



## PEACE BRIGADES INTERNATIONAL – GUATEMALAN PROJECT

### MONTHLY INFORMATION PACKAGE - GUATEMALA

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### 1. NOTES ON THE CURRENT SITUATION

#### IMPUNITY

##### **Human Rights Ombudsman: 2008 – the most violent year on record**

Guatemala, 18.12.2008 (SV).- The year 2008 will conclude with a total of 6.150 violent deaths, which would make it the most violent year in the history of the country, according to the Human Rights Ombudsman, Sergio Morales. Morales stated that the estimate is based on figures provided by the National Civil Police (PNC). The daily average of deaths is between 17 and 20 and the most violent regions are Guatemala (the capital), Izabal and Escuintla, according to Morales, who also indicated that the degree of cruelty inflicted on victims has also grown.

##### **Death in Coatepeque denounced**

Coatepeque, 27.12.2008 (PL).- Campesino leaders from various organisations (CUC, CNOC, Waquib Aquib Kei, CLOC and Via Campesina), in a press conference in the offices of the Committee of Campesino Unity of Coatepeque, strongly denounced the murder of the lawyer and defender of street traders, Armando Donald Sanchez. They explained that he was bringing a case against the municipality, for abuse of power and [prepotencia] for their attempts to force the street vendors to move to a market which, according to studies, lacks basic amenities [salubridad]. They asked the Public Prosecutor (MP) to investigate the circumstances of his death.

On 5 December the street vendors had asked the local Council to establish a round of dialogue to deal with the issue of the proposed move to the new centre [of acopio].

#### LAND

##### **CONGCOOP: More than 700,000 families live in unsafe zones**

Guatemala, 17.12.2008 (CA).- The right to a dignified home-life has been denied to more than 700,000 families in Guatemala who live in "[pauperrimas] conditions", stated Alejandro Aguirre, representative of the Coordinator of NGOs and Cooperatives (CONGCOOP). Aguirre said that, according to an analysis carried out by the organisation in 2008, there are more than 1.2 million Guatemalans that do not have an adequate home. Of this number, 61% live in unsafe zones.

##### **Colom grants property titles to residents of more than 80 settlements**

Guatemala, 22.12.2008 (EP).- President Alvaro Colom granted 3019 property titles and 1200 resolutions of legal registration of lands, benefitting residents of 80 settlements and 10 urbanisation projects located in Quetzaltenango, Realhuleu, Jutiapa and Guatemala.

#### GLOBALISATION

### **Xinca communities in Japaa reject mining concessions**

Guatemala, 10.12.2008 (LH).- Xinca communities in Santa Maria Xalapan, located in the department capital of Jalapa, have demonstrated their outright rejection of the grant of at least 24 mining and petroleum exploration and exploitation licences in the area in which they live.

### **Progress Cement commences construction of plant in San Juan Sacatepequez**

Guatemala, 12.12.2008 (SV, PL).- Despite the opposition to the construction of a new Progress Cement factory in San Juan Sacatepequez, Guatemala, the construction Works began in September and the company hopes that the plant will start to operate in 2012. Ever since the announcement of the construction of the cement works, a large proportion of the local inhabitants have demonstrated their rejection of the plans. Jorge Lemcke, general manager of Progress Cement, averred that the business had respected the processes of community consultation in relation to the proposed construction, and that all relevant studies and permissions have now been rubber stamped by the authorities.

08.12.2008 y 12.12.2008 (AC).- On the other hand, a commission of national and international observers, lead by the Nobel Peace Prize winner Rigoberta Menchu, visited the Kakchikel villages of San Juan Sacatepequez, in order to [verify] the damage caused by the operations of the Progress Cement company there. The director of the International Commission of Jurists in Central America, Ramon Cadena, stated that the case of San Juan Sacatepequez could be brought before the Inter-American Court of Human Rights for the damage that the local population will suffer during the construction of the Progress Cement factory.

### **Rise in mining taxes will not apply to current licences**

Guatemala, 17.12.2008 (PL).- It has been stated that current mining operations will not be affected by the reforms contained in the Mining Law, which recently passed the commission stage in Congress, which propose to increase the tax contributions paid for mining exploitation.

### **As 2008 draws to a close, so do 17 garment factories (maquilas)**

Guatemala, 18.12.2008 (CA).- The closure of factories has left thousands of Guatemalans without employment during 2008. The international monetary crisis made conditions difficult for the factories, that were forced to make redundancies or close. The Work Inspectorate confirmed the closure of 17 maquilas, that lead to the redundancy of 5726 persons. Of this total, 1881 are women.

### **Colom will neither sanction nor veto the "Fonpetrol Law"**

Guatemala, 21.12.2008 (EP).- The executive will not assent to the law passed by the Congress relating to the creation of a National Petroleum Fund (Fonpetrol). President Alvaro Colom indicated yesterday that he will neither sanction nor veto the law, stating: "Let Congress deal with this matter which they have created."

## **OTHERS**

### **According to a study, in many cases, murdered women were "the enemy"**

Guatemala, 01.12.2008 (LH).- A team of professionals of Survivors Foundation have undertaken a study to seek to profile the victims of violence and their attackers, based on case studies. One of the principle conclusions of the "Preliminary Study of the Profile of the Murder Victim and the Agressor in Cases of Violence Against Women", is that the attackers consider that they "were the enemy", and that the use of extreme violence was therefore justified. The document demonstrates that in almost all of the 250 cases studied the women had a lowered sense of self-worth.

### **669 Women murdered in the first 11 months of 2008**

Guatemala, 12.12.2008 (AD).- According to statistics of the National Civil Police (PNC), until the start of December 2008, 669 women have been murdered.

### **Alvaro Colom emphasises the advances made in the peace accords on their XII anniversary**

Guatemala, 30.12.2008 (PL).- On the occasion of the 12th anniversary of the signing of the Peace Accords, that put an end to 36 years of internal conflict, the President Alvaro Colom saw advances. Meanwhile, in a religious service organised by the Ecumenical Forum for Peace and Reconciliation it was held that the causes of the conflict still persist. From the point of view of the URNG the peace accords are at a standstill. They said in a statement: "Twelve years afterwards, the situation of the failure to comply with the Peace Accords is reflected in the social and criminal violence, poverty and extreme poverty, growing unemployment, shameful levels of impunity and the domination of corporate greed in price speculation, the absence of employment generation and just salaries".

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Sources: Agencia Cerigua (AC), Centro de Estudios de Guatemala (CEG), Diario de Centro América (CA), La Hora (LH), Prensa Libre (PL), El Periódico (EP), Siglo Veintiuno (SV).

## 2. ACTIVITIES OF PBI GUATEMALA: IN GUATEMALA

**Team:** Wiebke Schramm (Germany), Jacqueline Benfield (UK), Maria Giovanna Tejido Vasquez (Spain), Caroline Tessier (Canada), Silvia Weber (Germany), Jean-Jacques Ambresin (Switzerland), Valérie Elsig (Switzerland), Marina Comandulli (Italy/Brazil), Christopher Moye (UK).

### 2.1 MEETINGS WITH AUTHORITIES AND MEMBERS OF THE DIPLOMATIC CORPS

Meetings with authorities and members of the diplomatic corps in Guatemala are essential components of PBI's work, enabling us to make known our objectives and our way of working. Through these meetings, when necessary, we can also confidentially express our concerns about critical situations of which we have first hand knowledge through our work in the field. During December, meetings were held with the following authorities:

Diplomatic Corps:

- Anders Kompass, Representative of the UN High Commissioner for Human Rights (OACNUDH) in Guatemala, Guatemala City

Guatemalan Authorities:

- Carlos Sosa, Resolution of Conflicts Section, Secretariat of Agrarian Matters (SAA), Guatemala City
- Marco Vinicio Hernández Fabián, Labour Rights Defender, Office of the Human Rights Ombudsman (PDH), Guatemala City
- Víctor Hugo Godoy, Director of the Programme for Schools and Violence Prevention, Office of the Human Rights Ombudsman (PDH), Guatemala City
- Lili Barco, Office of Victim Attention, Office of the Human Rights Ombudsman (PDH), Guatemala City
- Maximino Zuleta García, 3rd Oficial, National Civil Police (PNC) (51st Station), Cobán, Alta Verapaz
- Osmin Revolorio Corado, Regional Head, Office of the Human Rights Ombudsman (PDH), Cobán, Alta Verapaz

Receptions and Celebrations:

- Reception of the French and Canadian Embassies for the 60th Anniversary of the Universal Declaration of Human Rights
- Award of the Order of "Monseñor Juan José Gerardi" to Alfonso Bauer Paiz and Margarita Perez, Office of Human Rights of the Archbishop of Guatemala (ODHAG)

### 2.2 MEETINGS WITH CIVIL SOCIETY ORGANISATIONS

The PBI Guatemala Project team holds regular meetings with civil society organisations. This enables us to monitor the situation of human rights defenders and to exchange information on the work being carried out, as well as to gather information which helps us to develop our analysis of the internal political situation. During December meetings were held with the following organisations:

Civil Society Organisations:

- Floridalma Contreras y y María Monzón, Centre for Legal Action for Human Rights (CALDH), Guatemala City
- Mario Polanco, Mutual Support Group (GAM), Guatemala City
- Gustavo Meoño, Director of the Project of the Office of the Human Rights Ombudsman (PDH) relating to the Archives of the National Police, Guatemala City
- Claudia Samayoa Human Rights Defenders Unit, Guatemala (UDEFEQUA), Guatemala City
- Crosby Girón, InforPress, Guatemala
- Noel Ramírez y César Guerra, Izabal Banana Workers Union (SITRABI), Morales, Izabal
- Johanna van Strien, Pastoral Commission for Peace and Ecology (COPAE), San Marcos

International Organisations and Agencies:

- Ramón Cadena, Director of the Commission of International Jurists (CIJ) in Central America, Guatemala City
- Coordination of International Accompaniment in Guatemala (CAIG), Guatemala City

### 2.3 ACCOMPANIMENTS

Since 13<sup>th</sup> May 2005 we have accompanied **Carlos Morales**, leader of the **Union of Campesino Organisations for the Verapaces (UVOC)**, as well as other members of the organisation. In December, we continued in contact with different members of the organisation, through visits to their offices in the capital and in Santa Cruz, Alta Verapaz. We also carried out meetings with authorities in order to follow-up the case of La Mocca. At a general level, the high level of violence in Alta Verapaz continues to be of concern.

*Background: UVOC is a campesino organisation in the Verapaces (the departments of Alta and Baja Verapaz) and works principally on access to land for campesinos and providing support in the process of legalisation of the communities' titles to land. UVOC also offers training for communities affiliated with UVOC and supports development projects within those communities. For the next two years, UVOC will act as coordinating organisation of the National Coordinating body of Campesino Associations (CNOC). On 11 November 2008, CNOC submitted the National Rural Development System Bill to Álvaro Colom's government.*

*Carlos Morales, leader of UVOC, has been a victim of death threats, acts of intimidation and persecution by unknown individuals. Due to an increase of personal death threats at the end of April 2005, which led to a genuine fear for his life, Carlos Morales was forced into hiding in Guatemala City for a month, which was made possible with the support of the Human Rights Ombudsman (PDH). Following this, he requested 24 hour accompaniment from Peace Brigades International. In January 2006, Carlos Morales experienced surveillance on the block where he lives with his family. The situation in some communities affiliated with UVOC continues to be delicate: in February and April 2006, the campesino families that live in the La Moca Estate were violently evicted, leaving several people with gunshot wounds. In July 2006 there was a confrontation between two groups of campesinos leaving one dead and 39 injured of the evicted campesinos. The La Moca campesinos continue to live on the edge of the highway while negotiations at the national roundtable for agrarian conflict resolution continue with the owners of the estate and the authorities, in order to find a place for them to live. The case has been prioritised as urgent due to the situation of extreme poverty in which the families are living.*

We have been accompanying the **Association of Friends of Lake Izabal (ASALI)** and **Eloyda Mejía**, the organisation's Legal Representative, since 21<sup>st</sup> February 2004, when threats against her worsened. We accompany Eloyda and other members of the association in the Department of Izabal during their activities and meetings with communities concerned about mining activities in the area. During December, we continued in contact with Eloyda and ASAL; we also visited El Estor in order to evaluate the situation there after the announcement of the closure of the Phoenix Nickel Mining Project in the area of Lake Izabal.

*Background: ASALI is concerned about the negative effects of mining activity in the region of El Estor, Izabal and also by the extensive agricultural use of the cultivation of fruit and the production of biofuels such as sugar and African palm. The companies active in the region are the Guatemalan Nickel Company (CGN), which is a subsidiary of the Canadian company Skye Resources Inc. recently acquired by HudBay Minerals Inc., MayaNiquel and Nicromet, with majority shareholders BHP Billington of the United Kingdom.*

*Eloyda Mejia has suffered a number of threats as a result of her work. On 21st February 2004, during a conference on the future of the lake in El Estor, Izabal, she received yet more serious threats, which she reported to the Public Prosecutor's Office (MP) and the Human Rights Ombudsman's Office (PDH). In February 2006 Eloyda Mejia's restaurant wall was graffitied with the words "Yes to CGN" (Guatemalan Nickel Company). Since late 2006 Eloyda Mejía has had to deal with a legal process accusing her of usurping lands. This legal action is seen by her as a form of persecution and intimidation intended to force her to abandon her work against the mining company CGN in El Estor. In the months of January and February 2007 we accompanied Eloyda and ASALI during a worsening of the situation in El Estor, after a tense situation arose between groups of campesinos that had occupied lands, CGN and state actors who wished to remove them. In October 2007, Eloyda Mejía received a threatening letter that mentioned her and other active members of civil society organisations in Izabal as 'personas non gratas' in the town of El Estor and as enemies of the town and the State. The letter mentioned that the law of "an eye for an eye and a tooth for a tooth" would be applied.*

The **National Coordinator of Guatemalan Widows (CONAVIGUA)**. Since August 2003 we have periodically accompanied the association with visits to its offices and to exhumations and burials in rural clandestine cemeteries. After seeing an increase in surveillance since December 2006, we regularly have visited the organisation's headquarters in the capital, continuing to do so in December 2008.

*Background: CONAVIGUA facilitates the process of exhumations and inhumations in various departments throughout Guatemala, mostly in Quiché, Chimaltenango, and the Verapaces, as part of their efforts for the recuperation of the collective memory of Guatemala's recent troubled history. This process provokes tense situations in these small rural communities between victims and perpetrators, and the women of CONAVIGUA receive threats and intimidation to stop them from continuing this work.*

The **Organisation to Support an Integrated Sexuality to Confront AIDS (OASIS)** is an organisation which works with HIV/AIDS education and prevention, as well as promoting and protecting the rights of gays, lesbians, bisexuals and transgender people. In particular, we accompany **Zulma**, a member of OASIS and witness to the assassination of a sex worker. In December we have been maintaining regular contact with Jorge Lopez of OASIS and with Zulma, as well as regular visits to the offices of OASIS.

*Background: On 17<sup>th</sup> December 2005, Paulina, a transgender worker was killed, the seventh murder of a transgender worker that year. Zulma was present when the crime was committed, and was seriously injured during the incident. She is a witness to the murder of Paulina, accusing members of the National Civil Police (PNC) of the killing. OASIS reported the case to the Public Prosecutor's Office (MP) in order to obtain justice for the killing, and has been awarded precautionary security measures for Zulma and the organisation by the Inter-American Human Rights Commission (CIDH). However, members of the organisation continue to be subjected to harassment and threats, and Jorge López, Executive Director of OASIS, reported that he was pursued by a police car during the night of 22<sup>nd</sup> January 2006. Given the few advances made in the case in the Guatemalan courts, OASIS wishes to bring it to the attention of the CIDH with the support of the Centre for Justice and International Law (CEJIL). In August, the MP reopened the case.*

**Lesbiradas.** We began accompanying the organisation in July of this year after the daughter of one of its members, also a human rights activist, was the victim of serious direct acts of intimidation with threats against her life by different State security agents. During December, we continued to accompany them in the capital and through frequent meetings.

*Background: The Lesbiradas collective is involved in the defence and promotion of human rights of Guatemalan lesbian women, promoting among other things, the self-determination of one's body and sexuality, for lesbians in their struggle against an exclusive, patriarchal system and particularly the discrimination and systematic violence that they face. The two women that we have been accompanying participate in various social movements, for which on three occasions in July, one of the activists was directly threatened with death at gunpoint by agents of the PNC on July 21, 2008. The events were denounced to the Public Prosecutor's Office (MP) and to the Human Rights Ombudsman (PDH) as well as to the Human Rights Defence Workers Protection Agency (UDEFEQUA). In principle, these threats relate to the women's activism and for Lesbiradas, it is proof that a strategy of social cleansing exists in the country.*

**Association for the Protection of Montaña de las Granadillas.** Since August 2008, we have accompanied this Association from the department of Zacapa after several of its members received death threats for their work to promote the designation of the area of Montaña de las Granadillas as a protected area. In December, we accompanied the association in public meetings in Zacapa and in the mountain region.

*Background: The association was created six years ago, when a group of residents realised that the ecosystem of the mountain was in danger due to logging, monoculture, and the extreme increase in cattle-farming. It was not only the mountain that was disappearing: they were alarmed above all by the disappearance of the water reserves, given that all of the region's water comes from the mountain's forests. The organisation sought the support of the Lutheran Church and the Madre Selva Collective. These organizations carried out an analysis of the deterioration of the area, and found that the lower part of the mountain had lost 70% of forest cover due to illegal logging and inadequate regional application of the Forestry Law. Now the principal objective is to protect 20-30% of the remaining forest and promote reforestation. The association's members want to convert the mountain into a protected area but this proposal has proven difficult and dangerous because of the economic interests involved. The threats began when the association tried to denounce the illegal timber trade.*

The **Association of Mayan Lawyers and Notaries of Guatemala.** In December, we accompanied Carmela Curup to San Juan Sacatepequez for an evaluatory visit to the communities following the start of preparatory works for the construction of the cement factory. We also accompanied her to the hearing of the case of the 43 members of the communities San Juan Sacatepequez who were detained in June 2008 during the declaration of martial law.

*Background: The Association of Mayan Lawyers and Notaries of Guatemala supports and advises vulnerable indigenous leaders and mayors in their work in defence of human rights and indigenous rights, above all in the area of the defence of natural resources. The 80 members of the Association provide legal and political support in various departments of the country. As members and representatives of the organisation, Amílcar Pop, Carmela Curup and Mario Saper began to receive threats and intimidations while providing legal advice to the communities in the municipality of San Juan Sacatepequez, regarding the establishment of a popular consultation regarding the cement works proposed by the Progress Cement company in the area. The threats culminated on 2 August with the attempted attack on the life of Amílcar Pop as he left a meeting regarding the staying of proceedings brought by*

the company against a community leader of San Juan Sacatepéquez. According to the Unit of Protection of Human Rights Defenders (report no. 10-2008, UDEFEGUA): "It is presumed that this attack occurred in the context of intimidatory actions that seek to limit the right of the communities to resist the installation of a cement factory in their community".

## 2.4 FOLLOW-UP

The **Guatemalan Association of Indigenous Mayors and Authorities (AGAAI)**. After a break-in of the office of AGAAI on 20<sup>th</sup> March we provided accompaniment through regular visits to the office and phone calls. In December we continued telephone contact with Carlos.

*Background: Carlos Guarquez has suffered from various forms of threats, accusations, and intimidations because of his work rejecting the Free Trade Agreement (DR-CAFTA) and mining activities. On 25<sup>th</sup> March 2005, in the village of El Tablón, Sololá, his vehicle was doused in petrol and set on fire by unknown individuals. Death threats specifically naming Carlos Guarquez, Dominga Vásquez, the then Indigenous Mayoress of Sololá, and her husband, Alfonso Guarquez, were found scattered around the vehicle. Part of the threat stated: "For your stupid meddling in society... tomorrow will be the day you disappear from this world.." As a result of this threat PBI activated its Support Network inside Guatemala. On 20<sup>th</sup> March 2007, AGAAI's office was broken into by unknown individuals who took only documentation and the petty cash box. The association denounced this incident as a clear act of intimidation against workers and members of AGAAI for their work in supporting and accompanying the mayors and indigenous authorities struggling for the protection of the land, and reported the act to the office of the Human Rights Ombudsman (PDH).*

The **Women's Sector**. We began accompaniment in June 2006, following various break-ins at the organisation's office. After several months, its security situation had improved sufficiently so that we could transfer the status of the accompaniment to that of follow-up. In December, we continued contact with the organisation's members through visits and phone calls to their office.

*Background: The Women's Sector is an umbrella organisation for women's associations that works for women's economic development, in the struggle against violence against women, and denounces impunity and the murder of women (feminicide). In less than 10 days, between the end of May and the beginning of June 2006, the headquarters of the Women's Sector were broken into twice. The first time the intruders stole telephones and money and smeared blood on the walls; the second time they destroyed furniture, searched through files and left a bloody piece of glass on one of the desks. The Sector reported these acts as clear intimidation and were later provided with police protection.*

The **National Coordinating Body for Inhabitants of Marginalised Areas, CONAPAMG**. In particular, we accompany Roly Escobar, CONAPAMG's General Coordinator, after he received a death threat on September 10, 2006, as a result of which we activated our Support Network. Though we continue to be concerned for the families that live in precarious settlements subject to the risk of floods and landslides, the security situation for the CONAPAMG members improved this year prompting the decision to reduce the level of physical accompaniment toward the end of October. In December we monitored the situation of possible evictions in zone 21 of the capital, and we have maintained contact with members of the organisation.

*Background: CONAPAMG works on the issues of housing access, social infrastructure, and the legalisation of occupied land. We have accompanied CONAPAMG since July 2004 when its office was broken into and lists, invoices, floppy discs and money stolen. Many of the communities affiliated with CONAPAMG have either been evicted or are awaiting eviction. The security situation of CONAPAMG continues to be vulnerable. Miguel Zapeta González, resident of the community Esquipulas in Zone 21 of the capital and member of the organisation, was murdered in March 2005. On 18th August 2006, Carmen Sagastume, another member of the organisation, was brutally murdered in the Carmen del Monte Community. Following this, on the morning of September 10, General Coordinator Roly Escobar Ochoa was informed that armed individuals in the community Carmen del Monte were threatening to kill him, supposedly because of his denunciation of the murder of Carmen Sagastume. During the following weeks he and his family suffered threatening surveillance. Roly Escobar has also been the subject of defamations against him in the media.*

**Centre for Human Rights Legal Action (CALDH)**. Since February 2007, we have accompanied **José Roberto Morales Sic**, Indigenous Peoples' Rights Program Coordinator of CALDH. Fortunately, in recent months, José Roberto's security situation, and that of CALDH, has improved considerably. For this reason, in November we transferred the case to follow-up status, and will maintain a more *ad hoc* accompaniment. In December we have maintained contact with visits to the office and telephone calls.

*Background: Since 1994 CALDH has had its headquarters in the capital, where it receives reports of Human Rights violations and directs investigations into the cases. The institution provides counselling, accompaniment and training to organisations, groups and communities. One of its main areas of work is promoting justice in genocide cases, and other crimes committed during the internal armed conflict. We have accompanied CALDH on various occasions between 2004 and 2006. In February 2007, members of the legal team received direct threats. José Roberto Morales Sic was the victim of a kidnapping on 2<sup>nd</sup> February. Two armed men kidnapped him in his car and threatened to kill him. He was later released and the CALDH vehicle recovered with all his belongings present (including personal documents, cheques and a laptop which belonged to the organisation).*

We accompany the **Commission of Peaceful Resistance of San Rafael Pie de la Cuesta (CRP)**. We received a request from José Manuel Morales, vice-president of the organisation after the commission's founding members were harassed and attacked by police during a meeting on September 15, 2007 for expressing their doubts about the construction of a hydroelectric dam planned by the municipal mayor of San Rafael Pie de la Cuesta. Since December 2007, we have accompanied CRP members in their activities. In November 2008, following a positive analysis of their security situation, we decided to transfer the accompaniment to follow-up status. In December we maintained weekly contact with the Commission's members.

*Background: 15 days before the general elections of 9 September 2007 the Mayor of San Rafael Pie de la Cuesta declared his intention to seek the construction of a hydro-electric project during the first months of 2008, during a public audience with mayoral candidates. This hydro electric project would be based on a previous project that never reached the construction stage and before the public meeting was not known by the local inhabitants. On 15 September the Campesino Association for Integral Development of San Rafael (ADICSR) organised a meeting with the local population in order to inform them regarding the construction plans for the hydro-electric project. The same meeting also realised the formation of the CRP in order to investigate and inform regarding the proposed project. Police officials entered the meeting and removed a man without explanation, in order to question him regarding the meeting and accusing those in attendance of planning illegal actions. Since this date, the members of CRP have regularly suffered threats and intimidations of various kinds. In August, the CRP, as part of the Council of Western Villages, met with representatives of the Ministry of the Environment and Natural Resources as well as with the Ministry of Energy and Mining.*

The **Movement of Campesino Workers (MTC)**, of the Department of San Marcos. In particular, we have accompanied **Julio Archila**, co-founder of the MTC in his consulting work with communities and during the judicial process against him. Following the dismissal of the case against Julio and his son in August 2008 and a significant reduction in security incidents suffered by the organisation, the case was passed to 'follow-up' status in November. In December, we maintained contact with the movement. In the regional department of San Marcos in general, we are monitoring the tense situation with regard to the problem of electricity following protest demonstrations against the irregular service of electrical power that ended in violence and the detention of 23 demonstrators on 25 December.

*Background: MTC is made up of peasant community associations that work in defence of their labour rights. Since the beginning of November 2005, Julio Archila, founding member of the MTC, has suffered various forms of intimidation and threats directed against him and his family. According to the MTC, his security problems are related to consultation he offers to peasants engaged in protest on the Las Delicias estate, San Marcos. On November 4, 2005, PNC officials arrested Julio, accusing him of stealing coffee. He was brought before a judge and freed since no proof of the accusation was found. Nevertheless, the accusation of the owners of the estate continued in force until finally, on 15th November 2007, the Las Delicias peasants came to an agreement with the estate's owners, who agreed to pay them 500,000 quetzals. The owners also agreed to drop the charges against Julio Archilla and his son. After further negotiations and setbacks, the peasants were able to buy a new estate in January 2008. The case against Julio Archila and his son was finally suspended in August 2008 after three cancellations of the hearing by the judge at the last moment, unnecessarily prolonging the case.*

## **2.5 OBSERVATION**

PBI Guatemala provides international observation at public events where Guatemalan social organisations require international attention and interest or when it is judged necessary to be able to communicate what we witness to the international community.

On 5 December the Association of Families of the Disappeared of Guatemala (FAMDEGUA) organised a march in commemoration of the anniversary of the massacre of Dos Erres of 7 December 1982, in Peten. It is 26 years since the massacre and 14 years since the official complaint to the Public Prosecutor (MP), and the families of the victims continue to await justice. In 2001 the Inter-American Commission of Human Rights ordered the Guatemalan state to investigate the case and offer reparation to the victims and their families. It is the only case in the country where the survivors have identified military personnel as those primarily responsible for the deaths, nevertheless, the hearing of the case is still awaited for the

beginning of 2009. We observed the march of the association, from the Supreme Court of Justice, to the Public Prosecutor's office and terminating at the entrance to Congress.

We observed a march on 'walk for a life of dignity' on 9 December, organised to commemorate the 60<sup>th</sup> anniversary of the Universal Declaration of Human Rights. The group 'Human Rights Convergence' organised the march, in which participated a number of member organisations, including the International Centre for Human Rights Investigation (CIIDH), Security in Democracy (SEDEM) and the Work Group for Forced Disappearance in Guatemala (GTDFG). The march started at the Obelisk in the capital and ended in the Central Square.

### 3. ACTIVITIES OF PBI GUATEMALA: OUTSIDE GUATEMALA

The Regional Representatives, the Coordination Office of the Project in Madrid and other members of the Project Committee, as well as PBI national groups, carry out public relations campaigns with numerous NGOs, national governments and agencies, parliamentarians, etc. These meetings work to develop and strengthen the "Support Network" of the project, a tool that is indispensable for the functioning of PBI's international presence in Guatemala.

In December 2008, on the occasion of the 60<sup>th</sup> anniversary of the Universal Declaration of Human Rights, PBI, dedicated as it is to the defence of these rights, organised in Madrid a conference with human rights defenders from some of the countries where we carry out international accompaniment. The activity took place in the Circulo de Bellas Artes on 17 December. Speakers at the conference included Gloria Luz Gomez, General Coordinator of the Association of Families of the Disappeared of Colombia (ASFADES); Hernando Valencia Villa, Professor of Human Rights at Siracusa University in Madrid, and María Elena Peralta, ex-member of the Survivors Foundation, of Guatemala. PBI Guatemala has participated in the organisation of this event, in order to highlight the situation of Guatemalan human rights defenders, with particular emphasis on the situation of female human rights defenders.

### 4. PUBLICATIONS BY NON-GOVERNMENTAL ORGANISATIONS

In this section we publish communiqués written by human rights organisations in which they express their concerns regarding the current state of affairs in Guatemala. PBI Guatemala does not necessarily identify with the opinions and content of the articles and communiqués reproduced.



**ASOCIACION FAMILIARES DE DETENIDOS DESAPARECIDOS DE GUATEMALA –FAMDEGUA**

Guatemala, diciembre de 2008

#### **LA MASACRE DE LAS DOS ERRES 26 AÑOS ESPERANDO QUE LA JUSTICIA LLEGUE**

El 7 de diciembre de 1982, tras recibir órdenes de sus superiores, miembros de las fuerzas especiales kaibil ingresaron al parcelamiento Las Dos Erres acompañados por un pelotón de 40 soldados. Concentraron a hombres, mujeres y niños en la escuela y la iglesia del lugar y partir de ese momento, sometieron a la población a torturas, tratos crueles, inhumanos y degradantes, varias de las mujeres, incluyendo niñas y adolescentes fueron violadas. Posteriormente todos fueron conducidos a un pozo de la localidad en donde fueron ejecutados, primero los niños lanzándolos vivos, después las mujeres y por último los hombres

El número de víctimas asciende a más de 250. De esta masacre sobrevivieron dos niños sin que el Estado tomará medidas de protección especial por su condición de menores de edad. Uno de los sobrevivientes es Ramiro Osorio Cristales, a quien uno de los kaibiles lo sustrajo del lugar, se lo llevó a su casa y posteriormente lo inscribió como hijo suyo, cambiándole los apellidos y afectando su derecho a la identidad. Después de 26 años de ocurrida la masacre y 14 años de haberse



presentado la denuncia ante el Ministerio Público, y realizado las exhumaciones, todos los responsables permanecen en la más absoluta impunidad.

La Asociación de Familiares de Detenidos-Desaparecidos de Guatemala (FAMDEGUA), como querellante adhesivo, le ha dado seguimiento al caso, y los abogados defensores de los militares acusados, han obstruido la aplicación de la justicia e interpuesto 35 amparos lo cual ha provocado el retardo malicioso e injustificado de la aplicación de la justicia. No es esta la única masacre por la cual se ha acusado al General Efraín Ríos Montt, sendos juicios por genocidio existen en manos del Ministerio Público, sin que se agoten las investigaciones y se proceda a la apertura a juicio contra quien fuera jefe de Estado de Facto en esa época y actual diputado al Congreso de la República.

En el proceso que se siguió ante la Comisión Interamericana de Derechos, el 1 de abril de 2001, los representantes y el Estado de Guatemala firmamos un acuerdo de solución amistosa y en él, el Estado guatemalteco se compromete a investigar los hechos ocurridos entre el 6 y 7 de diciembre de 1982 en el Parcelamiento Las Dos Erres, ubicado en el municipio de la Libertad, Petén en donde miembros del Ejército de Guatemala masacraron a más de 250 personas, hombres, niños, ancianos y mujeres. El Gobierno de Guatemala reconoció también la responsabilidad institucional del Estado guatemalteco por el retardo de la justicia para investigar los hechos relativos a la masacre, identificar a los responsables materiales e intelectuales de los mismos y aplicar las sanciones correspondientes.

Ante el estancamiento absoluto del proceso penal interno, producto de la permisividad y tolerancia de las autoridades judiciales y ante el uso y abuso de recursos judiciales por parte de la defensa, se tomó la determinación de solicitar que el caso pase a la Corte Interamericana de Justicia para que condene al Estado de Guatemala por la no aplicación de la justicia interna e imponga las sanciones que corresponden.

Con el apoyo del Centro por la Justicia y el Derecho Internacional (CEJIL), el pasado 12 de noviembre se terminaron de llenar todos los requisitos ante la Corte y se espera que a principios del próximo año se conforme el tribunal, escuche a los testigos y peritos, así como las argumentaciones que el Estado presente en su defensa por el retardo de la justicia. La sentencia que dicte Corte Interamericana, no solo será un claro mensaje para que los Estados de la región terminen con la impunidad de los crímenes de lesa humanidad cometidos en el pasado reciente, sino que contribuirá al fortalecimiento de la administración de justicia en Guatemala, pues debe pedir al Estado la adopción de medidas concretas -legislativas y educativas- para eliminar los obstáculos que se imponen al logro de una justicia efectiva. La sentencia que dicte este Alto Tribunal contribuirá además al establecimiento de la verdad de lo ocurrido, derecho cuya satisfacción sigue estando pendiente para las víctimas y sus familiares y, para la sociedad guatemalteca en su conjunto.

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**Manipulan la justicia constitucional para  
afianzar impunidad en desapariciones forzadas**

Al haberse conmemorado en el mundo, el Día Internacional de los Derechos Humanos, hoy 10 de diciembre, y ante los recientes acontecimientos que se han reportado en el caso de la desaparición forzada de siete personas, ocurridas en 1981 en la aldea el Jute, Chiquimula, la Fundación Myrna Mack denuncia lo siguiente:

A lo largo del año 2008, las distintas instituciones de justicia, pero especialmente la Corte de Constitucionalidad (CC), la Corte Suprema de Justicia (CSJ), el Ministerio Público (MP), e incluso el Procurador de los Derechos Humanos (PDH), han incurrido en decisiones, hechos y situaciones que afianzaron la impunidad en el llamado Caso El Jute. Por ese delito afrontaban proceso un coronel del Ejército y tres comisionados militares, sindicados de haber perpetrado una múltiple desaparición forzada.

Como oportunamente informaron los medios de comunicación, la CC y la CSJ emitieron a lo largo del año resoluciones que derivaron, en días recientes, en la liberación de un oficial militar sindicado de tener responsabilidad en la desaparición forzada de Jacobo, Miguel y Raúl Chegüen, y de Inocente, Antolín, Valentín y Santiago Gallardo. Este caso de múltiple desaparición forzada tuvo lugar en 1981, en la aldea El Jute, Chiquimula.

Pero las resoluciones fueron más allá, al permitir que a este individuo le fuera aplicado el beneficio de la extinción de la responsabilidad penal que establece la Ley de Reconciliación Nacional, Decreto 41-96.

Todo esto fue posible gracias a la consolidación y aplicación de una serie de resoluciones que involucran al MP y al PDH, a la CSJ y a la CC.

En el caso del MP y la PDH vemos que ha habido negligencia, indolencia, incumplimiento de deberes y hasta incumplimiento del mandato constitucional, porque estos entes han sido permisivos del manejo que del Caso el Jute han hecho la CC y la CSJ.

Por ejemplo, la CC excluyó al Procurador de los Derechos Humanos a pesar de su papel de querellante adhesivo, y desconoció su función como ente que realizaba además una averiguación especial por designación expresa de la CSJ. La institución afectada, el PDH, no emitió comentarios ni accionó para enmendar esa situación.

En lo que toca al MP, ha habido una inocultable indolencia al no apelar la sentencia dictada por la CSJ, pues con esto permitió que la misma quedara firme; y así el militar logró su libertad al serle aplicada la Ley de Reconciliación Nacional.

Las resoluciones emitidas por la CSJ y la CC, que permiten dejar en libertad a un militar acusado de graves delitos, constituyen toda una afrenta a la sociedad de Guatemala y del mundo.

Para la Fundación Myrna Mack es evidente que se está utilizando a la justicia constitucional para afianzar la impunidad en crímenes de lesa humanidad que, como la desaparición forzada, están incluidos en una tipificación universal que hace que estos delitos no prescriban; y tampoco pueden ser favorecidos con amnistías o cualquier otra fórmula de extinción de responsabilidad penal.

Con esas resoluciones, se avaló la decisión que había tomado en 2006 la Sala Primera de Apelaciones del ramo penal, en el sentido de extinguir la responsabilidad penal del militar, al haberle aplicado los beneficios de la Ley de Reconciliación Nacional, Decreto 41-96, a pesar de que el artículo 8 de ese decreto es contundente al establecer -como excepción de los beneficios de la ley- los delitos de lesa humanidad, entre ellos la desaparición forzada.

La Fundación Myrna Mack denuncia que en toda la gestión del Caso El Jute ha habido litigio malicioso y numerosas anomalías, en las cuales han incurrido casi todos los sujetos procesales, de tal manera que han servido a la impunidad de diversas maneras. El broche de oro fue la concatenación de actuaciones que concedieron un beneficio que no corresponde, que no es legal, aplicar.

Lo acontecido no merece más que un rechazo y una condena contra las instituciones y autoridades involucradas, por manipular la justicia constitucional y así ponerla al servicio de violadores de derechos humanos. Lo preocupante es que esto deviene de instituciones que tienen una responsabilidad en garantizar la plena vigencia de los derechos humanos, y que lejos de cumplir su mandato siguen sumidas en prácticas que les hacen perder credibilidad, integridad, imparcialidad e independencia. Son estas instituciones las principales responsables de procrear la impunidad en Guatemala, que en la actualidad se manifiesta también en los altos índices de violencia y criminalidad, cuyo impacto genera miles de víctimas mortales al año.

En lo que respecta al PDH, la Fundación Myrna Mack lo emplaza públicamente para que cumpla con sus funciones constitucionales, con su mandato de averiguación especial y su condición de querellante adhesivo en el caso, a fin de que cuanto antes gestione lo que corresponda nacional e internacionalmente, a efecto de que este caso de múltiple desaparición forzada no quede impune; y para que tampoco se convierta en un nefasto precedente para otros casos.

Finalmente, la Fundación Myrna Mack lamenta que la celebración del Día Internacional de los Derechos Humanos se haya visto opacada por el efecto de esta concatenación de resoluciones judiciales, que se derivan de un contubernio institucional favorable a la impunidad de las graves violaciones a los derechos humanos.

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