include obligations in reference to coping with the past. While the Agreement on the Establishment of a Commission for Historical Clarification (1994) addresses the right to know the truth, the Agreement

on the Resettlement of Populations Groups Uprooted by the Armed Conflict (1994), the Comprehensive Agreement on Human Rights (1994) and the National Reconciliation Law (1996)², define the possibilities and limitation of the right to justice and the right to reparations. The Agreement on Strengthening of Civilian Power and the role of the Army in a Democratic Society (1996), the Agreement on a Definitive Ceasefire (1996), and the Agreement on the Basis of Legal Integration of URNG (1996) are the agreements that contain the main aspects of guarantees of non-repetition.

All of the agreements observe a strong reaffirmation of the role and the importance of civil society, its organization, participation and protection. The Comprehensive Agreement on Human Rights includes the creation of and strengthening of several human rights institutions as well as a strong commitment to the protection of human rights defenders. The Agreement on the Resettlement of Population Groups Uprooted by the Armed Conflict views displaced sectors of the population as

dynamic factors for social, economic and political development and demands that the starting point for whatever answer to problems for displaced people and communities must be their organized participation. The Agreement on the Identity and Rights of Indigenous Peoples (1995) aims to create a multinational and plurinational society in Guatemala. It details the importance and the right to active and open participation to achieve a respectful and peaceful society. The Agreement on Social and Economic Aspects and Agrarian Situation formulates basic principles on the role of civil society actors in a democratic State: *1. To further a true, functional and participatory democracy, the economic and social development process should... cover... c) effective participation of citizens in the identification, prioritization and solution to their needs. 2. Expanding social participation is a stronghold against corruption, privileges, distortion in development and economic and political abuse of power...4... All parties agree to the importance of creating and*



The Peaceful Resistance of La Puya, San José del Golfo, Guatemala 2013.

strengthening mechanisms that allow for citizens and different social groups to effectively exercise their rights and fully participate in making decisions on a variety of topics that affect them or are of interest.

How does this clear affirmation of the importance of civil society's participation in the construction of a democratic State and peaceful society translate into measures foreseen in the agreements for security sector reform?

The Agreement on Strengthening Civil Society and the Role of the Army in a Democratic Society calls for the elaboration of a new Public Order Law which demands respect for human rights as a basic principle for the new National Civil Police (PNC). A national plan for re-structuring of public security with participation of civil society representatives should be created. The functions of the army are explicitly limited to the defense of national sovereignty and protecting borders. All other cooperation with other entities has to be carried out under civilian authorities. The exercise of constitutional rights of citizenship cannot be limited only as a measure of exceptional character can it be temporally limited. This detailed definition must be integrated into changes to the Guatemalan constitution. A new military doctrine must be written in agreement with these new provisions, with a new constitution and with international laws related to these issues.

The work of civilian and military intelligence must be totally separate. Separate institutions will have clearly outlined functions. A new law must be written aimed at creating a special commission in the legislative branch whose function is to evaluate and control these institutions to prevent abuse of power and to guarantee the rights and liberties of citizens.

In short, the Peace Accords include basic elements aimed at creating a more suitable environment for civil society actors and with a vision of democratic security. However, the lack of precision or rigor in statements and provisions, as well as a partially unrealistic and unpredictable program for implementation, are potential weaknesses in their implementation³.

Twenty Years Later: Have changes been made to laws and policies?

The constitutional changes that were agreed upon in the Peace Accords were ratified by Congress in 1998, but they were not approved in a referendum by the Guatemalan population in 1999. By means of Decree 52-2005, the Peace Accords became State commitments with clear orders to state entities to implement them. Also considering the need to equate this implementation with the Constitution, which did not change, there legal ambiguity remains.

Within security sector reforms there is interest in the implementation of the topics and decisions made in the Peace Accords relating to policies and national security plans. There are three basic documents to consider: Framework Law on the National Security System 2008 and the current policies, the security Pact, justice and peace 2012 and the National Security Policy 2012.

The Framework Law with the National Security System 2008 that was ratified by Decree 18-2008 and establishes the framework within concrete aspects of other security policies that should be approached. Long overdue with its ratification in March 2008, one of the agreements in the Peace Accords was complied with.

The process to develop this law included participation of parliamentary groups and security experts from civil society. In its first chapter, the law defines as an objective to provide legal norms for coordinated activities of internal and external security and intelligence in order to allow the State to react to risks, threats and vulnerabilities. All of this in congruence with the constitution, human rights and international treaties ratified by Guatemala.

Following those definitions, chapter 2 of the law describes the concept of democratic security. Again it emphasizes the main objective of all security policies being the protection and guarantee of human rights, creating conditions that allow citizens to live in peace, development and democracy. Some other definitions in this second paragraph do not completely exclude an authoritarian vision of security and are subject to interpretation.

Chapter 5 defines internal and external security, intelligence work, risk management and civil defense as work areas. These definitions are in agreement with democratic standards. Internal security is assigned to the President and Minister of Interior with the objective of focusing on risks and threats resulting from organized crime, common crime and defense of the democratic state.

Likewise, security, intelligence and the definition of risk management and civil defense do not reflect specific omissions or causes for concern. Thought of as framework for other policies, the definitions of work widely respond to a democratic focus and anthropocentric security. However, the general formulations leave margins for diversion in their implementation.

The decree defines mechanisms of control, mainly a parliamentary commission with participation of representatives of

all political parties who are supposed to evaluate the work, budget and the procedures of all future entities who make up the national security system. Also it includes an external citizen control, independent of the system, but without a special mechanism for effective action. There are no articles dedicated to information and transparency. And it is unclear on what basis and based on what information responsible entities designed could exercise supervision.

In conclusion, the Framework Law constitutes *an agreement that reflects static visions with democratic visions* (SAMAYOA 2008) but defines important limitations for security forces and creates a system that in its implementation would allow for change with a more democratic focus.

Current security policies are the *Pact for security, justice and peace 2012* and the *National Security Policy 2012*. They were developed by Otto Perez Molina's administration⁴. More operative than the Framework Law and with a limited temporary validity there are a few points to highlight in this Pact, in reference to the presence to the concept of democratic security and in particular to the definition of the role of civil society in a democratic State.

The Pact for security, justice and peace 2012 seeks to coordinate security strategy with entities dedicated to justice and to build peace giving it a budget and with the steps for implementation. It was formulated based on important contributions from sectors of civil society and emphasizes a democratic security focus, with a long "to do" list to put into practice this focus. In 2015, the Office of the United Nations High Commissioner for Human Rights (OHCHR) in Guatemala assessed that because of the Pact's

scope, it continued... in areas...to be too broad so that its impact could not be weighed (CIDH 2015).

A complementary document, National Security Policy 2012, identified security risks ranging from attacks on private property and attacks against life to risks that affect democratic institution and governability, like social conflict, fragility of institutions, porous borders etc. However, it does not mention failures in compliance in the right to a healthy environment, attention in health and education, and food as a risk to security for example. The objective of this policy is to satisfy the call from Guatemalan citizens to live in liberty, peace, justice, security and have development, *favoring national and international investment climate and contributing to sustainable development.*

The last affirmation creates doubts on the underlying understanding of security that gives the government responsibility for justice, security and development in a context favorable to private investment. That is to say, this allows them to declare activities that question investment or put investment at risk as security risks.

In 2015 central actions contemplated in the Peace Accords and these documents, among them the gradual reduction of the army in public internal security operations, establishing protocols for the functioning of joint and combined security forces (army and police) and creating a new Public Order Law had not yet taken place.

In summary, since 1996 laws and policies that integrate many of the agreements of the Peace Accords have been issued. These put into place measures to implement an anthropocentric policy on democratic security, strengthening the participation and protection of civil society actors. However, some

ambiguous wording and mainly the lack of implementation of them, greatly affect these guarantees of non-repetition.

Downsizing the army and military doctrine of 2004.

From the Peace Accords the commitment to reduce the army and develop a new military doctrine guided by respect for the Constitution, human rights and international instruments ratified by Guatemala arose. As well as the functions and limitations agreed upon in the agreements.

In 2004, the number of soldiers were drastically reduced from 46,900 soldiers at the beginning of the 1980s to 15,500 soldiers. This reduction was higher than what the Peace Accords stipulated. However, this reduction did not include demobilization of high ranking officials nor did it include a cleansing of officials and soldiers involved in crimes against civil society (IMPUNITY WATCH 2002).

After several years of peaceful struggle, social organizations achieved spaces of dialogue with army actors to exchange thoughts on what elements the new army doctrine should include. This doctrine was finished in 2004. It reflects and integrates principles and criteria agreed upon in the Peace Accords. However, keeping in mind the grave human rights violations perpetrated by the Guatemalan army against civil society during the internal armed conflict, some of the wording and lack of precision are worrisome.

The explanation of the doctrine concept, the Army Doctrine of Guatemala defines as its functions *maintaining independence, sovereignty and honor of Guatemala, the territories' integrity, peace and internal and external security.* Followed by a reference to emergency situations and temporary exceptions limited to internal



Foto: James Rodríguez, Guatemala City, June 30, 2008.

For years human rights organizations have called for the cancellation of the military parade that takes place every June 30th to commemorate Army Day. Organizations protest for the responsibility of the army in the crimes against the civilian population during the internal armed conflict. In 2008 for the first time the parade did not take place, leaving the space free for civil society to honor their family members, comrades and victims of the war.

security actions. However, by including this function and later specifying it this is an important change compared to the agreements taken on in the Peace Accords and later policies. In the Peace Accords this function is exclusively and explicitly the mandate of the army, however it describes specific situations and exceptions in which the institution can collaborate with police forces.

Twenty years later: the reality

Currently Guatemalan society has experienced many changes, however the economic, social and political structures that caused the war are characterized by high levels of inequality and marginalization that continue to go unresolved. Guatemala has yet to reach the development goals set forth in the Peace Accords. In the United Nation's Development Program's Human Development Index Guatemala is in 125th place in the world. Distribution of wealth



Foto: James Rodríguez, Guatemala City, March 2012
 After marching 212 kilometers, indigenous and campesino communities for the defense of Mother Earth, against evictions, criminalization, and in favor of integral, rural development arrive to Guatemala City. CUC estimates that about 15,000 people participated on the 9th and last day of the march.

continues to be extremely unequal: the Gini index is at 55.1, a sign of high inequality. Nine and a half million of Guatemala's 15 million inhabitants live in poverty and 3.7 million live in extreme poverty. That is to say, poverty levels went from 18.1% in 1989 to 23.4% in 2014 (SEGEPLAN 2015). Furthermore, the growing implementation of investment projects, primarily those of extractive industries, put human security of Guatemalans at a higher risk (CIDH 2016).

There are other aggravated risks, like constant increases in the crime rate (HERNÁNDEZ 2013). The parallel criminal

structures dedicated to drug and arms trafficking, illegal adoptions, kidnappings and ransom, contraband, and other illicit businesses, have gained more power, deeply affecting (INSIGHT CRIME 2015), and even taking over, state structures and security forces (CICIG 2016). To this one must add that in Guatemala there are 120,000 private security agents, half of which are illegal. Of the legal ones, more than 90% are not regulated by current legislation, corruption is endemic (CICIG 2015) and basic parameters of human security are far from being complied to.

In this context many questions arise: Is there an active and participatory civil society? Have the new policies and concepts led to changes in government action towards civil society? Have changes in laws, agreements, policies and pacts helped to change things? Have changes in documents, changed things in practice making opportunities to transform existing conflicts in an inclusive and constructive manner?

Since 1996 numerous social organizations have emerged from community movements and indigenous organizations to highly specialized NGOs. They use a variety of strategies to defend and promote rights and needs: social protests, legal complaints, policy proposals, promotion of and participation in public forums, dialogue mechanisms, promotion of Guatemala's problems on the international level, as well as the building alliances. These are some of the ways by which organizations try to promote and strengthen their cause.

In the last 15 years important steps have been made on the topic of transitional justice with sentences in the following cases: murder of Monsignor Gerardi (2003), Myrna Mack (2004), Ixil Genocide case (2013, although suspended), the first conviction of forced disappearance

(2009), as well as the first sentence for sexual slavery in the Sepur Zarco case (2016, these three are not firm yet). In 2014, the survivors of the Rio Negro massacre achieved that the Guatemalan State recognize its responsibility in these crimes against humanity and that the following year economic reparations began for surviving families. The role of victims and survivors organizations was critical in achieving these results.

Demanding recognition of Convention 169 of the International Labor Organization (ILO) and the United Nations Declaration on the Rights of Indigenous Peoples – both ratified by Guatemala – particularly the right to free, prior and informed consent, more than 80 indigenous communities held good faith consultations and manifested their disagreement with the economic model based on extractive projects. Several communities have legal complaints against implementation of large-scale projects because they were not consulted. The Constitutional Court (CC) handed down a ruling demanding the State to suspend extractive activities and to regulate consultations (DLPF 2015). One example is the provisional decision of the Supreme Court of Justice that orders the closure of El Tambor mine after years of peaceful resistance by the people of La Puya. The closure was ordered because the company did not comply with its legal obligations and the communities' right to consultation.

In 2015 a massive civil society movement, backed by investigations from the International Commission for the Fight Against Impunity (CICIG) and the Public Ministry (MP), questioned the government on acts of corruption and severely criticized the political system. This political context led to the resignation of the vice president, president and other high level government officials who are currently in prison.

These cases show the importance and force of Guatemalan civil society and human rights defenders to participate in the construction of a democratic society and Rule of Law.

Protection mechanisms and conflict transformation

As defined in the Comprehensive Agreement on Human Rights two institutions were created to monitor and protect the population against human rights violations and to develop and promote governmental policies on human rights. These are the Ombudsman's Office for Human Rights (PDH) and the Presidential Commission for Human Rights (COPREDEH). Their efficiency and usefulness varies greatly depending on who is in charge, both on the local and national level⁵.

However it is not until 20 years after the signing of the Peace Accords, thanks to a sentence handed down by the Inter-American Court on Human Rights Florentino Gudiel vs. Guatemala, which started debate on creating a national program for the protection of human rights defenders.

Guatemala receives assistance from the international community: in human rights monitoring and training by OHCHR; in the fight against impunity (investigation and training for national entities dedicated to criminal investigation) and for dismantling parallel criminal structures by the CICIG. Important progress has been made in the investigation and legal accusation of parallel power structures.

Mechanisms for dialogue were created to establish participatory ways of focusing and resolving conflicts. The National System for Dialogue has carried out several processes in different regions of the country. However, in repeated



Foto: James Rodríguez, Santa María Chiquimula, Totonicapán, October 25, 2014

The population of the Xesaná community waits in line to vote in community consultation on energy and extractive industries.

occasions these mechanisms have failed and have been perceived as partial or unfair, favoring the most powerful party (BRIGADAS INTERNACIONALES DE PAZ, GUATEMALA PROJECT 2014).

In the justice system, although it is still characterized by impunity and other structural problems (CICIG 2014), valiant and honorable professionals (lawyers, prosecutors, judges and magistrates) have emerged and who have moved forward exemplary transitional justice and anti-corruption cases. However, this active commitment by civil society in Guatemala, as well as the creation of institutions to protect human rights, civil society and the

Rule of Law, have been accompanied by decisions and governmental actions that are at polar opposites of these steps.

Implementation of security sector reform

In the field of security forces, the PNC continues to be weak and unstable. CIDH's report on Guatemala in 2015 indicates that the PNC *from its creation...has not been exempt from grave difficulties and problems. Lack of resources, unqualified personnel, corruption, personnel involved in crime and impunity are only some of the problems that this institution has encountered.* Although the number of police officials increased last year,

the budget did not increase, leaving officials temporarily without arms, access to telephones, and without gasoline (HERNANDEZ 2013; CASTAÑÓN 2015). While the Ministry of Defense's budget progressively increased (PDH 2015).

In 2000 the Alfonso Portillo administration signed Decree 40-2000, which opened the doors to joint patrols by the army and police with the objective of providing security to citizens. From that time to date, soldiers have not been taken off the streets in Guatemala. In 2012, in support of police forces, during a protest of the 48 districts of Totonicapán, the military gave an order to open fire against people who participated in the protest. Eight people died and dozens were injured. The CICIG

expressed at that time: *When the military is involved in police (civilian) operations, deaths and injuries to people are common, contrary to what happens when police are the ones who attend any event where the damage to life and physical integrity of persons are the exception.* The CIDH in its 2015 report stated *that gradual reduction in the participation of the army in public security operations has not happened, nor have protocols on the functioning of joint and combined security forces.*

During the government of Perez Molina (2012-2015) an authoritarian perspective of military security was reinforced and the military was used more from internal security. Several retired military officials were appointed to high position in



Foto: James Rodríguez, Río Negro, Rabinal, Baja Verapaz, March 13, 2009.

Dozens of people walk to the Pak'oxom peak to commemorate the 27th anniversary of Rio Negro massacre that took place on March 13, 1982. Some 400 Rio Negro community members were killed in the 80s for their resistance to leave their lands for the building of the Chixoy hydroelectric dam.

government: Ministry of Interior, Secretary of Administrative Affairs and Presidential Security, Technical Secretary to the National Council on Security, General Inspector of the Interior Ministry, Director of the Center for Strategic Studies on Security, as well as the President's Private Secretary (HERNANDEZ 2013).

New military bases were opened, several in indigenous communities' territories, far from a boarder, in clear contradiction to the Peace Accords (CIDH 2015). Also, several States of Prevention were declared. The PDH affirmed that the government *was using States of Emergency as a mechanism of social control, in the context of multiple social conflicts in the country, instead of using effective dialogue mechanisms and conflict resolution* (cited in CIDH 2015). According to the CIDH, the government wanted to paralyze community consultations and eliminate social protest in the context of investment and extraction projects. During these States of Emergency, in agreement with the 1965 Public Order Law, the military official in charge of the country takes political control (HERNANDEZ 2013). In direct contradiction to the Peace Accords, *this militarization of citizen security* observed, among other by the PDH and (OHCHR), (CIDH 2015) appears to be present in contexts where they want *to favor a climate of national and international investment* (POLITICA 2012).

This is context, the reform to the security sector, in regards to the separation of functions of the police and army is far from complying with conventions and agreements from 20 years ago. Although some measures like the effective reduction of the army and the adoption of a new doctrine have been implemented, in practice serious deficiencies can be observed. It is especially worrisome to see an increase in use of the army in functions

of internal security, the installation of military bases in indigenous territories and the relation between security policy and the promotion of private economic investments. All this indicates a rebirth of authoritarian bodies tied, explicitly to, economic investments that are being questioned by many civil society actors.

Public discourse and restrictive laws

The large-scale media often calls the social movement "rabble rousers and terrorists" or accuse them of being against *development or part of organized crime*, especially those who protest against investment projects⁶. The organizations and foundations linked to military officials, both active and retired, are stigmatizing and developing smear campaigns against civil society organizations (UDEFEQUA 2013). At the same time, state authorities are distorting information and creating a negative image (CIDH 2015) of human rights defenders.

Laws have been presented to Congress which people fear that such laws can be used to restrict civil society and penalize social protests as if they were criminal activities. This is the case of the Roadway Circulation Law which states that roads must free from any type of obstacles which was approved in 2014.

Impact on civil society

It is impossible to measure the impact of continuous slander, repressive acts, and remilitarization on civil society's commitment to promote the respect for rights and fulfillment of basic needs. Some numbers however can show part of the physical impact these acts have on people.

From 2000 to 2015, the Guatemalan Human Rights Defenders Unit (UDEFEUGUA) documented 4,485 attacks against human rights defenders. These attacks varied from: surveillance, threats, smear campaigns, false accusations, destruction of property, illegal break-ins, arbitrary detentions, forced disappearances, torture and murders. Nearly half of these attacks took place over the last three years, which reflects a severe deterioration in the space for action and security of organized civil society. The defenders with more attacks were those who promote legal cases for large human rights violations that occurred during the internal armed conflict and those who advocate for economic, social, cultural and environmental rights.

Conclusions

During the internal armed conflict the State perpetrated grave human rights violations and permitted extreme repression of civil society by military forces. All of this was based on, among other things, on the concept of *internal enemy*, which included all types of peaceful opposition and ethnic identities.

Among the necessary measures to create a just and peaceful society, it is fundamental to construct new framework that defines the role of civil society in a democracy. As well as the strict separation of army and police functions. It is necessary to undertake reforms in the security sector and in state institutions to guarantee non-reoccurrence or non-repetition.

The Peace Accords of 1996 – agreements that have status of State commitments and constitute in obligations assumed for the development of a democratic society – include clear and solid agreements with

a democratic focus, both in security policy and in relations between society and the State

New general policies developed subsequently, in compliance with these agreements, including basic principles of a democratic society and a focus on human security. The duties of the police and the army are clearly separated. These documents reaffirm the civilian authority of the security apparatus establishing mechanisms for transparency and supervision.

However, there are alarming statements, especially in the National Security Policy of 2012 which intends to promote security via the promotion of private investment projects. Also, the Army Doctrine of 2004 shifts the limitations defined in the Peace Accords, to include interior security as a function of the army and only subsequently limiting its scope. This opens the door for opposing interpretations of the agreements and content of the Peace Accords.

Positive steps have been made, like in the creation of several institutions and mechanisms to evaluate and monitor the human rights situation and protect civil actors, as well as important advances in the fight against impunity. However, these advances are often threatened and in any case are due more to the ongoing commitment of civil society actors than to expression of a profound change of attitude of the government.

It is in the implementation where gaps and contradictions can be identified.

Negative actions related to active, conscientious implementation of the democratic security reform. Far from laws and adopted policies and the Peace Accords, the authoritarian presence of the army in issues of internal security, is endemic and not the exception. The budgetary

decisions reflect an open preference toward this institution compared to the police who do not receive the minimal resources to carry out their work.

The defamatory public discourse and the attacks against civil society actors show the accumulation of power of certain sectors of Guatemalan society who want to maintain economic and social structures of exclusion, marginalization and inequality through repressive and antidemocratic *security* policies. The distance between this situation and the opposition's definition as *internal enemy* just like during the armed conflict, is dangerously short.

There is great contrast between the commitment and obligations of the State emanated in the Peace Accords and reaffirmed in other subsequent documents and the current reality.

In order to ensure that grave human rights violations and highly violent responses to social conflicts are not repeated, the contemplated measures within the concept of "guarantees of non-repetition" are not enough, this is to say mainly reforms to security apparatus.

It is necessary to implement *all* of the policy elements to overcome the past (truth, justice, reparations and guarantees), as well as structural changes that modify the deep causes of the conflict, many of which are present today in Guatemala. For this reason, it is urgent that the Peace Accords be met in full compliance with all of the agreements that include modifications to the dominant economic and social system.

Endnotes

1 This essay is a summary of the academic work of Kerstin Reemtsma that does not address the influences of organized crime and parallel forces on the subject.

2 The negotiators were in agreement with this law and the Guatemalan Congress ratified it two days before signing the Peace Accords. Officially, it does not form part of the body of Conventions.

3 See MINUGUA 2002 and MENDOZA 2001

4 The former general is currently in prison with other members of this administration accused of corruption, money laundering and leading a criminal structure that captured several key State institutions to become unlawfully rich (CICIG 2016).

5 The former director of Copredek, 2012-2015, was highly criticized by human rights organizations, for example the lack of public attention for Inter-American Court on Human Rights sentences and for negating genocide during the genocide trial and others (HERNANDEZ 2014).

6 Examples: (i) Channel Antigua: Special Report on San Juan Sacatepéquez, March 2012, where communities were accused of being terrorists and Swedish funders were funding terrorists. (ii) PRETTI 2011: *Back to the past*. Prensa Libre 3.24.2011, article in which the columnist slanders several organizations stating they organized and funded illegal, violent land invasions while what was happening were violent land evictions by police officials.

PUBLIC FORUM: 20 YEARS SINCE THE SIGNING OF THE PEACE ACCORDS: THE SITUATION OF HUMAN RIGHTS DEFENDERS.

PBI

We would like to welcome you in the name of Peace Brigades International Guatemala Project. We appreciate the presence of human rights defenders, civil society and national and international organizations. Also we appreciate the attendance of representatives of the diplomatic corps and national institutions. PBI has been working in Guatemala accompanying human rights defenders for more than 30 years. Now, 20 years since the signing of the Peace Accords we want to open a space to speak about the importance of peace for all the defenders who work and fight in this country. For this reason, we consider it important to evaluate the accomplishments during these 20 years and identify the challenges ahead. We want this to be a fruitful exchange and a space to reflect on the future.

We would like to thank Anabella Sibrián for moderating the debate.

Anabella Sibrián:

Good morning, many thanks to Andrea Ixchiú, Marcos Ramírez, Rosalina Tuyuc and Yuri Melini. Today's activity focuses on a conversation of the assessment of the 20 years since the signing of the Peace Accords in Guatemala, with the upcoming anniversary in December. I would like to start this conversation with a general question: How do you weigh the Peace Accords?

Andrea Ixchiú:

Good morning, thank you for facilitating this space for a multigenerational event to listen to the experiences of many people – of people with more experience than us who did not have to open the gap because we were children when the Peace Accords were signed.

We would be irresponsible and ungrateful if we demerit a process that started in the 80s and had an important moment in 1996 followed by a disappointing moment in 1999. To talk of 20 years until now is interesting – to grow up in a country with a weak democracy but also with the experience of struggle and work and of indigenous peoples resistance and the communities who have not stopped working toward peace.

It is complex to rate it (peace) as positive or negative, because peace is a permanent, a daily construction that all of us should be involved in. It is important mention the milestones of negotiation, like the ratification of the first agreements, the accord on Identity and Indigenous Peoples Rights, the Global Accord on Human Rights and then the signing of peace in 1996 which set the framework to build a different country. To generate a participatory democracy where all of our voices are attended to, respected, and heard in the design of the country that we want to have.



Anabella Sibrián
representative of the International Platform against
Impunity (Pi)

None-the-less between 1996 and 1999, three years passed in which a constitutional reform to make the peace accords binding and to obligate the institutionality of the State to make deep changes in its structure never happened. These were three years of efforts in building the popular plebiscite, accompanied by a process of disinformation and social convulsion which the media played a critical role. The economic and political elite feared losing their privileges in face of those who wanted a reform via the plebiscite. **We must ask ourselves 20 years later, who were the people who opposed the reforms put forth in the plebiscite? Who are the people today who oppose justice system reforms and reform to the healthcare system? The same (people) as always.**

The peace process began in 1985 with a new constitution and democratic elections, a cease fire was attained however we continue to live under dictators although they are not military dictators rather a CACIF dictator. Regardless of the political party who has come to power in Guatemala – we do what they (the CACIF) say. The people are the ones that have been in constant negotiation for our rights. They ask us to come to the table to negotiate and they condition us all the time to receive piddling, we have to negotiate the budget and they give into our demands but only to half. The CACIF on the other hand, is attended to with privilege by putting ministers in strategic positions. For this reason we continue to view the signing of the Peace Accords in 1996 and the defeat in the popular plebiscite in 1999. We are left lame at the possibility of building this peace with State institutions that did not have a transversal vision to respect the signed accords to be able to establish public policy that substantially transform the reasons the war started.

And people did not take up arms because behind them was a Marxist or socialist ideological conformation. They went to the street because they were hungry and they

organized with arms because they were tired of the exploitation. These same causes that started the war still persist today.

It hurts but we have to look back at things that were done and things that still happen today that should not be repeated. I think it is important that we realize how important peace building is – beyond the signature, slogan, or campaign. The important thing is the true commitment from all of us who are immersed in defending life. This has to do with the possibility of building consensus, compromises and a convergence of minimum points of what we want to change. Because unfortunately what surfaces is the atomization of civil society, institutionality, political parties, etc. Everyone fights for their agenda and moves forward trampling on others, they fight for spaces to be represented, without realizing that the ones who win are the owners of mass production, the owners of large-scale media, who continue to misinform, exercise pressure on Congress and coopt judges, and continue to have control of the Executive branch. And we are divided without the ability to build collective paths to move forward and face them.

This makes me need to reflect on the minimum points of agreement or consensus that we could reach and what they would revolve around. **We continue to see how history repeats itself**, in face of the proposed justice system reform which will recognize the explicit constitutional Rights of Indigenous Peoples, our form of organization, and conflict resolution.

Now we hear all of the downgrading by the media, just like in 1999, the CACIF, Pro Patria League and CEDECÓN were on the front page of all the newspapers with opinion pieces from many people smearing the popular plebiscite process. Today they are doing the exact same thing, both with the process of consultation for justice system reform and with the proposal put forth by the Minister of Health

to reform the health system and recognize the traditional knowledge and practices of the peoples within the system.

So these same monsters use the same strategies which unfortunately continue to work. That's why we have to ask ourselves, what have we not done properly so that the same pattern repeats itself?

Anabella Sibrián:

I think the question Andrea puts forth is a good one – What have we not done properly? I think it is time to further examine this question. Please feel free to comment on what other people say. Our intention of starting with Andrea is that she was nine years old when the Peace Accords were signed. Now I would like to go to the other extreme.

Rosalina Tuyuc:

Xsaqer chiwe' ixkonojel, nk'awomaj, matyoxij chire ri Ajaw ruma utz qawäch wakami'.

Good morning to each of you and with the permission of the more than 200,000 victims that gave their lives and blood – thanks to their deaths, today we can talk about 20 years after the signing of the Peace Accords.

In regards to the question posed, **I firmly believe that December 29, 1996 was worthwhile.** Firstly for those of us who emerged from the ashes of the massacres that took place in the war inflicted communities where bombings were felt and women were most affected, both physically and spiritually as well as materially and culturally affected. For this reason, when one thinks of signing the peace, I think they were important achievements where all of the rights that were negated were made visible but also the importance of the need to continue working for life, working for hope, working also for a culture of peace and nonviolence. It is true to say that **the cease fire was not a guarantee because in 20 years the arms have not been silenced.** Maybe the

war between the army and guerillas stopped but at the end of the day the weapons are still in circulation.

I always point out that there was legality to the Peace Accords because many people say that it was not legal. I think it was an opportunity. At that time I was a Congresswoman and we fought a lot because the National Reconciliation Law aimed at granting amnesty for all that took place. The six New Guatemala Democratic Front members of Congress maintained that it was not possible to grant amnesty for genocide, amnesty for forced disappearances, torture and sexual assault. This came about amidst the legal framework for the Peace Accords because it was part of the package.



Rosalina Tuyuc

activist of maya kaqchikel origin. Was member of the Guatemalan Congress from 1996 to 2000, for the -already disappeared- political party Frente Democrático Nueva Guatemala. Her father Francisco Tuyuc was assassinated in 1982 by the Guatemalan military as well as her husband Rolando Gómez in 1985. Co-founder of the Coordinadora Nacional de Viudas de Guatemala (CONVIGUA).

Obviously we had to work after the fact for the legalization of the Constitutional Reform, the Political Party Law and all the social participation. I would say that **all we have achieved to date, we have gained by fighting for it.** Struggles in the streets, social pressure (protests) in front of municipalities, in front of Congress, in front of courts, and also in front of the National Palace. We also had to take action like organizing sit-ins in buildings, at international organism, to show the need to respect human rights and also respect the right of communities to organize. Because 36 years of confronting in war, was for some a holocaust. This was the third holocaust experienced by Peoples, particularly the Mayan people. It signified much hurt, many lives lost, destruction- sometimes partial destruction and other times total destruction of communities.

I clearly remember that day. Although most of us were not seated at the main table, I was on the third floor of the National Palace

watch the signing of the Peace Accords. Most of people were in Central Park waiting and celebrating. There were also people who were waiting for their loved ones to appear. The hope that maybe their husband, brother, mother, cousin, son, daughter, grandfather, grandmother were going to appear. But that day passed and their loved ones did not appear. I think it was a moment of happiness, grief, and uncertainty.

In the past 20 years we can redeem positive things and negative things. Life is not always rosy and there are always dark situations- ups and downs. What is important is the light of peace that continues to be our banner. The light of political, social and economic transformations which are also ways to hope for the future. And I think that is why for 20 years we have dialogued and negotiated although human rights and the rights of indigenous peoples should not be negotiated. Nevertheless, we have had to sit down with those who persecuted us, with those who committed



Foto: James Rodríguez, Guatemala City, June 30, 2007.

Human rights activists Miguel Ángel Albizures (left) and Alfonso "Poncho" Bauer Paiz, holding a banner with the faces of 45,000 victims of forced disappearance during the March for Memory organized by H.I.J.O.S. (Sons and Daughters for Identity and Justice Against Oblivion and Silence).

murder and those who do not tolerate our presence. Out of necessity we have sat face-to-face to speak of the need for recognition.

Twenty years ago we did not have ILO Convention 169, we did not have the Declaration on Indigenous Peoples, we did not have Conventions on peace and security for women, we did not have conventions on environmental rights and today all of these are a legacy that substantiate our rights. This legal framework today has showed us that in it is possible to try crimes like genocide in Guatemala. This is why I say that it (signing of the Peace Accords) was worthwhile and continues to be worthwhile and will be on the agenda for the next 20 years. **We believe it is worthwhile to continue working for peace because no country should live in war, no country should live off the sweat of others.** In fact we should recognize that each of us contribute to building a multiethnic country that is still pending.

Yuri Melini:

Thank you and good morning to all of you. Thanks to Peace Brigades for this initiative. It is naïve to think that peace building is a process that can be resolved in the signing of a paper. While I listened to Andrea and Rosalina, three things came to mind.

I see successes, I think about the institutionality of peace and I think a few things have moved forward. We have a National Civil Police (PNC) substantiated in creating their doctrine – a doctrine based on respecting human rights and protecting citizens which is a substantial achievement. The Secretariat on Agrarian Affairs was created although it does not resolve all problems because the biggest problem is the fact that 80% of the land in this country belongs to 2% of the population. The inequalities around land have to do with a profound transformation that can only take place with an accumulation of political force to reform the State, not through a decree.

I think that for 20 years or more in Guatemala indigenous peoples were subject to discrimination, racism and exclusion and this has not changed. Rosalina and Marcos are witnesses of this. None-the-less, we now have a special prosecutor's office on crimes of discrimination, and we have started to accumulate legal processes to eradicate crimes against humanity. In 20 years things have changed.

Although we do not yet have strong political institutions after 30 years since the new Constitution and 20 years since the signing of the Peace Accords, the State has been in the hands of elites, traditional oligarchy, military, drug traffickers and others. It has also been coopted by other interest groups who take advantage of public institutions to become rich. We see the fragile nature of the electoral system and political parties – the



Yuri Melini

doctor and surgeon (USAC 1987), environmental activist and human rights defender. Founded the Centro de Acción Legal-Ambiental y Social de Guatemala (CALAS) in 2000.



Foto: James Rodríguez, La Unión, El Estor, Izabal, September 27, 2014.

Angélica Choc commemorates the fifth anniversary of her husband's, Adolfo Ich Chamán, murder. He was a maya q'eqchi' community leader, teacher and activist against mining.

peace process is still in debt in this area. We must refund the State starting with purging Congress, the electoral system, and political parties.

We see other advances in full citizenship and people exercising their democratic rights. For example, yesterday men and women from Santa Rosa, Jalapa and La Puya took over a courtroom in the Constitutional Court for a peaceful protest. I see that in Guatemala progress has been made when citizens exercise their rights. The people are the ones to make demands, the people are the ones who rule, last year the people took to the park and they are taking over these spaces.

In Guatemala an independent tribunal heard the first genocide case with a special prosecutor at the helm. The outcome was a conviction of genocide. The sentence is there and historically this is an achievement. There are other interesting criminal processes moving forward looking at the chain of command and responsibility. One such case is the Molina Theissen case and in other cases where there are political and legal responsibility of Generals. Justice has to move forward little by little. There is also sorrow because there are historically pending issues like Congress still needs to ratify a law to look for the disappeared. People have the right to know. Or about the shenanigans of judges who protect one and other.

While the Peace Accords were being signed in 1996, President Arzú and his team in 1997, before the referendum plebiscite, approved all of the laws for plundering national riches. Now we see socio-environmental conflicts around water, the use of territory, African palm, forests, and metal mining. We have to remember that the legislation for these things were approved by the same government who signed the Peace Accords in 1996. In 1997 the Mining Law was ratified which has generated more than 1,060 conflicts in the country. Also, the General Electricity Law has more than 80 conflicts around the topic of public water works. And we must not forget the promotion of monoculture investment.

Peace is a process and twenty years is a short time to completely evaluate the advances. But it is true that essential progress has been made. It is important to remember the accompaniment from MINUGUA, OHCHR and the CICIG would not have been possible without the signing of peace.

We do not have clear data in regards to peace financing. There has not been transparency not even on behalf of international donors. More than 21 billion dollars were spent over the years and where is this investment?

In regards to building citizenship, in eastern Guatemala six municipal consultations of neighbors have taken place. Each backed by the municipal code recognizing the right to consultation of indigenous and nonindigenous peoples. And the Constitutional Court has resolved that these consultation are binding on the local level and indicative on the national level. We are not talking about Convention 169, we are talking about the Municipal Code.

Ultimately we are making history. **For me the most urgent thing that needs to happen is the electoral and political party reform which is the base for a democratic, republican and highly participatory system. The other thing that worries me is the need to create a culture of tolerance and respect to fight against inequality and social exclusion. It is not**

fathomable that in this country few (people) have so much while many people do not have anything. And these inequalities and exclusion are what continue exacerbating a fragmented and politicized society. On one side the Foundation Against Terrorism, Pro Patria League and the Francisco Marroquín University and on the other end of the spectrum social movements, totally dispersed, invisible and without a unity and gaining force.

Marcos Ramírez:

Good morning, thanks to Peace Brigades for inviting me.

If you notice that I am trembling it is because of the cold not because I am scared. If you see that I am happy it is due to the sad things that have passed.

From my point of view the signing of the Peace Accords has positive and negative things. From the time that peace talks began, **many of us from the Ixcán area were not in agreement with signing peace. We always thought that a bunch of papers were going to be signed and that the needs of communities were not going to be resolved.**

But unfortunately international organizations and other institutions pressured for the signing of the Peace Accords because they believed in the firm and lasting peace. But the concept firm and lasting (peace) – I don't know if it existed or can exist. Even when we were the most affected spending 12 years in the bush resisting and many people were displaced in Mexico and other countries. Others were internally displaced within Guatemala. There are many widows and many orphans as result of the war. We always knew we would be on the front lines, suffer threats and other situations that probably would not be provoked by arms yet by political and economic situations. And that is what we are living today.

For us to speak of peace is very complicated because to speak of peace indicates that one has all essential needs covered in order to

live. But if we look at the conditions that exist in Guatemala, Are living conditions satisfactory for communities? For the population these are not satisfactory and for this reason we believe that there is still a lot of work to be done to achieve the hope of peace. I don't know how many years it will take to achieve this. It's true that some steps have been made for example, purchasing land for returnees both the Population in Resistance Communities as well as for other displaced groups. But not for everyone like in the case of my community, Primavera del Ixcán, the State has not purchased even a meter of land for the community and its families. The State built small homes – poorly constructed and some were left unfinished. One assumes that there should be quality education with infrastructure in communities. In La Primavera community they started building a school and it was not completed. Where did the funds for this project go?

When we look at the healthcare system, clinics and hospitals have no doctors or medicines. This is true throughout the country, not only in the Ixcán. With regards to food, if we don't have land then we don't have food because our food comes from the earth. These circumstances are why we have come forward, but when we speak, assert a claim, or make a demand we are repressed or abandoned. They do not pay attention to us.

I believe that the Peace Accords made some progress but there are many things still pending today. I am speaking only about topics of social development but if we speak about judicial development we are screwed. If we talk about economic development, we are screwed. I would like to say that there were many efforts and great expectations but we do not know how things will continue in the future.

Anabella Sibrián:

I would like to highlight what Yuri mentioned - the idea that 20 years is a short amount of time

if we look at this from an historical perspective. Andrea also stated that building peace is a daily, permanent task. In some way signing the peace for some people was a moment of hope like Rosalina commented. Yuri stated that parallel to the signing the Peace Accords, the government facilitated conditions of the current infringement on public assets, human rights, and mestizo and indigenous communities' territories.

Andrea, you spoke of the deception of 1999 and that you grew up in a country with a weak democracy and you were critical of the role of the media. From your point of view, what could be done to undertake these conditions of peace in which the young people have grown up with?

Andrea Ixchíu:

For me, education and access to information is vital. Yet you see the perverseness of this same model, while the Peace Accords were being signed, the conditions to implement the accords were not generated. And where the tendency was and is to privatize services. In which those of us who can pay for a moderately decent private school, we have certain access to the memorize facts and content. I remember in the private school I attended we memorized that on December 26, 1996 the Peace Accords were signed. But we did not have any idea of the content (of the Peace Accords). We only repeated the dates like on September 15, 1821 Guatemala signed its Independence. This model that does not educate youth did not educate us – from the time of our infancy to understand our surroundings and recognize our community in which we live. In grade school, they never told me about the organizational model of the 48 districts. That I learned in my home.

Thus, a model that has been developed in function of alienating Peoples and the homogenization of thought obviously has the result in the type of citizens we have today. Where journalists, those who exercise the

right of communication and occupy spaces in mass media are people who do not know the reality of country where they live. They are people who with much simplicity qualify us has rabble-rouser o terrorist when a community organizes or when a person demands their rights be respected.

In the context of mass media I had the privilege, and I am thankful for this, to have two rural teachers in my home who read and taught me to love reading and a desire to access information. I read fantasy and fiction for children and when I finished my books at age 9, I went to my father's bookcase and picked up a purple and blue book that said Massacres in the Jungle. The book speaks of death, burning houses, and people fleeing to the jungle. After reading it I asked my father, "Why are adult stories so sad?" My father was left cold and hesitated in answering me

and then he told me it was not a story but the history of my country. This made me want to learn more and I learned that the Peace Accords were going to be signed when I was nine years old.

All of this has to do with our social processes in which we are denied of our own history in school and where families hide the truth out of fear. At times this has been a problem, hiding the truth from children to conceal us from pain and trauma when in this country due to lack of access to information the same errors continue.

For me the topic of understanding the role of the media in the transformation of society and creating opinion became my vocation. That is why I think young people have to educate ourselves, become informed, speak with our codes and share our glances of reality. We have to breakdown the media's barriers. For this reason from the time I was nine years old I started participating in educational processes with the Catholic Church. In pastoral media outlets, I understood the terrible weight that the press has when they want to transmit a poorly written news story. **I also understood the power of community-based media outlets to transform society and to give a different feeling to news, to give a different sense to the building of formative content. This is all a permanent challenge in a country where fear, censorship and repressive apparatus continue to function.**

Just yesterday we commemorated the four year anniversary of the Alaska massacre that took place at the 169 kilometer marker on the Inter American Highway in which elements from the Guatemalan Army opened fire on us because we were protesting. This took place at the beginning of the Otto Perez Molina's administration. The massacre was accompanied by a media campaign that criminalized our protest. The news on Radio Sonora and Tele7, who were present during



Andrea Ixchiú Hernández
maya k'iche of Totonicapán, cultural manager, journalist, human rights activist and writer. In the period of 2012-13 was nominated president of the governing board of natural resources of the 48 Cantons of Totonicapán.

the protest, was that indigenous people and campesinos from Totonicapán assaulted the Army and the Army acted in self-defense.

While we were transmitting what we saw and experienced, we had the large media outlets calling us criminals and their listeners were calling to give their opinion that we got what we were asking for – by opening fire on us and using tear gas because we had blocked the road. So one can understand that the mass media is a powerful fixture which serves to create public opinion. Obviously when they repeat one thousand times, those who block roads, those who exercise their rights and those who protest are criminals, terrorists and they deserve repression – this definitely creates public opinion.

We have to negate this and make use of communication outlets to disseminate other messages. Messages of peace, claims to our rights and to inform others why our peoples protest. I think one of the goals we have as youth is to ethically learn to use technology that we have at our finger tips. We need to put these tools at the service of our communities, taking into consideration the potential that media has to transform our reality. Making calls for mobilizations while respecting rights and human life.

Anabella Sibrián:

Yuri, you have talked about the progress made since the Peace Accords and the current challenges. Do you think that the Peace Accords respond to the current needs for the protection of the right to a healthy environment for communities?

Yuri Melini:

In 1997 we published a document entitled Environment and Natural Resources in the context of the Peace Accords. In this publication we explain that in 8 agreements (of the Peace Accords) there were commitments around what we call today Environmental Management and Access to Natural

Resources. The Accords were very clear on some topics like access to potable water and sanitation. However, it is embarrassing that today 12,000 children annually die from diarrhea in Guatemala.

Two things that are important to mention. One of the most sensitive topics is agrarian and environmental jurisdiction, a big pending point. In the Peace Accords, the Agreement on Socio-Economic Aspects of the Agrarian Situation mandates changes to law schools' curriculum on agrarian and environmental issues as well as the creation of agrarian jurisdiction. This is one of the most painful things in this country, Marcos clearly explained it. One of the largest pending items from the Peace Accords, is still taboo today – the agrarian topic. In the Polochic case, the march of CUC members from Coban, the questioning of the vast inequalities in the Ixcán, the large situations in southern Peten. But these topics are not talked about, nobody talks about Sayaxe where 80% of the area belongs to one person, Hugo Molina Botran. The same things happen in San Marcos and Suchitepéquez where the concentration of land is in the hands of few (people). And what is the response of those who oppose this model? The hate speech of Ricardo Mendez Ruiz, judicial process against Daniel Pascual, confrontation and criminalization.

The other topic has to do with spaces for participating. There is a principal in International Law pertaining to access to public information that states that people have the right to know and to decide. Today environmental impact studies are simply a matter formality and when a community wants to participate in the process, the legal requirements state that people must have technical knowledge with legal and scientific bases. This is to say that the environmental impact study by the San Rafael mining company cost \$280,000 and the Santa Rosa communities must have a study with a similar budget to have technical arguments. There are 20 days to conduct it. There are laughable cases where the

reports are argued in English. How are the communities going to have access to these reports? How are communities going to have free, prior and informed access to information to make a decision about the environmental management of a petroleum, mining, hydroelectric, or an African palm plantation project?

Going back to the agrarian issue, the issue of the Integral Rural Development Law makes people uncomfortable. Aside from talking about the agrarian topic, we have to talk about access to credit, technical assistance and the rural, campesino economy and the role that women play in this. For 12 years now, there has been an alliance to put forth this law so that the State protects the most vulnerable people, giving them technical and credit assistance to facilitate markets for them. But what has happened during the 20 years since the signing of the Peace Accords? We have had seven presidents during that time so - What is the institutionality we can talk about?

In the 90s we spoke about agrarian issues, then agrarian issues were overtaken by environmental topics, and from 2010 both agrarian and environmental topics were surpassed by the topic of territories. This is a concept under construction in academia, on the streets, and in social media that we must understand. We don't even know the entire dimension of the territory concept, but as logic has it people depend on water and territory and for this reason they defend it. The agrarian topic of having a title to a piece of land has been overtaken. Not that this is not important. But the idea of territory - the collective vision which encompasses environment, forest, water sources, air, cultural identity, and a dimension of culture of native peoples and of mestizo people. All of these are primordial elements of this vision. There is a lot at stake which will only be achieved demanding the consolidation of these rights.

Anabella Sibrián:

Thank you, Yuri. You helped us see the balance of one of the fundamental agreements. Some say that the Agreement on Socio-Economic Aspects of the Agrarian Situation was the center of the Peace Accords.

But there is another agreement, the role of civil society and the role of the armed forces in a democratic society. I would like Marcos to speak to this as he has been the Mayor of Ixcán, an area which suffered strong militarization.

From your experience as Mayor, What changes have taken place in peoples' lives? And most of all in terms of militarization, Are there visible changes? How do these changes play out in daily life, if there are any?

Marcos Ramírez:



Marcos Ramírez
member of the Comunidad de Población en Resistencia (CPR) of Ixcán and participant of the ASC; elected mayor of the community of La Primavera del Ixcán from 2000 two 2008. Currently president of the governing board of the community of La Primavera del Ixcán and president of the Victims Committee.

The truth is there have been changes, but negative changes. Militarization is not only in the Ixcán, but throughout the country. The signed agreements are clear about how the armed forces should function in society, but I think that on this aspect there has been a move backwards. In Ixcán the military zone was dissolved, only a few soldiers stayed as reserves. However, under Alvaro Colom the military base reopened again.

The Peace Accords also state that the clandestine security apparatus implemented by the army during the war should be dismantled. But we see in Ixcán and other parts of the country that the clandestine apparatus have not been dismantled, in fact they have grown.

During the Otto Perez Molina and current administrations, army units have been moved to the Ixcán like if we were in the 80s. Large groups of troops are patrolling the tiny town that you can walk through in 10 minutes. As if they were looking for guerilla groups in hiding. And do you know how they justify this operation? The pretext is that there are drug traffickers. Moreover, the police is supposed to take care of the population and they should have enough elements to do so. However, there are only six police people in an area with more than 100,000 inhabitants and with more than 100 communities. These six police elements are not able to look out for the security of the population, so they are accompanied by soldiers. This goes against the Peace Accords. We lament this situation because it is not true that they are looking for drug trafficking or other crimes, as they protect this type of activity.

Also I would like to mention that in Ixcán the leaders of the civil patrollers are still functioning today. The S5 and the ones who were in the G2 are still operating in communities.

Being Municipal Mayor has some positive aspects if one shows interest in learning or doing something to effect change. One can work but it depends on the strategy you

implement and also on ones' astuteness and advocacy. To the contrary, one can be coopted but when one does not allow himself to be coopted then one is intimidated.

On some occasions they use the assignation of projects for communities or through participation spaces in which they do not take into consideration your opinion. In these circumstances they use your participation only to justify that they convoked people that people participated and the decision was validated. Many times the agreements are not complied by or participation is manipulated.

Also for several years now the topic of corruption and coopting the State have been taking place. Now these are words commonly used. When one is efficient in their administration the auditors from the General Comptroller Accounts Office arrive to inspect. Supposedly their job is to come and correct errors that one could have made. I have not spoken a lot on this subject, but the auditors arrive and say, "you have a lot of funds, what we are going to do here is that you give us a commission and we will declare that your administration is fine and if you do not give us a commission then we are going to declare that your administration has problems and we will make this public in all media", that is when the threats begin. There are mayors who probably give them the commission so that they are not harmed and we are not talking about Q1,000 or Q5,000 we are talking about Q200,000, Q300,000 or Q400,000 depending on how much money is available at the municipality. It happened three times to me. I did not want to budge and I fought the alleged findings that they accused me of because I did not want to give the peoples' funds to someone with a salary working for the public. What happened next? With a gun on the table they said, "give it to us or do you want this?" But the war taught us to defend ourselves, so when they put the gun on the table, I said, "ok, I know what a gun is and I am not afraid." And now the treasurer has a legal process against him because this is

the only way authorities do the work they are supposed to do. This situation is very difficult. If you are not from the same political party as the administration, they do not give you projects. They create a parallel committee to implement projects. They also use social programs which are now popular to create political clientelism instead of responding to the needs of the population.

That is why mayors are elected by one political party but after the inauguration they change political parties so that they won't be punished. The mayors who have a vision stick to their principles but then they become isolated. For example, in regards to the Free Trade agreement my position was that it should not be signed because we should respect what the communities decide. But when meetings were held in Quiche they said they were guaranteeing that mayors would give their total support and this was not true. That is why I speak of the manipulation of the decisions that are made. This situation is unfortunate and does not contribute to peace. In fact this damages the peace process and does not allow one to work and respond to the needs of the local population. It is difficult to carry out a good administration with the system we have in Guatemala.

Anabella Sibrián:

Rosalina, there is one agreement that isn't talked about much. The agreement that deals with resettlement of the uprooted population due to the armed conflict which was one of the first agreements signed. Do you believe that the commitments set out in this agreement were properly met?

Rosalina Tuyuc:

Twenty years later, I would say that most of the agreements are delayed in their implementation, but there are some that are worse off than others. For example, the Agreement on Identity and Rights of Indigenous Peoples and also the Agreement

on the Resettlement of Population Groups Uprooted by the Armed Conflict. None-the-less, you can see that the face of poverty is indigenous, victims of institutional racism and victims of the armed conflict, we are genocide survivors. The few advances that have taken place were achieved due to social struggles so that the National Reparations Program be installed through political agreements. This was done due to the work of indigenous organizations. All of those lands for returned refugees, for uprooted families, I would say that in their majority did not work. Those communities live in total abandonment. The agreement on uprooted populations has not worked not even with the start of the National Reparations Program, it could not cover everything.

We have assumed the responsibility for exhumations of clandestine cemeteries and giving identity to the disappeared, putting forth the law to look for disappeared, putting forth a minimal norm so that the Public Ministry can use it in searching for the disappeared.

Almost nothing has come from politicians. It was always us survivors who have promoted the implementation of political, economic and social content of the agreements. There is mention of the need to dignify the memory of those who were killed, but in many municipalities nothing has been done. It was GAM, CONAVIGUA, and FAMDEGUA who built monuments with permission from the municipalities. Some were built and others were not. Rather they never wanted to assume that responsibility and give a name and last name to the fallen as a way to dignify them. I remember when we went to see the FRG Mayor in Santa Cruz del Quiche to ask for that space and he told us, "no, this is a public space." And when we told him the agreement says this and we argued why Quiche should give this space for our monument finally the municipal council approved it. We provided cement, paint, labor – we gave all the materials to build this small monument. This

happened in other municipalities as well. It was also us who took judges, prosecutors, and police in rented cars to do their work.

This is why we say that everything that has been done, has been done by survivors. I think that it is important and very symbolic for CONAVIGUA to say, with much dignity, that we are victims but from that we have learned to survive, to dignify the memory, not only of those who died but also of those who lived.

In December of this year, I hope we can hold the first burial of the disappeared that do not have names. It will be in San Juan Comalapa where a military base operated. It is where the military of today deny there was ever a military base there. They say that all of the remains that were exhumed are from colonial times. We respond by saying our ancestors did not have Payaso brand cigarettes or Gallo beer because in many of the cemeteries cigarette packs and beer waste were found.

The agreement on the uprooted population had high expectations which have not been met. We continue to work so they can be met. Many of the advances in organization, public policies, legal framework have been attained via governmental accord. I think it is important to say that it was our demands. This is our struggle, our proposal and also our mission. Not everything we want has been done, but if we hadn't participated in its content then surely no member of Congress or political party would have put forth that content.

Twenty years after the signing of the Peace Accords we can say that we are in serious danger of losing, and for that reason the necessity to continue building peace, we have to build it through our work, with our vision and also with a life mission. I agree with Andrea who as a young person did not live through the war, but she has experienced the consequences of militarization. And surely if she is active in movements as a young person it is because she does not want future generations to suffer what we have.

Three years ago we were comparing the Ministry of National Defense's budget to the budget for health, education, infrastructure and environment. Adding the latter four budgets together, they are higher than the military budget. We are fitting ourselves to live in a militarized setting and I am sure we do not want that. For this reason we need to continue working for the implementation of the content of the Peace Accords. We have to work with the government, with some administrations we can work and with others we cannot.

When we talk about the genocidal history of Otto Perez Molina we said, "he did not go down for his responsibility in genocide, but he went down for his role in corruption."

Now they are attacking us a lot in different ways. Primarily through legal strategies because we have contributed to change. When the people rise up and try to overcome all of the negative things that affect our lives, they are going to attack us more. For this reason we see the criminalization of leaders, both ancestral authorities, spiritual guides, leaders of organizations – whether they be environmental, cultural, linguistic or other work that we do, they are going to close the doors. **Now there are more of us who are conscience of this reality and the need for change. Like they attacked us with arms, we attack with truth. They are attacking us with laws, we are going to attack with their own laws.**

I think these 20 years are going to be the time for women. Our ancestors were correct in saying that this millennium is one of change, but these changes will have a cost. I think that fear will always be present, but we have to participate in change without being fearful. At the end of the day our dignity is worth more than death, to bet on light is not easy.

We have made progress, we have gained organization, there is a flourishing, it is our authorities who abandoned the collective struggles, they are our structures and for this reason I invite you all this October 12th to accompany the struggle of our authorities.

They are going to march through the economic zone on the Reforma Avenue to as vindication. Because we have gained communal lands, but mayors resist handing them over.

This work is one of struggle, resistance and to move forward. When we are setback, we will do it with dignity to also progress with dignity. We will advance in the future and the future of indigenous peoples, advancing in autonomy, in self-determination that international conventions guarantee. We will encounter great challenges, but in those challenges we must be organized, make decisions and be flexible.

Anabella Sibrián:

Listening to Rosalina, I remembered the last MINUGUA report in 2004. It said that until that moment the material of the Peace Accords had been met due to the role played by victims. This has happened because of individual's commitment for peace is pushing them forward. I remember listening to Eliu Orozco saying we were entering the second phase of peace, characterized by the building of a diverse country.

How do you all view this second phase? How do you see the future? How do we continue moving toward peace?

Andrea Ixchiú:

It is a true challenge that needs greater articulation. I go back to what I said earlier, we have to achieve consensus, articulate our efforts, and grow. We are a country that unfortunately it is easier to divide and take away which are more frequent occurrences than adding or multiplying efforts. I think this is important because these **articulations and joining forces are fundamental for the democratization of communication to fight laws with communication, to dispute the water law, to dispute justice reform, so that we can advance towards refounding the State and revising the Constitution in a participatory**

process where people who have been excluded can actively participate and design a model of government that we want – a plurinational State o whatever we think is best.

To do this, we need the honest and constant commitment from all of us who are calling for this collaboration. We need the collaboration from the media, advocacy spaces for public policy, from the people who work on the local level toward building autonomy in their community. We recognize that all struggles are important and cross-cutting. That is what our ancestors taught us about things being complementary to each other and the horizontal nature of things. This goes beyond the ritual of a ceremony. These are things that we need to put into practice in our daily lives in the way that we build networks and ethnic convergences that are respectful and that aim at the horizon so that we can wake up and move forward. So that all of this history of hurt, blood and repression, the criminalization of our grandfathers and grandmothers can be neutralized.

As Rosalina said, we have to realize **that what we have today – although sometimes it is not enough – has been built on thousands of cadavers and the blood of many people. This is something that we cannot forget. We cannot be ungrateful and selfish and only think of our well-being.** I think we must take this into consideration when we think of policy recommendations and that we truly think of the future. For example in the case of Totonicapán, if our grandparents in 1811 thought only of dividing up their land for individual benefit, we would not have the communal forest today. The communal forest guarantees us water and life for thousands of people. So it is important that we use this notion of a joint, collective vision not only in what we say and think, but in the way we live and the way we build participatory spaces, our political advocacy and collective spaces. Let's build community out of respect for others,

from the notion we can learn from others, having the ability to listen and to permanently rebuild ourselves.

It has been a privilege for me to listen to these voices of people who have built peace. And to learn of the challenges that we have to take on and most of all to the commitment to continue working despite everything.

Yuri Melini:

I have been thinking recently of how we can evolve the State into 2.0. The radio saturates us with publicity from the Association for Liberty and Sustainable Development, deserting Convention 169. Or I now hear that the discussion of the working group on Constitutional Reform are done. The Chamber of Commerce's campaign states that we are 16 million Guatemalans and that is what matters. Then I wonder if it is possible to have a Constitutional Reform for the justice sector that does not collide with the rancid oligarchy with a strictly urban vision.

There are spaces in which indigenous institutionality has moved forward. Like the Presidential Commission Against Discrimination and Racism, but when this organization began to take shape the only way to reverse it was to take away its budget. Or the Indigenous Development Fund or the Vice Ministry on Bilingual and Cultural Education – these are instruments to make head way toward a plurinational State.

We are given hope by new forms of organizing – social media and other new technologies that are out there. Youth are calling to play a role, an important role. As a professor at San Carlos University, I realize that students don't know our history and they are not interested in learning history. And of course how do we integrate the rural component, the rural culture with youth from urban areas.

We must understand how globalization works. Like Marcos said, while Guatemala was signing the Peace Accords, the Washington

Consensus came about to reduce States and privatize health and education. Thus reducing the concept of State to include only topics of security and justice. Like during the Oscar Berger administration when CAFTA was signed. And recently with the Alvaro Colom administration the Partnership Agreement with the European Union was signed. The world is moving at another rhythm with globalization and networks. But Guatemala has the potential to build a plurinational State, integrating its best riches which are multilingualism, multiculturalism and diversity.

Marcos Ramírez:

This is an opportune time to remember Monsignor Quezada Toruño. He presided over the Civil Society Assembly in which many of us were involved in to provide input in the negotiation of the Peace Accords.

I think the Agreement on Identity and Rights of Indigenous Peoples and also the Agreement on the Resettlement of Population Groups Uprooted by the Armed Conflict have important elements that benefit the Guatemalan population and for the victims of war. Unfortunately, there has been little progress on these issues. Among them, reparations, my community was greatly affected by the war and the case was documented by the United Nations even before the signing of peace. It is a community that to date has not received reparations, not individual or collective reparations.

It is assumed that administrations should encourage conditions to comply with the commitments of the agreements. Instead of strengthening this aspect, it has been disappearing. For us this situation is unfortunate. For this reason it is important to remember **we want the firm and lasting peace, not just a signed document, there must be a change in attitude in all Guatemalans.** We should not forget our past, we have to be consequent in the present to be able to have a better future.

We should unite more every day because if we are divided we will not defeat the economic and military monster.

To achieve that firm and lasting peace, we must have structural changes in our country. Without a change in policies it will be hard to speak of a firm and lasting peace. To obtain that structural change we have to be responsible, honest and good citizens. We cannot fall in acts of corruption because if we feed off that sort of conduct the struggles for rights and the Peace Accords will be totally eliminated. For this reason I insist that we continue to talk about the Accords, talking about our struggles, of our future but united.

Rosalina Tuyuc:

In thinking about the challenges, I think we need to work on historical memory with children and youth. Sometimes one learns abroad what is happening here. When I have

the opportunity to talk about the war's history in prestigious private schools, I realize that youth do not know our country's history. They do not know where the indigenous people are or what they do. They ask me, "How did you all (indigenous people) get here?" And I respond jokingly, "we were here before you all came."

History needs to be written. There are lots of stories, each of us is like a book and our memory is in the people. Much is not written. There are some reports like the Truth Commission's and REMHI and others. But since these are not mandatory in the educational system, no one is interested in them. **As genocide survivors we have said the history of genocide needs to be included in the curriculum so that Guatemala knows what happened.** When exhumations take place I have seen how children are interested because they have family there.



Foto: James Rodríguez, Guatemala City, March 26, 2013

Feliciana Macario, CONAVIGUA's exhumations program director, participates in commemorative events of the murder of Bishop Juan Gerardi outside the National Cathedral.

We have to try to regain the social fabric on the community level. We have to feel that the indigenous peoples are a part of this country. And that the politicians let us to participate. Indigenous Peoples are important every four years (during political campaigns) – that is when they seek us out and offer us many things. But after the elections, we are again invisible. We are never going to be a priority on the agenda for politicians. Society has to be the link the move the Peace Accords forward and the ones who put forth proposals - public policy proposals, bills, and proposed legislation. In CONAVIGUA no one had gone to college, but we are considered knowledgeable because of our suffering during the war. And that is why we sought support from the Archbishop, PDH, and institutions who helped us write the Military Service Law. We were successful with this.

Otto Perez Molina resigned because the people were there. If we had not spoken out in face of the immense theft that was going on, then we would not have achieved his resignation. We must continue to work on community organizing and on the national level. We have to continue to work for legislative changes and advocating in the UN System.

Many of the achievements have been won by women.

We need to keep in mind that indigenous peoples also need humane and dignified treatment. If we understand this, then it is possible to move forward. If we keep in mind that we are different cultures, I think the country could wait another 20 years, but indigenous peoples do not want to wait any longer.

I would like to say one more thing. I would like to say that at CONAVIGUA and many other organizations we never considered the Army or police would provide security for our struggles. Peace Brigades is who has given us that security. When the situation intensified during the military dictatorship, it was Peace

Brigades who provided us accompaniment. To not be kidnapped, intimidated, although all of these effects were felt by Peace Brigades – all of the women and men who are a part of PBI. We felt safer with someone who was taller and white instead of having police by our side. I would like to highlight the role of Peace Brigades International as they were also criticized and threatened but they stayed in Guatemala.



Inhumation of CONAVIGUA in Nebaj, Quiché, 2006

GLOSSARY

- CACIF Coordinating Committee for Agriculture, Commercial, Industrial and Financial Associations
- CAFTA Central America Free Trade Agreement, signed in 2006 between the Dominican Republic, Central America and the United States
- CC Constitutional Court
- CEDECON Center for the Defense of the Constitution
- CEH Guatemala's Commission for Historical Clarification
- CICIG International Commission Against Impunity in Guatemala
- CIDH Inter-American Commission on Human Rights
- CONAVIGUA National Coordination of Widows in Guatemala
- CUC Campesino Unity Committee
- FAMDEGUA Association of Family Members of the Detained and Disappeared of Guatemala
- FRG Guatemalan Republican Front, political party
- G2 Directorate of Intelligence of the General Staff of National Defense at the national level
- GAM Mutual Support Group
- MINUGUA United Nations Mission to Guatemala
- OHCHR Office of the United Nations High Commissioner for Human Rights
- PDH Ombudsmen's Office on Human Rights
- PNC National Civil Police
- REMHI Recovery of Historical Memory Project report written by the Guatemalan Archbishop's Office on Human Rights
- S5 Directorate of Intelligence of General Staff of the National Defense at the military zone level.
- URNG Guatemalan National Revolutionary Unity

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Peace Brigades International (PBI) is a nongovernmental organization with 35 years of experience in international accompaniment. PBI has had a presence in Guatemala since 1983 (with a break between 1999 and 2003) protecting the space of people, organizations and movements that promote human rights in a nonviolent manner and who suffer repression in their work. PBI works at the request of local organizations in accordance with nonviolent, noninterventionist and nonpartisan principles using a horizontal organizational structure and reaching decisions in consensus.

PBI maintains a physical presence alongside threatened defenders with its international field volunteers. PBI performs tasks of dialoguing with local authorities, as well as with human rights organizations and other civil society actors in Guatemala. PBI maintains a dialogue with the diplomatic corps and multilateral organisms in Guatemala, Europe and North America. PBI disseminates information and requests international support to guarantee the security of Guatemalan human rights defenders.

PBI aims to contribute in the creation of necessary conditions so that defenders, their organizations and communities can continue to work to increase respect, observance and protection of human rights and strengthen the Rule of Law in Guatemala.

GUATEMALA OFFICE
3a. Avenida "A", 3-51 zona 1
Ciudad de Guatemala
Guatemala, Centro-América
Tel. +502 2220 1032
equipo@pbi-guatemala.org

PBI INTERNATIONAL OFFICE
Development House 56-64 Leonard St.
London, EC2A 4LT, UNITED KINGDOM
www.peacebrigades.org

COORDINATION OFFICE
Avda. Entrevías, 76, 4º B
28053 Madrid, Estado Español
coordinacion@pbi-guatemala.org



www.pbi-guatemala.org

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