



## Monthly information pack Guatemala

Number 158 - November 2016

### 1. THE CURRENT SITUATION

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

#### No consensus to support reforms to the justice system<sup>1</sup>

On 28 November, the Congress of the Republic rejected articles 1 and 2 of the initiative aimed at reforming the justice system in Guatemala. These articles established that mayors, governors, deputies and other civil servants enjoying the right to a preliminary hearing, could be subjected to criminal investigation when suspicion of crime was suspected, as well as the suspension of the individual's role when a judge hands down an order of committal to trial. The constitutional recognition of Indigenous rights (Article 3 of the initiative) also suffered a severe setback, although it was not completely ruled out.<sup>2</sup> In light of these events, different analysts point out that the actions of the legislators show clear intention to protect their interests, confirming the pact of impunity and citizens' passivity towards it.<sup>3</sup> According to Taracena, President of Congress, it will not be until next year with the presidency of Oscar Chinchilla that discussion about the rest of the proposal will continue.<sup>4</sup> After the debate was suspended, the frustration of some sectors became evident as they called delegates' decision 'regrettable', 'a failure' and 'racist'. According to the commissioner of the International Commission against Impunity in Guatemala (CICIG), Iván Velásquez, *the country has a debt to Indigenous peoples. They deserve constitutional recognition*<sup>5</sup>. When the Attorney General, Thelma Aldana, was asked about the future of the proposal, she replied: *I do not think anything is going to happen next year, and from what has been seen there does not seem to be any consensus to support reforms to the country's justice system. As such, I think we will continue the same. That is to say, tolerating corruption and impunity.*<sup>6</sup>

The proposal, delivered to the Congress on October 5, was developed through a process of National Dialogue. On 25 April 2016, the various presidents of state agencies, with the support of the Technical Secretariat of the National Dialogue, made up of the Office of Public Prosecutions, the Human Rights Ombudsman (PDH), CICIG, the United Nations Office of the High Commissioner for Human Rights (OHCHR), and the Resident Coordinating Office of the United Nations System in Guatemala, made available to citizens a base document containing the proposal for reforms in the field of justice, inviting all sectors to engage and submit their written responses to these reforms. Events were held in seven departments of the Republic. These involved more than 1500 people from different sectors, represented by 148 working groups, who met to discuss and comment on the reforms. The National Dialogue Roundtable, undertaken during 11 working meetings held between 16 June and 25 August 2016, included spokespeople nominated by those who submitted written proposals, as well as observers from all sectors and places of the Republic.

The proposal was developed on the basis of the results of the regional dialogues, the National Dialogue Roundtable, and the written proposals presented to the Technical Secretariat of the National Dialogue by

<sup>1</sup> Carlos Álvarez, C. "Indígenas, MP y PDH lamentan acción del pleno", Prensa Libre, <http://www.prensalibre.com/guatemala/justicia/indigenas-mp-y-pdh-lamentan-accion-del-pleno>.

<sup>2</sup> Dalmasso, S., "Soberana inmunidad", Plaza Pública, 28 de noviembre 2016, <https://www.plazapublica.com.gt/content/soberana-inmunidad>.

<sup>3</sup> Ortíz, G., "Ante sociedad permisiva, Congreso mantiene impunidad", La Hora, 29 de noviembre 2016, <http://lahora.gt/ante-sociedad-permisiva-congreso-mantiene-impunidad/>.

<sup>4</sup> Gramajo, J. y Contreras, G., "Diputados mantienen prerrogativas y bloquean el pluralismo jurídico", Prensa Libre, 28 de noviembre 2016, <http://www.prensalibre.com/guatemala/politica/diputados-votaron-por-mantener-inmunidad-plena>.

<sup>5</sup> Contreras, G., "Cicig y MP: Hay una deuda del país con los pueblos indígenas", Prensa Libre, 28 de noviembre 2016, <http://www.prensalibre.com/guatemala/justicia/cicig-y-mp-hay-una-deuda-del-pais-con-los-pueblos-indigenas>.

<sup>6</sup> Álvarez, C., Op.Cit.

various social actors.<sup>7</sup> The aim was to make reforms that, for the first time in history, would collect recommendations from all those who wanted to participate in them.<sup>8</sup> The themes subject to reform include, amongst others, modifications to the framework for preliminary hearings, judicial independence, military courts, free legal assistance, and the immunity of governors and municipal mayors. The proposal also contemplates reforming Article 203, in such a way that it is regulated at the constitutional level that Indigenous Peoples can exercise jurisdictional functions in accordance with their own rules, procedures, uses and customs, defining it as a legal system with which the national system should be coordinated.<sup>9</sup> With respect to this last point, although the Guatemalan State recognises Indigenous customs constitutionally and in international conventions, the specific practice of Indigenous justice is not recognised in the Constitution of 1985.

### Murder of trans activist Evelyn Robles

PBI Guatemala condemns the cruel murder of Evelyn Robles, a trans activist found dead on November 18<sup>10</sup>. Evelyn Robles was accompanied by PBI between 2006 and 2009, due to the threats she faced after having witnessed the extrajudicial execution of Paulina Marrot, another trans activist, in December 2005. Evelyn Robles had identified agents of the National Civil Police as being the authors of this crime, during which she herself was seriously injured. To this day, the murder of Paulina continues in impunity.

We deeply regret the murder of Evelyn and ask that there be a full investigation carried out and for justice to be pursued. Her murder is one example of the extreme vulnerability and the serious risk faced by people of sexual diversity in Guatemala, particularly transgender people, on a daily basis.

We want to convey our condolences and sympathy to her family and friends and we call on the Government of Guatemala to commit to a rigorous monitoring of the case and to ensure the safety of people of sexual diversity.

## 2. ACCOMPANIMENT

*PBI accompanies social organizations and individuals who have received threats for their work in the defence and promotion of human rights. In this context we are accompanying social processes in the fight against impunity, land inequality and the negative impacts of globalisation on human rights<sup>11</sup>.*

### FIGHT AGAINST IMPUNITY

We continue our weekly visits to the **Human Rights Law Firm**, and accompanied lawyer **Edgar Pérez Archila** during his travels. We also accompanied several of the Firm's lawyers to court, attending a hearing for the *Dos Erres* case, and another for the CREOMPAZ case. In the case of the second hearing, the defense presented an injunction on behalf of soldier Garavito Morán, alleging a lack of evidence to bind him to trial for the forced disappearance of two people.

We continue to stay updated about the security situation for the **Neighbourhood Association of Chicoyogüito (AVECHAV)** via regular phone contact.

<sup>7</sup> "Exposición de motivos reforma constitucional en materia de justicia", [http://www.reformajusticiagt.org/wp-content/uploads/2016/10/Proy\\_Ref\\_Constitucional.pdf](http://www.reformajusticiagt.org/wp-content/uploads/2016/10/Proy_Ref_Constitucional.pdf)

<sup>8</sup> Padilla Vassaux, D. y Rivera, L., "Todo el camino y los pulsos de las reformas, resumido", *Nómada*, 28 de noviembre 2016, <https://nomada.gt/todo-el-camino-y-los-pulsos-de-las-reformas-resumido/>.

<sup>9</sup> Patzán, Ch., "Reforma Constitucional y Pueblos Indígenas", Centro de Medios Independientes (CMI), 9 de mayo 2016, <https://cmigate.org/reforma-constitucional-y-pueblos-indigenas/>.

<sup>10</sup> Press Release from the Unit for the Protection of Human Rights Defenders Guatemala (UDEFEUGA) and OASIS (Organización de Apoyo a una Sexualidad Integral frente al Sida), Guatemalan activist Sulma Alegría Robles, November 29, 2016.

<sup>11</sup> You can consult general information about the accompaniment to the organizations and people that we accompany, in our web site: <http://www.pbi-guatemala.org/field-projects/pbi-guatemala/who-we-accompany/>

## PROBLEM OF ACCESS TO LAND

This month we travelled to the headquarters of the **Union of Campesino Organisations of Verapaz (UVOC)** in Cobán, where we met with organisational representatives. We also visited the office in the capital city of the organisation's lawyer, Jorge Luis Morales, and maintained regular phone contact with other members of the organisation.

## NEGATIVE IMPACTS OF GLOBALIZATION ON HUMAN RIGHTS

We continue to accompany the **Peaceful Resistance of La Puya** with visits to the protest camps in front of the mine 'El Tambor', and in front of the Ministry of Energy and Mines (MEM). On November 23, the Supreme Court determined that the mining company had violated communities' right to consultation, and ordered a suspension of the mining company's license.



We were also present at the protest camp of the **Peaceful Resistance of La Laguna** and have maintained regular contact with its members.

As part of our accompaniment with the **Council of K'iche' Peoples (CPK)**, we were present in Santa Cruz del Quiché between 24 and 26 November. On Saturday 26, the monthly assembly took place. We accompanied the CPK whilst they asked the authorities for the revision of the logging permits of a truck that was transporting wood. This incident illustrates the growing tension that exists around unregulated and illicit logging in the region.

As part of our accompaniment with the **Ecumenical Coordinator in Defense of Life in Zacapa and Chiquimula**, we maintained contact with **Reverend José Pilar Álvarez** via telephone. We also accompanied the organisation at their headquarters in La Trementina between 7 and 9 November. As of 6 November, and due to the rising number of threats against Reverend Álvarez since previous protection measures ceased, protection measures have been reinstated.

On 7 November we visited representatives of the **Campesino Coordinator New Day' Chortí (CCCND)** at their headquarters in Camotán. We also met with their spokesperson, **Omar Jerónimo**, in the capital, before he left for Europe.

## Visit to Petén

In the month of November we made our second annual visit to the Department of Petén. We held meetings with civil society organisations and local authorities, and followed up on situations related to issues such as: conflicts and violations of human rights in protected areas; militarisation; women's rights; and the impacts of mega projects associated with, amongst others, tourism, hydroelectricity and the agrarian sector.

We met with members of displaced communities from La Sierra del Lacandón and La Laguna del Tigre. We visited the settlement of the community **Centro 1**, located in the municipality of La Libertad, where we observed that more than seven years after their eviction, the people of this community continue without a safe place that meets the minimum conditions and services to lead a dignified life, forcing them to live as displaced persons in several municipalities of the department.

We also visited the community **Triumph of Hope** and found that, although they have had a place to live for several years, there are still many barriers to establishing themselves as a legal community, resulting in various disadvantages. During the visit they commented that there has been very little progress in obtaining minimum services to guarantee their well-being.

The civil society organisations with which we met expressed a number of concerns, including: the militarisation of the department; the increase in African palm plantations and the serious consequences this has for communities, especially the risk of contamination and the rupture of the social fabric; the situation of structural and spousal violence experienced by women and the trans community; and the situation in the Protected Areas and the eviction processes that are sometimes carried out in a violent manner which, in addition, are accompanied by agrarian conflicts, arbitrary detentions and difficulties to relocate.

### 3. POLITICAL ACCOMPANIMENT

#### Meetings and other contact with diplomatic bodies, international organisations and Guatemalan authorities.

*Meetings with national and international authorities are an important way for PBI to make known what we do and what our objectives are. Through these meetings, where necessary and in a reserved manner, we share our concerns about worrying situations that we have witnessed first-hand from the work we do in the field.*

In our dialogue with the diplomatic corps and international organisations, this month we met with: Thomas Carter, Ambassador, and Rita Grajeda, Official for Human Rights, at the **Embassy of the United Kingdom**; Domenic Salotti, Cooperation Head, Karolina Guay, Political Advisor, y Christina Laur, Development Officer, at the **Embassy of Canada**; Roberta de Beltranena, First Secretary of the **Embassy of Switzerland**; and Nadji Bilík, Second Secretary at the **Embassy of the Netherlands**.

At a national level we met with Axel López, Director of the **Land Investment Fund (FONTIERRAS)**.

We also met with the following local and departmental authorities: Faustino Fajardo, **Regional Director Zacapa**, y Fernando Palomo, **Coordinator of Regional Directors** of the **National Council of Protected Areas (CONAP)**; Salvador Cordón, **Governor, Department of Zacapa**; Brenda Ramos, **Ombudsman for the Human Rights Ombudsman (PDH) in the Department of Zacapa**; José Carrera, **Mayor of Jocotán**; **Agents of the National Civil Police (PNC) sub-station in Camotán**; Rocael Chamalé, **Mayor of San José del Golfo**; Fredy Peláez, **Mayor of San Pedro Ayampuc**; Flavio Ruíz, **Human Rights Ombudsman (PDH) Departmental Assistant, Santa Cruz**; Onofre Carrillo, **Quiché Regional Assessor for the Presidential Commission for Human Rights (COPREDEH)**.

During our visit to Petén we met with: **mayors** Benjamin Ipiña from **La Libertad**, and Milton Méndez from **San Andrés**; Alma Polanco from **CONAP in Petén**; Estuardo Puga from the **Human Rights Ombudsman (PDH) San Benito-Santa Elena**; Marvin Segura Baños from the **Secretariat for Agrarian Affairs (SAA), La Libertad**, and José Manuel Méndez from **SAA San Benito**; Miriam Juarez from **COPREDEH in Las Flores**; the **Governor of Petén** Xiomara Blanco de los Santos; Hugo Catalán Hernández, **Deputy in Charge of the PNC Petén**; the **Defenders of Nature in Santa Elena**. To all of these individuals we shared our concern about the situation for the communities in the Protected Areas, the evictions that have been carried out and those that may still take place.

### Meetings with civil society

*The field team meets regularly with civil society in order to monitor the situation of human rights defenders human rights, inform each other about the work being done and to gather information to help analyse the internal situation. We maintain opportunities for co-ordination in the field of international accompaniment.*

This month we held meetings with: the **Unit for the Protection of Human Rights Defenders in Guatemala (UDEFEQUA)**, the **Office of Human Rights of the Archbishop of Guatemala (ODHAG)**, the **Centre for Legal, Environmental and Social Action (CALAS)**, the **Coordination of International Accompaniment in Guatemala (ACOGUATE)** and Silvia Valanzuela, representative in Guatemala for **Cáritas Switzerland**.

## 4. ACTIVITIES OF PBI GUATEMALA OUTSIDE OF GUATEMALA

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

From 14 to 16 November, the project's European representative attended the **United Nations Forum for the Working Group on Business and Human Rights in Geneva, Switzerland**. The representative also held the following meetings:

- 14 November: Dante Pesce, Latin American Representative on the **United Nations Working Group on Business and Human Rights**. This meeting was held with a delegation of human rights defenders from Guatemala, Mexico and Honduras.
- 15 November: Amanda Flores, Human Rights Official in the **Office of the Rapporteur for the Independence of Judges and Lawyers**, and in the **Office of the Rapporteur for Truth, Justice, Reparations and Guarantees of Non-Repitition**.
- 15 November: Laia Valls Senties, Desk Guatemala in the **Office of the High Commissioner for Human Rights (OHCHR) in Geneva**.
- 17 November: Amy Sheils, Human Rights Official in the **Permanent Representation of Ireland in Geneva**; Paul Oystein Bjoerdal, First Secretary in the **Permanent Representation of Norway in Geneva**; Rosinda Silva, Legal Official in the **Office of International Legal Standards** at the **International Labour Organisation (ILO) in Geneva**.
- 18 November: Dr. Hannah Rau, Second Secretary in the **Permanent Representation of Germany in Geneva**; Lukas Heinzer, First Secretary in the **Permanent Representation of Switzerland in Geneva**.

## 5. OTHER ACTIVITIES OF PBI GUATEMALA IN GUATEMALA

After the murder of **Jeremy Barrios**, a member of the **Centre for Legal, Environmental and Social Action (CALAS)** of Guatemala, we have been providing support to members of the organisation and making regular visits to their offices. We share our deep concern at this grave fact and the context of increasing violence towards human rights defenders.



On **25 November** we observed the protest for the **International Day against Violence towards Women** that took place in the capital and was attended by various groups of women.

On 2 and 3 of November we organised the **8th Meeting of Defenders of Human Rights** in Sololá. About 25 defenders from different regions of the country shared stories about challenges associated with their work.

## 6. NON-GOVERNMENT ORGANISATIONS

*In this section we publish statements (some abbreviated) from human rights organisations in which they express their concerns regarding recent events.*

### MIÉRCOLES NEGRO EN LA DEFENSA DE LOS DERECHOS HUMANOS

La Unidad de Protección a Defensoras y Defensores de Derechos Humanos - Guatemala, manifiesta su profunda preocupación por una serie de hechos de violencia cometidos y conocidos ayer miércoles 09 de noviembre, pocas veces antes observadas. De esa cuenta, la UDEFEGUA desea manifestar:

1. Tan sólo el día de ayer se cometió el asesinato del líder sindical Eliseo Villatoro Cardona en Tiquisate, Escuintla; el allanamiento ilegal de la Casa del Maestro de donde extrajeron información valiosa para el STEG, la amenaza de linchamiento en contra de 2 defensoras de una organización de auditoría social de Sololá y 5 miembros de un COCODE del mismo departamento cuya ubicación mantendremos en reserva hasta que se desactive el riesgo, 1 hecho de violencia sexual contra una lideresa comunitaria cuyo nombre y organización mantendremos en reserva. Así mismo, se conoció la denuncia del secuestro de un miembro de CODECA en Cobán en donde estarían involucrados miembros de la Policía Nacional Civil.
2. Estos hechos se suman a una serie de violencias que afectan la capacidad de ejercer la defensa de los derechos humanos, tales como el asesinato del periodista Hamilton Hernández y su esposa en Coatepeque la semana pasada, las amenazas a 3 periodistas por parte de grupos identificados como "los zetas" para detener su cobertura de la lucha por los derechos humanos en Alta Verapaz, El Quiché y Huhuetenango, los desalojos violentos en El Estor, la captura ilegítima de una autoridad ancestral de la Nación Q'anjob'al, así como la agresión a otro comunitario en Yxquixix, San Mateo Ixtatán y el atentado contra miembros de UVOC en El Estor.
3. Estos hechos de exacerbada violencia se dan en el marco de la permisividad que el gobierno de Jimmy Morales y del partido político de turno (FCN-Nación) otorgan a los actores que producen la violencia.

Frente a lo anteriormente expuesto, la UDEFEGUA demanda:

1. De las autoridades encargadas de la investigación criminal que generen las acciones pertinentes, que permitan identificar y condenar a los autores intelectuales además de los materiales quienes hayan cometido estos graves delitos y violaciones a los derechos humanos.
2. Del Ministerio Público la urgente necesidad de impulsar la instrucción general que permita a las y los fiscales, contar con más y mejores capacidades para garantizar el cese a la impunidad.
3. De la COPREDEH que inicie los pasos certeros para la creación del Programa de Protección de Defensores y Defensoras de Derechos Humanos para tomar otras medidas preventivas.

Por último, deseamos enviar un mensaje de solidaridad, respaldo y acompañamiento a los defensores y defensoras, que entregan su vida por la defensa y promoción de los derechos humanos.

Guatemala, 10 de noviembre de 2016

**PBI Guatemala Field Team:** Eulália Padró Giral (Spanish State), Manon Fenoy (France), Corsin Blumenthal (Switzerland) Brigitte Fischer-Bruehl (Germany) Alicia Gutiérrez Esturillo (Spanish State), Roberto Meloni (Italy), Katerina Rosochova (Czech Republic), Stephanie Brauser Germany), Cristina Ortega González (Spanish State) y Catriona Rainsford (United Kingdom).

*All photos by PBI Guatemala*

The following people voluntarily contributed in translating this publication into English: Michael Beattie and Danilo Guerrero

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**Office of the team in Guatemala**

3ª Avenida "A" 3-51, Zona 1  
Ciudad de Guatemala, Guatemala  
Telephone/fax: (+502) 2220 1032  
Email: [equipo@pbi-guatemala.org](mailto:equipo@pbi-guatemala.org)  
Webpage: [www.pbi-guatemala.org](http://www.pbi-guatemala.org)

**Office of Project Coordination**

Avenida Entrevías 76, 4º B  
28053 Madrid, Estado Español  
Telephone: (+34) 918 543 150  
Email: [coordinacion@pbi-guatemala.org](mailto:coordinacion@pbi-guatemala.org)