



Monthly Information Package Guatemala

Number 180 - September 2018

1. THE CURRENT SITUATION

Monthly update 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 defense of territory.

Genocide was committed, but the only person accused was acquitted

For the second time, the Guatemalan justice system determined that *genocide took place in Guatemala*, in a unanimous decision by the court. *1,771 Ixil indigenous people were victims of the systematic extermination plan by the army between 1978 and 1985. The court's decision outlines that the psychological, economic and social damage of genocide still runs deep. (...) To this we must add, (...) the destruction of the social fabric because of the violence provoked by lack of trust among the population, and this at the same time disarticulated community bonds. Racism and discrimination against the indigenous peoples started decades ago, but was consolidated during the armed conflict and is present in the lives of genocide survivors.*¹

Despite this compelling verdict, the only person accused who is still alive (after the death of Efraín Ríos Montt) was acquitted. Mauricio Rodríguez Sánchez, responsible for the design, execution, and supervision of army intelligence in 1982 and 1983 was absolved with two votes in favor and one dissenting vote. Judge Sara Yoc said that *army intelligence "interrogated Ixil people like subversives", characterized them as enemies and tortured them. She also points out that "to advise (high military command) he had to have gathered all of the information of what was happening in the field of action". And she blamed the former head of intelligence for the genocide: "He did not give orders, but gave everything, names and last names (of victims); if he had not provided all of that information, we would not have so many dead"*.²

The surge in violence against human rights defenders continues

On September 21st at about 18:30 defender Juana Ramírez Santiago was killed. She was a Maya-Ixil midwife who was part of the board of directors of the Ixil Women's Network. She was walking towards her home located in the community of Q'ambalam when she was shot several times while walking through Xolanay village.

Ramírez Santiago was recognized in her community and she exercised her leadership in an active manner by participating in development programs and in the defense of the rights of Ixil women. Precisely for this, Doña Juana had received threats which she had denounced to the National Civil Police (PNC).³

This murder is not an isolated incident, but it is part of a pattern of violence against human rights defenders that continues to grow. The international community is very concerned about the situation. The UN Special Rapporteur on the rights of indigenous peoples in a report published this September expressed *great concern for the resurgence of violence, forced evictions, and criminalization of indigenous peoples who defend their rights*. The report concludes that *Guatemala faces an alarming intensification of violence that is evident in the increase in murders of indigenous defenders who try to defend their rights over their traditional lands*. In addition, he strongly condemned these killings urging the Guatemalan government to ensure that the perpetrators are duly investigated and brought to justice, *to prevent impunity and a permissive climate of attacks against those who defend their rights*.⁴

¹ Estrada Tobar, J. y Rodríguez Pellecer, M., [El genocidio se comprobó ante un tribunal \(de nuevo\). Aquí, toda la historia](#), Nómada, 09.27.2018.

² *Ibidem*.

³ Vásquez Araya, C., [Ella se llamaba Juana Ramírez](#), Prensa Libre, 09.24.2018.

⁴ http://www.oacnudh.org.gt/images/CONTENIDOS/Documentos/Informe_Relatora_Pueblos_Indigenas_GT2018.pdf

Jimmy Morales impedes Commissioner Iván Velásquez to enter Guatemala

Despite the Constitutional Court's (CC) resolution ordering the government to allow Iván Velásquez to enter Guatemala, the executive issued an official statement to the contrary. The Presidential order was made public in an anonymous way, however it was confirmed by the government via Twitter, giving orders to Immigration to prevent entry of Velásquez for reason of Public Order and Security in accordance with Article 66 of the Migration Code.⁵

The situation generated by this crisis is characterized by tension and uncertainty, and many international voices have shown their concern and rejection. The UN High Commissioner for Human Rights, Michelle Bachelet described the President's decision against the International Commission Against Impunity in Guatemala (CICIG) as *deplorable*.⁶ UN General Secretary Antonio Guterres considers the CICIG an example for the fight against corruption.⁷ The European External Action Service expressed in a statement its concern for the situation stating that *the Guatemalan government's decision not to renew the CICIG's mandate constitutes in a setback in the consolidation of the rule of law*.⁸ Also the G13, comprised of nine countries that allocate more resources for Guatemala, in a statement - which does not include the United States- expressed concern for the decision to not renew the CICIG's mandate and the prohibition that prevents Iván Velásquez to enter the country.⁹

Several Guatemalan civil society organizations UDEFEGUA, SEDEM, CALDH, Women Transforming the Worlds, among others filed a complaint before the Public Prosecutor's Office (MP) against the Minister of Interior, Enrique Degenhart, Minister of Foreign Affairs Sandra Jovel and Procurator-General of the Nation Luis Donado, for disobeying the CC's resolution.¹⁰

The above listed shows of rejection coupled with a national strike called on September 20th, promoted by the Citizens Collective of Quetzaltenango, the Dioceses of Santa Cruz del Quiché, several educational centers on the national level, and the University Students' Association (AEU). The protests took place in Guatemala City and in the departments of Quiché, Quetzaltenango, Alta Verapaz and a few days before in Totonicapán and Sololá which were led by indigenous authorities. Demonstrators demanded the resignation of Jimmy Morales, Degenhart, and Jovel as well as the extension of the CICIG's mandate. The strong presence of PNC and army elements during these demonstrations was notable.¹¹

CC orders consultation on San Rafael Mine

This month the CC ordered an immediate consultation of Xinka communities near the San Rafael Mine, in accordance with the International Labour Organization (ILO) Convention 169. The judgement, *recognizes that Xinkas exists, states that the Ministry of Energy and Mines (MEM) acted illegally by not consulting them and established conditions for several government institutions to monitor the San Rafael Mine so that it operates without causing negative impact on the community and the environment*. The consultation will be carried out by MEM and its preparations have already started. The mine rejects the resolution calling the suspension arbitrary¹².

⁵ Rojas, A.F. y Hernández Mayén, M., [Gobierno prohíbe a Iván Velásquez entrar al país](#), Prensa Libre, 09.04.2018.

⁶ Publinews, [Alta comisionada de ONU para los DD. HH. califica de "deplorable" decisión del Presidente contra CICIG](#), 09.10.2018.

⁷ La Hora, [Guterres frente a Haley habla bien de CICIG y la llama ejemplo](#), 09.10.2018.

⁸ [Declaraciones del portavoz sobre la decisión del Gobierno de Guatemala de no renovar el mandato de la CICIG](#).

⁹ Monzón, K., [Sin Estados Unidos, el G13 lamenta decisión sobre Cicig y ofrece mediar](#), Prensa Libre, 09.05.2018.

¹⁰ El Periódico, [Gobierno no permitirá ingreso de actual Comisionado de CICIG](#), 09.18.2018.

¹¹ García, J., [Así fue la tercera derrota de Jimmy, la #Marcha20S](#), Nómada, 09.21.2018.

¹² García, J., [La Minera no lo tendrá fácil: la consulta a los xinkas es más compleja](#), Nómada, 09.05.2018.

2. ACCOMPANIMENTS

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 defense of territory.¹³

STRUGGLE AGAINST IMPUNITY

In September we accompanied the **Human Rights Law Firm (BDH)** to several hearings:

- **Pocohil Case**

On the 4th, we attended a hearing in this case in which the BDH represents the Guatemalan Forensic Anthropology Foundation (FAFG) for acts that took place in 2009. A group of FAFG anthropologists were going to exhume the remains of Tomas Guarcas Las, father of Gerónimo Guarcas, in the Canton Pocohil Primero, Chichicastenango, when they were detained by community members, forcing them to leave. The trial started on August 31, 2018 in the Tribunal de Mayor Riesgo A, but on that day no witnesses showed up. On September 4th, a verdict condemned Sebastián Martin Chitic and Jorge Ordoñez to four years for illegal detentions and resistance and another four years for instigating delinquency, but they were acquitted on charges of torture.

- **Samococh Case**

We accompanied hearings on September 3rd and 7th. In this case the BDH represents the community Samococh located in Chisec, Alta Verapaz. In August 2014, three community members were killed in a PNC operative. For this incident, 19 former policemen are accused of abuse of authority and breach of responsibilities, shooting firearms, and extrajudicial execution. During the process, proof of the accusation were presented by the defense. The showing of evidence period has ended and the date of the next hearing is pending.

- **Ixil Genocide Case**

The case against José Mauricio Rodríguez Sánchez, former head of military intelligence, accused of genocide and crimes against humanity ended. In the September 7th hearing, final arguments by the joint plaintiff, represented by the BDH, with the aim of showing responsibility of the accused were heard. These were shown via evidence, testimonies, and expert assessments. They also highlighted racism as a central element of genocide. The joint plaintiffs called for an 80 year sentence for the accused.

In the September 12th hearing, the defense presented their conclusions arguing that there was not sufficient evidence to prove responsibility of the accused.

The verdict was handed down on September 26. The Tribunal de mayor Riesgo B unanimously stated that genocide against the Ixil peoples took place, but they acquitted Rodríguez Sánchez arguing lack of evidence. However, his acquittal was not an unanimous decision by the court. Judge Sara Yoc Yoc stated that there was sufficient evidence to show responsibility of the accused in the acts.

This is the second time a Guatemalan court concludes that genocide take place in Guatemala. In 2013, the first verdict was handed down, convicting former de facto president José Efraín Ríos Montt to 80 years in prison for the crimes of genocide and crimes against humanity. The verdict was suspended a few days later. With that verdict, Guatemala became the first country in which a national court handed down a guilty verdict for the crime of genocide and for a second time in 2018.

¹³ See our website for general information on organizations and individuals we accompany: <http://www.pbi-guatemala.org/field-projects/pbi-guatemala/who-we-accompany/>

- **Community leader Bernardo Caal Xol's Case**



On September 11th, we accompanied the BDH, council for Bernardo Caal Xol, member of the Peaceful Resistance of Cahabón, to a hearing. During the hearing the last three MP testimonies were heard, each blaming Bernardo Caal Xol for assaulting them.

During the September 25th hearing, seven defense witnesses declaring that the accused was not present at the moment of the alleged events. The next hearing is programmed for October 9, 2018 at 10:15. At that hearing 420 photos and five videos will be presented once final arguments are heard, the judge has five business days to hand down the verdict. For this reason, a decision is expected at the end of October.

- **Eduardo Bin Pou Case**

We accompanied the BDH to court in Puerto Barrios for Eduardo Bin Pou's hearing on September 20th. Eduardo is Vice President of the fishermen's guild in El Estor, Izabal, accused of aggravated usurpation. In this hearing the intermediate phase was terminated. Having presented the accusation and the defense presented evidence and investigations, the judge decided to send the case to trial for the crime of usurpation of protected areas. The first hearing in the trial was programmed for September 25, 2018, but we do not have additional information because we were unable to accompany the hearing.

We continue to accompany the **Neighborhood Association of Chicoyogüito, Alta Verapaz (AVECHAV)** and monitoring their activities and security situation.

PROBLEM OF ACCESS TO LAND

In our accompaniment to the **Union of Campesino Organizations of Verapaz (UVOC)**, this month we stayed informed on the security situation of its members via meetings and phone calls.

We accompanied the **Campesino Committee of the Highlands (CCDA) of Alta Verapaz** on September 6th to a hearing for Martín Chub Cajbon and Erwin Haroldo Choc Sam, members of the board of directors. They were detained and imprisoned on August 14, 2018 when they were leaving a negotiation roundtable with the Presidential Commission on Dialogue. Both are accused of usurpation of protected areas and perjury. The hearing was suspended again because the MP left due to the delay in transporting the accused from prison to the courtroom. We also visited several criminalized CCDA members in the Preventative Detention Center for Men and Women in Cobán.

DEFENSE OF TERRITORY

We continue to accompany the **Peaceful Resistance of La Puya** who struggles against the Progreso VII Derivada mine and whose members reside in San Pedro Ayampuc and San José del Golfo. On September 25th, we accompanied La Puya members to a hearing at the Torre de Tribunales. This was the first hearing in the public trial in a case against two police from San José del Golfo who were detained in 2015. One of the accused did not show up to court as he was sick and for this reason the hearing was suspended.

On September 29th, we accompanied the **Peaceful Resistance of La Laguna**, who struggles against the construction of an electrical substation of the TRECESA company. That day an assembly was held with 18 representative from 18 cantons, who rejected the deforestation that affects the county. The Resistance reaffirmed its rejection of TRECESA's presence and projects.

Campesino Central Coordinator New Day' Chortí (CCCND). On September 4th, we accompanied a member of the organization to the MP in Chiquimula for a slander complaint that he received. Also on the 4th, 5th and 6th we visited the organization's office in Camotán, as well as a few of the communities they accompany in Camotán and Jocotán: Lelá Chancó, Las Flores and Tisipe. We closely follow the worrisome security situation they live and we were updated on the security incidents. On September 10th we went to the MP to accompany two members of the organization to file a complaint against Anastasio Díaz y Díaz, for threats made towards one of them. On September 18th, we accompanied a member of the board of directors to Chiquimula to a hearing at the MP and other CCCND members to the Ministry of Environment and Natural Resources in Chiquimula to deliver a letter regarding the closure of an illegal trash dump near the communities of Lelá Chanco, Lelá Obraje and Tisipe.



We also visited Agustín Ramirez and Timoteo Suchité de Rosa, two indigenous authorities from the community of Las Flores who are incarcerated in Puerto Barrios. On this visit a PDH representative from the district accompanied us. Agustín and Timoteo were convicted for murder in 2013, however they insist they are innocent and interpret the verdict as a punishment for their work resisting the hydroelectric dam. The process was full of multiple legal irregularities.

We continue to monitor the security situation of the **Ecumenical and Social Coordinator in Defense of Life in Zacapa and Chiquimula.**

We had meetings with members of the **Council of K'iche' Peoples (CPK).** On September 29th, we accompanied the CPK's assembly in Santa Cruz del Quiché which helped us get up to date on their activities and security situation.



Cahabón Communities in Peaceful Resistance. This month we were present in the region on September 9th and 12th, visiting the communities of Champerico, Sactá, Secatalcab, Tres Cruces and Salac I. On September 9th, we were present at an assembly in Sactá. There is concern due to the divisions generated by the hydroelectric dam in the Oxec and Cahabón Rivers, for the threats and intimidations that Resistance members face as well as for Bernardo Caal Xol's incarceration. We also visited Bernardo in the Preventative Detention Center for Men and Women in Cobán where he has been since January 2018.

We are in frequent contact with **TZK'AT - Network of Ancestral Healers of Community Feminism**, paying attention to their activities and security situation.

3. INTERNATIONAL OBSERVATION

PBI Guatemala is present in international public events when requested to do so by Guatemalan social organisations, in order to show international attention and interest and in order to report internationally on what we observe.

On Septembers 1st, we observed a **public demonstration** in Guatemala City's Central Park that took place after President Jimmy Morales announced he would not renew the CICIG's mandate. The CICIG's mandate will end on September 3, 2019.

4. POLITICAL ACCOMPANIMENT

Meetings and other contact with the 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 interlocution work with the diplomatic corps and international organisms, this month we met with:

- Roberta Bertranena, Human Rights Officer **Embassy of Switzerland**.

At the municipal, departmental and regional level we met with the following authorities:

- Juan Yut, **PNC Cahabón**.
- Miriam Catarina Roquel Chávez, Adjunct Ombudswoman I, **PDH**, Guatemala.

5. OTHER ACTIVITIES OF PBI GUATEMALA IN GUATEMALA

We organized the following activities this month:

- September 5th and 6th: **Meeting for female defenders of territory, body-land**, they worked on healing as a fundamental tool for security and protection. This meeting took place in Santa María Nebaj, Quiché at the offices of Network of Ixil Women. About 30 women from different resistances from around the country participated.
- September 7th and 8th: **seventh security workshop facilitated for the Peaceful Resistance of Cahabón**, which took place in the Champerico community and was conducted in the local language q'eqchi' with the participation of approximately 45 women and men who are part of the Resistance.
- September 15th and 16th: **healing workshop for women of the Peaceful Resistance of Cahabón**, which took place in Cahabón with the participation of 20 members of the Resistance.

6. ACTIVITIES OF PBI GUATEMALA OUTSIDE GUATEMALA

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

As part of the **20th anniversary of the UN Declaration on Human Rights Defenders**, we organized the following activities in Brussels, Belgium with the **presence of 13 defenders accompanied by PBI** from Guatemala, Honduras, México, Colombia, Nepal, Indonesia, and Kenya:

- **Meeting** between this group of defenders and representatives from the **European External Action Service (EEAS)** of their countries, and with Nieves Cotero, **Political Officer in the EEAS' Human Rights Unit**.
- **Bilateral Meeting** between François Roudie, EEAS **Desk Officer Guatemala and Honduras**, and Fernando Ponz, EEAS **Division Head for Mexico, Central America and Caribbean**, with representatives from organizations: CCCND (Guatemala), Network of Ancestral Healers (Guatemala), Arcoiris (Honduras), and National Center for Field Workers (Honduras).
- **Meeting** between delegation of defenders with advisors for different European Parliament political groups: Gaby Küppers, **Advisor on Latin America and International Commerce to Green Group**; Carlos Villota, **Advisor on Development and International Commerce for GUE Group**; Blanca De Riquer Gatell, **Advisor on Women's Rights and Gender Equality for Green Group**.
- **Roundtable** organized with the Permanent Representation of Austria with the following people serving as panelists: Alexander Kmentt, **Ambassador for Austrian Permanent Representation to the European Union's Political and Security Committee**; Michel Forst, **UN Special Rapporteur on the situation of Human Rights Defenders**; Nieves Fernández del Cotero Secades, **Policy Officer for the EEAS Human Rights Unit**; Lena Sund, **Head of Business and Sustainable Development of the European Commission DG TRADE**; Jeronim Capaldo, **United Nations Conference on Trade and Development (UNCTAD)**; Sandra Ferrer from the **Tlachinollan Human Rights Center (Mexico)**; Rosa Santamaría from the **National Center for Field Workers (Honduras)**; Domingo Vasquez from **CCCND (Guatemala)**; Carlos Fernández from the **Inter-Church Justice and Peace Commission (Colombia)**.

7. NON-GOVERNMENTAL ORGANISATIONS

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

COMUNICADO

EXIGIMOS QUE JIMMY MORALES RESPETE EL ORDEN CONSTITUCIONAL

Las organizaciones firmantes rechazamos enérgicamente las recientes decisiones de Jimmy Morales, quien busca obstruir la justicia y destruir las instituciones democráticas del país con la intención de imponer un régimen de impunidad. Jimmy Morales decidió arbitrariamente no renovar el acuerdo de la CICIG y prohibir el ingreso del Comisionado Iván Velásquez a Guatemala con lo cual pretende protegerse, para beneficiar a su familia y a todos los ex funcionarios y empresarios señalados por actos de corrupción. Es evidente que la decisión en contra del comisionado Velásquez es una torpe represalia por la solicitud de que se le retire la inmunidad presidencial y se le investigue en relación a los señalamientos de financiamiento electoral ilícito en su contra.

Con estas decisiones, Jimmy Morales no solamente está incumpliendo el Acuerdo con las Naciones Unidas, sino que también está incurriendo en el delito de desobediencia por no acatar una orden de la Corte de Constitucionalidad -CC-. En agosto de 2017 la CC le ordenó resolver todas las controversias sobre la CICIG de común acuerdo con las Naciones Unidas y no de manera unilateral.

Consideramos sumamente grave que Jimmy Morales decidiera prohibir el reingreso del comisionado Velásquez a Guatemala con pleno conocimiento de la orden de la CC, a la cual evidentemente aludió el pasado 31 de agosto, cuando afirmó que "no acataría ordenes ilegales", mientras estaba rodeado de mandos militares y policiales. Desobedecer a la CC es una grave violación, pero además es un despropósito. Utilizar las fuerzas militares y policiales para imponer su voluntad por encima de la ley, esta es una práctica antidemocrática y rememora las épocas oscuras de los regímenes autoritarios que padeció Guatemala a partir de 1954.

Igualmente rechazamos la iniciativa de ley 5300 que se discute en el Congreso de la República, con la cual se pretende reformar la Ley en Materia de Antejucios y facilitar la remoción expedita e indebida de los magistrados de la Corte de Constitucionalidad, la Corte Suprema de Justicia, la Fiscal General y al Procurador de Derechos Humanos. Esto no solamente viola la Constitución, sino que además contradice los principios de pesos y contrapesos del sistema Republicano. Con este tipo de iniciativas se evidencian las intenciones de los diputados de querer controlar las instituciones democráticas independientes con el fin de imponer un régimen de impunidad.

Por lo anterior, Exigimos:

1. Que Jimmy Morales respete el orden constitucional y cumpla con la orden de la CC de resolver el conflicto en el marco del Acuerdo de creación de la CICIG. Debe revocar de inmediato la disposición de no permitir el ingreso del Comisionado Iván Velásquez a Guatemala y retroceder en su decisión de no renovar el mandato de la CICIG.

2. Que el ejército y la Policía Nacional Civil se abstengan de participar en decisiones políticas y respeten los derechos humanos de la ciudadanía.

3. Que el Congreso desapruebe la iniciativa de ley 5300 y se abstenga de aprobar leyes que atenten contra el Estado de derecho y la independencia judicial.

Solicitamos a la Organización de las Naciones Unidas y a la comunidad internacional mantener su solidaridad con la lucha del pueblo de Guatemala contra la impunidad, la ilegalidad y la corrupción de las mafias que pretenden el control total del Estado guatemalteco y destruir las instituciones democráticas. Les pedimos que estén atentos ante el peligro inminente de que el Gobierno de Guatemala rompa el orden constitucional e instaure un orden autoritario irrespetuoso de los derechos humanos.

el control total del Estado guatemalteco y destruyan las instituciones democráticas. Les pedimos que estén atentos para que el Gobierno de Guatemala no rompa el orden constitucional y garantice el respeto a los derechos humanos de la ciudadanía.

Finalmente, llamamos a todos los sectores sociales a defender la democracia y la justicia. No podemos permitir que las mafias y los grupos oscuros destruyan lo que hemos logrado avanzar en estos años.

Guatemala, 5 de septiembre de 2018

Organizaciones firmantes:

Grupo Guatemalteco de Mujeres – Asociación de abogados y notarios mayas de Guatemala – Asociación K'ambal No'j – Alianza de Mujeres y Mujeres Indígenas por el Acceso a la Justicia – Bufete Jurídico de los Derechos Humanos – Centro de Estudios de Guatemala – Comisión Internacional de Juristas – CONGCOOP – Instituto DEMOS – FADS – Federación Guatemalteca de Escuelas Radiofónicas – Frente Nacional de Juventud – Fundación Myrna Mack – SODEJU/FUNDAJU – IEPADES – Impunity Watch – Juristas por Guatemala – Justicia Ya – La Batucada del Pueblo – Landivarianos – Mujeres transformando el mundo – Plataforma internacional contra la impunidad – REDNOVI – SOMOS – Socios por el desarrollo – USAC es Pueblo – Convergencia por los Derechos Humanos – CALDH – CIJDH – ECAP – ICCPG – ODHAG – SEDEM – UDEFEGUA – UNAMG – CAFCA – OASIS – Instituto de la Judicatura – Alianza por las Reformas – Conferencia de Religiosos y Religiosas de Guatemala, Confregua – Movimiento Monseñor Gerardi – Comunidades Eclesiales de Base- CEBIS – Escuela de

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