

## Campesino labour rights violations in San Marcos

In Guatemala the conflicts over land rights are historical. Dating back to Colonial times these conflicts were one of the cause of the armed conflict which the country suffered for 36 years (1960-1996), and are currently the subject of 1052 legal cases of disputed land titles registered by the Guatemalan Government as of December 2005.<sup>1</sup> According to the National Coordinator of *Campesino* Organisations (CNOOC), these conflicts are fundamentally based on an unjust distribution of land. They point out that 80% of the land is owned by just 2% of the population, with the remaining 20% distributed among 80% of all Guatemalans, demonstrating the conditions of severe inequality and poverty in which the country lives.<sup>2</sup>

Specifically in the department of San Marcos, the Movement of Peasant Workers (MTC) evaluated in 1997 that 303 properties accounted for around half the department's land mass, which means that of the approximately 9,000 inhabitants of San Marcos, 303 own almost half the department.<sup>3</sup>



A banner of the Movement of Campesino Workers (MTC) in the Estate Las Delicias, San Marcos. Photo: PBI

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The figures reveal a clear annual increase in the number of murders, and there is more and more evidence that the large quantity of presumed gang members that appear dead every day also corresponds to a strategy of social cleansing.

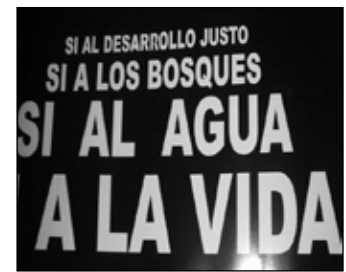
### Interview with Jorge López of OASIS 8



In December 2005, sex worker and human rights defender Paulina was killed. Jorge López, of the Organisation to Support an Integrated Sexuality to Confront AIDS (OASIS), talks of the organisation's support for the case and the social scape associated with it.

### Water: source of life, source of conflicts 6

Water, indispensable for life, is becoming a theme present in the world's major political and social agendas. The United Nations considers that access to drinkable water is a fundamental human right.



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Over the last months, not only have some members of the team changed, but there have also been changes in our accompaniments. We have also seen a sharp rise in the demand for international accompaniment.



# Campesino labour rights violations in San Marcos

## Labour situation of the field workers

According to the Guatemalan Labour Code<sup>4</sup>, the workers are entitled to a salary, paid vacations and indemnifications at the end of their contract. A study carried out by the General Workers Centre of Guatemala (CGTG)<sup>5</sup> of the Boca Costa Sur - an area which includes part of the Department of San Marcos, located to the South West of the country - indicates that mass dismissals of permanent workers have taken place and that figures have been manipulated to evade the payment of the labour benefits previously mentioned. Among these figures are found the casual worker, the worker contracted fortnightly (which never surpasses 2 continuous months of work), and the worker contracted Monday through Friday (a way to avoid paying over the weekend). Also increasingly, *campesinos* are not paid per day's work but instead are paid by task. The payment by day translates to a minimum wage of Q38.60 daily, whereas when paid by the job, workers are paid between Q2.50 and Q5 per job.<sup>6</sup> To achieve the legal minimum wage fixed by the government a worker must do between 7 and 15 jobs a day. However, normally the workers cannot complete more than 3 or 4 jobs a day, thus the daily wage is reduced to Q12, 15, or 18, instead of the legal minimum wage. Julio Archila, of the MTC affirms that, "Today they do it by unit... But what is a unit? Before we were given three *cuerdas*<sup>7</sup> de descope de árboles (of trees to prune) in order to earn a minimum wage, now they give it by the unit. Now, they give you 5 quetzals by the cuerda de descope. If you complete three *cuerdas* you gain 15 quetzals, now there is no longer a minimum wage."<sup>8</sup>

The collapse of coffee prices (1998-1999) was used to justify the prevalence of these labour conditions, as well as mass dismissals. Although prices nowadays have recovered, this has not been translated in an improvement of such conditions.<sup>9</sup> According to Amnesty International (AI), around 108,000 *campesinos* were dismissed.<sup>10</sup> Many of them are now asking their old employers for payment of the labour benefits which they never received and for their redundancy payment. In

the same situation are those who were dismissed for forming trade unions to demand the labour conditions established under Guatemalan law. In general, estate owners owe numerous small sums to the labourers as payment of their labour benefits.<sup>11</sup>

According to AI, the system of work in rural areas of Guatemala could be characterised as a semi-feudal system, therefore the dismissal of the *campesinos* not only implies the loss of the work, but also of housing and the land on which they live. The *campesinos* who work on large estates *do not have any place to go because they know no other place than the property*<sup>12</sup>; they were born there and have worked there all their lives,

as did their parents and grandparents before them. Many of these previous generations inhabited and worked the land before the estate owners acquired a legal property title. Faced with the impossibility of being transferred to another place and to exert pressure for the payment of wage obligations, some groups of *campesinos* have decided on the occupation of the property. Carlos Meoño, MTC lawyer, indicates that the taking of land is a measure taken by the *campesinos* to demand a quick resolution to their situation by the State, as many have followed a legal process for years without receiving any kind of answer.<sup>13</sup>

These occupations are usually seen by the land owners or the authorities as an invasion

### **The Clermont Estate**

*According to information facilitated by the MTC, in the estates of Ucubuja, Clermont and Valdemar, Tajumulco municipality, and outlying areas of the San Pablo municipality in the department of San Marcos, 57 families are asking for reinstatement and the payment of wages owed' by Silvia Eugenia Widman Lagarde de Diaz, sister of the present First Lady of the Nation. The campesinos claim Q5 million in unpaid wages from the property owner and have been involved in a legal process for more than 4 years. In the labour process, Judge de Malacatán ordered their reinstatement, an order which was also ratified by the Constitutional Court. This order was never fulfilled; with the result that the campesinos in question took matters into their own hands by taking possession of the coffee harvest and the property. In reaction, the owner of the property initiated legal proceedings against the campesinos, accusing them of aggravated usurpation and aggravated robbery and requested an eviction order. To date, the latter has been temporarily suspended after an intervention by the campesinos. The negotiations between both parties continue and an agreement has been reached whereby the estate owner hands over the Valdemar estate and an annex called San Emilio, whilst the workers leave the coffee they have retained in the warehouses.*

### **San Jerónimo and La Fábrica Estate**

*The MTC supports 25 families who are looking for their reinstatement and the payment of the wages earned in the San Jerónimo Estate, in the municipality of San José El Rodeo, San Marcos. At this moment the documentation is in the Fourth Chamber of the Court of Appeals in Mazatenango, where it is being appealed as a null resource. The process has taken more than 3 years and the amount owed to the campesinos is Q 850,000.*

### **Las Delicias Estate**

*In the Las Delicias Estate, located in the municipality of Tumbador, San Marcos, 28 families with the support of the MTC are demanding reinstatement and the payment of wages owed to them by the owner Aída Marina Díaz Carstens de Herrera since 2001. The Labour Court judge in Malacatán passed a decree on the 13<sup>th</sup> of April 2004 which awarded a payment of Q 1.3 million in favour of the workers. As the amount was never paid, the campesinos took their own measures collecting coffee and banana crops from the same property.*

*\* By "reinstallation" it is understood to assign the worker, fired in an illegal manner, the work that he was doing before being let go. With regards to "wages owed" it is understood the right of the worker to be paid salaries not accrued during the time that said worker was without employment.*



**Campesinos fired from the San Jerónimo and La Fábrica estates in San Marcos. Photo: PBI**

of private property. On the contrary, one of the *campesinos* leaders of the Las Delicias Estate in San Marcos argues that, “they say we are invading but I say we are not invading, we have a right to be here. The invaders are you people who have come; you are invaders, because who knows where you came from. We are not invading because we were born here and live here, already we have grown old here and we will die here... we have every right to this land.”<sup>14</sup>

In their report AI confirms that these occupations “(...) usually consist of *campesinos* who have moved from the land assigned to them - where they have lived and planted crops for personal consumption which are normally on the periphery of the property, to other more productive zones of the estate, which often implies the paralysis of productive activities.”<sup>15</sup>

For the estate owners, to label this as an invasion allows them to obtain an eviction order by the Public Prosecutor’s Office (MP) under accusations of usurpation. When comparing the simple legal process of obtaining this order with the long and complicated legal process which the *campesinos* must carry out to demand the payment of his labour benefits, AI found that the authorities abdicated responsibilities for the defence of labour rights or the *campesinos*’ land rights, but provided a strong State response when defending the rights of estate owners.

#### The Movement of Peasant Workers

Against this background of *campesino* labour rights violations in the Department of San Marcos, The Movement of Peasant Workers (MTC) was formed in 1997, with the aim of providing support to those defending their labour rights, offering training on the Work Code and the Political Constitution of the Republic of Guatemala, orienting them in the organisation and advising them on the legal process by which they could demand their rights.<sup>16</sup>

At the moment, the MTC is facilitating the legal processes by workers of several properties in the Boca Costa area. These relate to workers who are demanding payment of their wages by the estate owners. These processes begin as labour processes when they arrive at the Inspector of the Labour Ministry, but in several cases, as we see in the examples of the Clermont Estate, the Las Delicias estate or San Jerónimo (see box), that stage is only the beginning of a long journey through the legal bodies in Guatemala. Carlos Meoño, lawyer for the MTC, recognizes that “in Latin America, we (Guatemala) have one of the best labour codes; however the procedural part is very slow”.<sup>17</sup> This is demonstrated by the fact that these legal processes have already taken between four and six years with no sign of resolution. The excessive duration of these processes intensifies the conditions of extreme poverty in which the *campesinos* live, affecting their

food security, their health and the education of their children. In the case of the Las Delicias Estate, the school remained closed for two years.

Added to these extreme conditions, the *campesinos* who have made the decision to initiate legal processes against the estate owners are suffering intimidations such as the cutting of electricity or water supplies and penal processes against them to evict them from the property. “A few weeks ago an ex- military man appeared who said ‘the times in which people disappeared, are going to return’”.<sup>18</sup>

Members of the MTC team have also received threats and intimidations. Faced with the complexity of the situation and the slowness of the legal system in solving the conflicts, Carlos Meoño sees negotiation as a viable solution, “the negotiation... is of benefit to both sides, and can avoid all these problems of the measures that have been taken,..., the main thing is to negotiate immediately. Nevertheless, “after 5 years, it is more difficult, already there is much animosity and many things have been said”.<sup>19</sup>

1 Amnesty International. Guatemala ¿Tierra de Injusticia?; 29 March 2006.

2 Ibidem.

3 Interview with Carlos Meoño, MTC lawyer; 7 April 2006.

4 Guatemala Labour Code. <http://www.ilo.org/dyn/natlex/docs/WEBTEXT/29402/73185/S95GTM01.htm>

5 Collective of Social Organisations (COS). “Otra Guatemala es Posible. Balance de la Paz, 2005”.

6 1 Quetzal is equivalent to 0.13810 US Dollar (converter [www.aonda.com](http://www.aonda.com), data from 25 April 2006)

7 1 cuerda is equivalent to 0.39 hectares.

8 Interview with Julio Archila, Founder of the MTC; 5 April 2006.

9 Op cit. “Otra Guatemala es Posible”.

10 Op cit Amnesty International

11 Ibidem and interview with Julio Archila

12 Ibidem

13 Cit. interview with Carlos Meoño

14 Interview with Luciano Ramírez, leader of the Las Delicias Estate; 5 April 2006.

15 Op cit. Amnesty International

16 Cit. interview with Julio Archila

17 Cit. interview with Carlos Meoño

18 Interview with *campesinos* from one of the estates involved in conflict; 10 March 2006.

19 Cit. interview with Carlos Meoño

# Epidemic of violence and signs of social cleansing

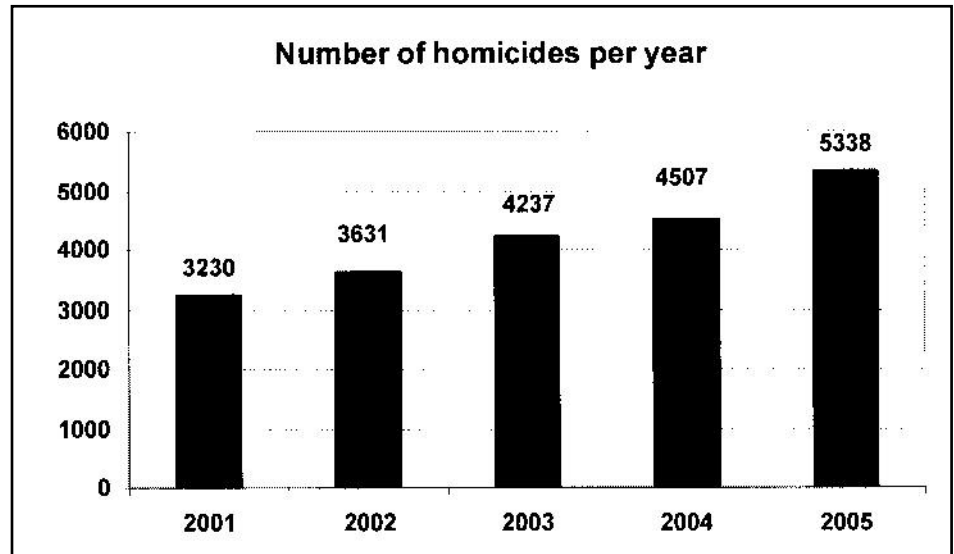
## Epidemic of violence

Not a single day goes by without the press reporting homicides all over the country, especially in the capital. From the point of view of various analysts, the reporting of so many violent deaths daily, with shocking images and photos, desensitises people to this climate of insecurity and violence; in such a way that it ends up being considered as almost normal that such a large amount of murders are committed in Guatemala, without even realising that this tremendous reality gets worse from year to year<sup>1</sup>. The figures reveal a clear annual increase in the number of murders in Guatemala. The National Civil Police (PNC) reported 5,338 violent deaths in 2005, which represents an average of more than 14 murders a day<sup>2</sup>. These numbers indicate a 15% rise in comparison with the previous year when 4,507 murders were registered. In fact, between 2001 and 2005 the total number of registered homicides increased by 60.51%. In Latin America, Guatemala's annual murder rate is above average.

In its 2005 Annual Report, the Human Rights Ombudsman, Sergio Morales, recalls that according to the standards fixed by the World Health Organisation (WHO), it is considered an epidemic when the murder rate is more than 10 deaths annually per 100,000 inhabitants<sup>3</sup>. Given that in 2005 a rate of 42 per 100,000 inhabitants was registered in Guatemala, the situation of insecurity that the country is suffering constitutes a true national epidemic.

### The fight against impunity: a responsibility of the State

It is the urban zones which are the most affected by violence in all its forms, especially in the department of Guatemala, followed by Escuintla, Petén, and Quetzaltenango<sup>4</sup>. Apart from the urban aspect that usually makes cities a cradle for the worst rates of violence<sup>5</sup>, one must emphasise impunity as the major factor that generates more and more criminality in Guatemala<sup>6</sup>. According to the President of



Graph showing the number of homicides in Guatemala between 2001 and 2005. PBI

the Presidential Human Rights Coordinating Commission (COPREDEH), Frank La Rue, there is no doubt that the country's biggest problem is that of impunity: "Cases aren't investigated, not those of women, nor human rights defenders, nor the deaths of gang members."<sup>7</sup> In this way, as the Human Rights Ombudsman, Sergio Morales, explains, the responsibility of the State becomes involved, whether by action or by omission<sup>8</sup>. By action, when its employees become involved in crimes, taking advantage of the authority with which they have been invested; by omission, when the authority does not manage to prevent crimes, penalise the authors of illegal acts, or guarantee the legitimate right of Guatemalan citizens to personal and collective security<sup>9</sup>.

In truth, the homicide average is getting dangerously close to what Guatemala experienced during the internal armed conflict, between 1960 and 1996. In accordance with the Report of the Commission for Historic Clarification (CEH), it has been calculated that in the 36 years of the confrontation that more than 200,000 victims died or were disappeared. That is an average of 5,555 victims a year, which coincides more or less with the 2005 homicide rate.

### Youths and women, the prime victims

In all the published information two demographic groups appear especially affected: youth and women. Between January and October of last year, 60% of those murdered were less than 30 years old, a fact which permits the affirmation that the majority of victims are youths<sup>10</sup>. With respect to the murder of women, if last year they only represented close to 10% of the total number of homicides in the country, between 2002 and 2005 the violent deaths of women increased by 63% whilst those of men by 45%<sup>11</sup>. According to the PDH, whilst firearms are usually used in the murder of men, women suffer knife-attacks and strangulation; many are discovered with evidence of having been tortured, through which the victimiser demonstrates his physical superiority and the power that he exercises over his victim<sup>12</sup>. Various civil organisations have carried out diverse analyses on the theme and some of them talk with regards to "femicide" and "feminicide", using these words formed on the model of the term "genocide" to allude to the responsibility of the State in those crimes<sup>13</sup>.

## Signs of social cleansing

Some social activists warn that given that the victims in their majority are supposed gang members, due to the tattoos that they bear, that they are not taken notice of, being considered simply as victims of conflicts between gangs<sup>14</sup>. But at the same time, according to the same activists, there is more and more evidence that the huge quantity of presumed gang members that appear dead every day, also corresponds to a strategy of social cleansing<sup>15</sup>. For the PDH, the phenomenon of social cleansing corresponds to a selective and arbitrary mechanism of repression that is systematically produced through actors linked to the State or through private individuals. They act with acquiescence, tolerance (deliberate or involuntary), complicity, and support from said State and attack the human right to life of those that are considered as undesirables<sup>16</sup>. According to the same institution, this practice depends on the implicit guarantee of impunity for the authors of these crimes whilst the State carries out useless and deficient investigations that do not allow for identification or punishment<sup>17</sup>. At the beginning of 2006, the Mutual Support Group (GAM), amongst other non-governmental organisations, lamented that the protagonists of violence in Guatemala are in their majority youths whose ages range between 20 and 30 years old and that amongst the victims more and more cases of women and children are reported<sup>18</sup>.

During the first two months of 2006 alone, the GAM recorded at least 155 cases of "social cleansing" perpetrated by hit men against supposed juvenile delinquents. Furthermore, stressing the fact that many of those deaths have occurred collectively, with groups of cadavers appearing next to each other, the GAM claimed that the involvement of agents of the security forces is suspected.

## Involvement of security agents?

In February 2006, the Human Rights Ombudsman, Sergio Morales, requested the creation of an inter-institutional commission to investigate the possible practices of "social cleansing", in which agents of the PNC could be involved. Granted that it could not prove that there was a superior order for the systematic elimination of persons, it did however contribute data concerning the links of the security forces to extrajudicial killings, for example, the fact that individuals in PNC uniforms were seen seizing people prior to them being found dead<sup>19</sup>.

Both the Director of the PNC, Erwin Sperisen, and the Home Secretary, Carlos Vielmann, admitted in front of the press that in Guatemala the practice of social cleansing against presumed delinquents could be being carried out; but both specified that the authorities were not involved<sup>20</sup>. The President of COPREDEH, Frank La Rue, admitted that they have received complaints of crimes in which police were

involved, but also cases involving private individuals: "In some occasions they could be private groups and in others the police, although it is clear that it is not a policy of the State"<sup>21</sup>. According to Mr. La Rue, the hundreds of crimes registered in Guatemala so far this year have been committed by groups taking justice into their own hands in the face of the State's incapacity to guarantee security.

On presenting the United Nations Office of the High Commissioner for Human Rights in Guatemala's first report at the beginning of the year, Anders Kompass also expressed his concern about the existence of those illegal groups that try to exterminate supposed juvenile gang members by themselves<sup>22</sup>. He declared that on the part of the authorities and society in general there is a tolerance that allows these types of incidents, and that it can be understood but can not be tolerated. "Social cleansing", stressed the UN representative, "is carried out with the acceptance of authorities and society and is a remedy that is always worse than the disease, because it is illegal and undemocratic".



Some social activists say that the large amount of supposed gang members appearing dead each day could respond to a social cleansing strategy. Photo PBI

1 Prensa Libre, 13 February 2006

2 PDH. The characteristics of violent deaths in the country. February 2006.

3 PDH. 2005 Annual Report. January 2006

4 Ibidem

5 Ibidem

6 El Periódico, 2 February 2006

7 Prensa Libre, 14 March 2006

8 PDH. 2005 Annual Report.

9 Ibidem

10 PDH. 2005 Annual Report.

11 PDH. 2005 Report on violent deaths of women. March 2006.

12 PDH. 2005 Annual Report.

13 Inforpress, 31 March 2006.

14 Prensa Libre, 13 February 2006.

15 Ibidem

16 PDH. The characteristics of violent deaths in the country.

17 Ibidem

18 GAM. Report on the situation of Human Rights and incidents of violence. February 2006.

19 Prensa Libre, 21 February 2006.

20 Ibidem.

21 El periódico, 14 February 2006.

22 La Hora, 13 February 2006.

# Water: source of life, source of conflicts

In this third millennium water, the “blue gold” indispensable for life, is becoming a theme present in the world’s principal political and social agendas. The United Nations (UN)<sup>1</sup> points out that this element is “fundamental for the development and eradication of poverty and hunger”. It considers “the access to potable water as a fundamental human right, recognising that the lack of this indicates a violation of human rights and an offence against human dignity”<sup>2</sup>.

Across the world, one of the biggest challenges that we face is that of the water crisis. Rated as such by the UN that considers it a question of a global phenomenon, this crisis would especially affect the most poor, who, according to the Human Rights Ombudsman (PDH), already suffer from a lack of water provision, governmental neglect, and the consequences of natural disasters<sup>3</sup>.

The situation in Guatemala is paradoxical given that even though it is a country with great hydric wealth, it still has not managed to guarantee universal water coverage<sup>4</sup>.

According to the PDH, in Guatemala poverty is concentrated around the indigenous and rural population. This group is considered the sector most dispossessed and exposed to environmental degradation, due to, amongst other factors, its reduced access to potable water. The PDH affirms that this environmental degradation constitutes a violation of human rights recognised in international treaties, in the Peace Accords, and in the text of the Constitution. Amongst the constitutional rights that could be infringed appear the right to life (Article 3); to health (Article 93); the protection of land and indigenous agricultural cooperatives (Article 67); and the right to the environment and to ecological equilibrium (Article 97)<sup>5</sup>.

With regard to water access as a human right, social organisations show huge concern and enumerate a series of problems. For José Manuel Chacon of the Madre Selva Collective, the scarcity, the lack of legal regulation, and the threats of privatisation are the most worrying aspects<sup>6</sup>.

## Scarcity

The lack of water has become an everyday phenomenon on a nation-wide scale. For the Director of the National Institute of



**Community consultation regarding hydroelectric powerstations in Rio Hondo, Zacapa. Photo: PBI.**

Seismology, Eddy Sánchez, the abuse of the hydric system and the irrational exploitation of the resource are exhausting the natural water system<sup>7</sup>. The situation is aggravated by the existing pollution which, according to Yuri Melini from the Centre for Legal-Environmental and Social Action in Guatemala (CALAS), would affect approximately 70% of the aquiferous force. For David Saravia, General Manager of AMANCO, reasons why communities face said scarcity are Hurricanes Rita and Stan; the inadequate management of the hydrographical basins; and the rise in the demand, making the provision of water a problem of equality and a critical subject for the country<sup>8</sup>.

## Lack of legal regulation

Another preoccupation shared by the organisations interviewed is the existing legal deregulation in this aspect. According to the Madre Selva Collective, the absence of a general water law is proof of the total lack of governmental interest to conserve and protect this resource<sup>9</sup>. Although the Government recently approved regulation for the Control of Residual Waters, the legislation still allows for the second highest level of permitted contamination in Central America<sup>10</sup>.

Another legal initiative undertaken by the government is the proposal of the Water Law which is currently being debated.

Critics affirm that its content could favour mechanisms of concessions and privatisations, paving the way for the Free Trade Agreement with the United States and benefiting transnational companies<sup>11</sup>. Some Indigenous organisations have also shown their disagreement with this proposal. They consider that historically the indigenous people have been those in charge of protecting the forest and conserving the rivers, maintaining spiritual and cultural relationship with the water. Despite this, they affirm that the said proposal does not reflect this communal past nor bear in mind the Indigenous common law, rather it tries to advance without its involvement, so violating the recommendations established in the Peace Accords and in Convention 169 of the International Labour Organisation (ILO)<sup>12</sup>. Varied proposals are arising from the organisations with the objective that this law reflects the social reality and is a common agreement between all the parties involved. The Guatemalan Association of Mayors and Indigenous Authorities (AGAAI), proposes four necessary aspects to bear in mind for the elaboration of the new law: 1) the Mayan cosmovision; 2) the following consultation of the Indigenous people; 3) the consideration of water as a fundamental human right; and 4) the social interest of water.<sup>13</sup>

## Privatisation Threats

Many experts consider that recent initiatives, such as the Concessions Law and the proposal of the Water Law, deepen and continue the policy of privatisations promoted by the last few governments<sup>14</sup>.

During the last World Water Forum, held in Mexico in March 2006, a block of Latin American countries expressed a strong concern due to the possible inclusion of water in trade agreements<sup>15</sup>. Although the Free Trade Agreement that is being negotiated for Guatemala does not include this fact explicitly, some social organisations fear its future inclusion, due to continuous restructuring and impositions by the United States. What does seem clear, according to the Coordinating Body of NGOs and Cooperatives (CONGCOOP)<sup>16</sup>, is that this treaty will speed up the privatisation process and authorise private companies

to obtain economic benefits, exploiting a basic human necessity.

Furthermore, in this situation of scarcity of hydric resources a multitude of organisations fear that the mining activity and the hydroelectric projects could deepen the problems of water access in the country.

According to the PDH, the Mining Law forgets that the State is responsible for guarding the respect of the human rights of its inhabitants. The rights of the Indigenous people, especially those close to mining zones, and the right to a healthy environment, such as the rights to health and access to potable water, could be infringed with the current legal regulation.

The last sentence of the Latin American Water Court<sup>17</sup> (TLA) in March 2006, considers that mining activity has a strong impact on the environment and generates risks for the health of ecosystems and of those who live close-by, which could limit their access to and use of water. The sentence issued shows the concern over the failure to execute Convention 169 of the ILO, such as the violation of the rights to water, health, land, and self-determination; resolving to morally censure the Guatemalan government and the Ministry of the Environment and Natural Resources for its risky intervention, for the water leaks, and its repercussion in the lives of the affected communities.

In Sipakapa, where the company Montana Exploradora (Montana Explorer) administers the Marlin mine, the Madre

Selva Collective denounced that this project is putting all the municipality's hydric basin into risk, and various residents have affirmed that since the arrival of the mine they have suffered from water scarcity and rises in price. Although the sentence of the TLA is not binding, they are waiting for a declaration and compromise from the government<sup>18</sup>.

At the same time the World Commission on Dams affirms that the increase of licenses to carry out hydroelectric projects is another aspect that worries the organisations and towns affected. This commission in its Report on the Financing of Water Infrastructures affirms that for their construction and following operation, water channels were diverted and forests, wild habitats, and biodiversity were lost, at the same time forcing huge quantities of the population to move. According to the Commission, these projects generally do not rely on the consent of the population and adversely affect the level of life that has been maintained by the Indigenous and non-Indigenous communities from the areas where the projects settle.

In Guatemala, mining activity, hydroelectric projects, and the repercussion that they have on water combine to create a source of conflict and continuous violations of human rights, exactly as is affirmed in the Chixoy Declaration<sup>19</sup>.

This very declaration concludes that, taking into consideration that Guatemala is a developing country with high poverty rates, they should make social development

compatible with economic progress. Perhaps the reflection of Dr. Lee Jong-Wook, Director General of the World Health Organisation (WHO), contributes to the advance of the development, when he affirms that water is the following proviso to arrive at said development, and that water will bring health and dignity to many of the millions of the poorest people in the world and transform their lives.

1 Guatemala has been a member of the United Nations since 21 November 1945.

2 Resolution 58/217, approved by the United Nations General Assembly on 23 November 2003.

3 Human Rights Ombudsman (PDH): Mining and Human Rights in Guatemala, 2005.

4 There are 10,000 communities in Guatemala that do not have access to potable water. La Prensa Libre, 22 March 2006.

5 PDH: Mining and Human Rights in Guatemala, 2005.

6 Interview with José Manuel Chacón, 7 April 2006.

7 Eddy Sánchez, Director of the National Institute of Seismology, Volcanology, Meteorology, and Hydrology (INSIVUMEH), La Prensa Libre, 17 March 2006.

8 AMANCO Forum: "Water challenges, a responsibility for all". 2006.

9 Interview with J. M. Chacón.

10 Rules of the Discharge of Sewage Water for the Relevant Bodies, in effect from 16 March 2006. Inforpress Centroamericana, n°1650, Marzo 2006.

11 Coordinating Body of NGOs and Cooperatives, CONGCOOP. Sustainability Compromised: Analysis of the potential impacts of the Central America-Dominica Republic Free Trade Agreement on the access to natural resources; Guatemala, 2005.

12 Interview with Carlos Guárquez, 6 April 2006.

13 Ibid.

14 CONGCOOP.

15 Joint declaration of the Movement for the Defence of Water, Mexico City, 10 March 2006.

16 Interview with Pablo Sigüenza, 13 April 2006.

17 Latin American Water Court. Expansion of Concessions and Mining Activity in Central American Territories. March 2006.

18 La Prensa Libre, 25 March 2006.

19 3rd Meeting of the Latin American Network against Dams and Rivers; Guatemala, October 2005.



Participation of Madre Selva in a protest in the in the capital. Photo: PBI

# Interview with Jorge López from the Organisation to Support an Integrated Sexuality to Confront AIDS (OASIS).

¿Can you tell us a little about the Organisation to Support an Integrated Sexuality to confront AIDS (OASIS), of which you are the director?

OASIS has three aims, firstly to avoid the expansion of the HIV and AIDS epidemics, as well as other Sexually Transmitted Diseases (STDs), especially amongst the homosexual and bisexual male populations, transgender people, transsexuals and other men that have sex with men. The second aim is to promote improvements in the quality of life of people who live with HIV and AIDS and the third, that which sustains the rest of our work, is to promote human rights for all people, in particular rights related to sexual identity, gender and AIDS.

**AIDS, then, is the prime focus of your work?**

Unfortunately our biggest problem as a community is that we are dying from AIDS. When we have guaranteed treatment and health services that don't discriminate against us, we will continue our work to attain all the other human rights which we are entitled to as citizens.

**How does Guatemalan society view the themes of OASIS' work?**

One part of Guatemalan society is very conservative and often such people become alarmed when they think of who we are sleeping with. At the same time, they ignore the murders that are being committed against us. This is to say that for them it is more important to interfere in peoples private lives than to see us as people, just like anyone else. I don't want special treatment, but we do feel that it is necessary that we receive the same protection that is given to everyone else.



Zulma and Jorge López with the Public Prosecutor in March 2006 during the reconstruction of the crime, accompanied by PBI. Photo: PBI

**Can you tell us about Paulina's case and how it is progressing?**

The case of Paulina has a special connotation because she was someone very close to us. We believe that if we don't use all our resources and try to move public opinion, this will end up like the other six cases of transgender and transsexual workers that were killed last year. There are three main points to this case. The first is that she was a transgender person, the second that she was a sex worker and the third, that she was a human rights activist.

The attack happened during the morning of the 17<sup>th</sup> of December 2005. Four men on motorbikes with National Civil Police (PNC) markings, wearing uniforms the PNC use, took up strategic positions. Two stayed in the middle of the previous

street as if to either stop traffic or say when the best moment was to commit the crime. The person that shot Pauline first called for her to come over to his motorbike. As Paulina got closer, the man took his gun out, pointed it at her and shot her through the head. As this was happening, Zulma, another sex worker, tried to get away. She turned to see what was happening and was shot twice. She fell immediately to the ground. One bullet entered her shoulder whilst the other passed through the lower right part of her jaw and came out her mouth, destroying her teeth.

The four killers dispersed. Zulma got up with the help of others who had witnessed what had happened. They stopped an ambulance of the voluntary fire service that was passing by, lifted Paulina up into the ambulance and took



both victims to hospital. An hour later the police came back. We don't know if they were the same ones or others but there were people in the area who said that they arrived to take the bullets and clean the crime scene. However, the Public Prosecutor's Office (MP) never arrived. We were afraid that they were going to kill Zulma and we asked that there be two policemen in the hospital. However, Zulma told us that she was scared of them and that the policemen had even told her to be careful because they were going to kill her. We never knew if this was a threat or a warning but I did know that Zulma couldn't stay there any longer. You could practically say that I kidnapped Zulma...we took her out via the elevator, whilst the police were doing their shift change, and now it seems appalling that the police didn't even notice - meaning that she could have been killed four times over and they would never have realised.

Since Paulina's murder, Zulma is obviously the key witness. She was the one that saw the killers. We had her in a secret place outside Guatemala City for more than a month and we started to create an international scandal. The international help started to arrive immediately, demanding that the Home Office and the MP – copied to the Human Rights Ombudsman (PDH) – ensure that the case be investigated. I'm sure that if we hadn't received this international help that the case would be like any of the other six already mentioned.

The Inter-American Human Rights Commission, after requesting explanations of the information that we sent to them via the PDH, authorized protection measures and ordered that the Guatemalan State protect my life, the life of Zulma and that of the other OASIS personnel. It's worth mentioning that since the murder, we've been victims of persecution, harassment and intimidation. We constantly see police patrols and armed men and people leave messages with the sex workers with whom we work.

#### **What has been the reaction of the authorities?**

I think the work of the PDH has been good, at least on a public level. Although

the MP didn't arrive at the start to complete the necessary investigation of the crime scene, it would seem that they have since participated quite well. The MP consented to our request to include Zulma in a witness protection program. We have a lot of doubts regarding the participation of the PNC. I think they are going to block the possibility of the crime being resolved and we feel as if we are being watched. Also, it seems that the PNC reports haven't arrived with the haste that the MP had requested.



**Jorge López, director of OASIS.**

**Photo: PBI**

We've also have the accompaniment of Peace Brigades International. We think that this is very important, as we believe the presence of international accompaniers can be a decisive factor in dissuading those who might wish to attack us. We trust that they are going to allow us to do our work if we are accompanied by people from other countries. Although we can see that the case is mostly being well investigated by the MP, we don't believe that justice will ever come. In turn, we will try to exhaust the Guatemalan legal system and if we don't find justice here we will seek it internationally.

#### **Is this the first time you have been involved in this type of case?**

Yes, thank goodness! At the same time, the streets of the historic centre of Guatemala City are filled with blood.

In 1997 they killed María Conchita, just one block down from where they killed Paulina. Maria was one of the founders of OASIS, a transgender sex worker who was killed by two soldiers. The murder of Conchita was never solved. Here I could mention the names of all the sex workers killed in the area, a total of 16 between 2001 and 2003.

#### **Do you see a relation between Paulina's death and "social cleansing" in Guatemala?**

Giving the Presidents of the Republic, the Congress and the Judicial Organism the benefit of the doubt, that they wouldn't send people out to kill us, I *am* conscious that if the triggers are pulled by policemen, then this is a policy of social cleansing. Whilst the police don't deal with El Gallito (a notoriously high crime area of Guatemala City), nor with gangs of traffickers and kidnappers or indeed any such area that frightens them, they have time to suppress homosexuals that aren't doing any harm to anyone. The difference is who gives the orders, if they are given by a senior official saying "go out and kill homosexuals", or if the order is "do your work and do the things that are going to please the public", knowing full well that they are cleaning the streets of sex workers and that the public will say they are doing a good job. The lack of government interest in recognizing sexual orientation as a cause of discrimination is another policy against us.

#### **What would you like the outcome of the case to be?**

We would like the case to be solved, that the murderers be found, that the supposed participation of the PNC be clarified and finally, that the State of Guatemala commit itself to protecting the lives of homosexuals, bisexuals, transgender people and transsexuals, in the same way that it should for any other citizen.

# An update on the project's activities

Over the last months, not only have some members of the team changed, but there have also been changes in our accompaniments. We have seen a sharp rise in the demand for accompaniment joined with an increase in violence against social organisations, for example break-ins during the month of March at the headquarters of the Coordinating Body of Campesino and Indigenous Organisations of Petén (COCIP); in the Foundation for Community Development (FUNDESCO) together with the Novena Integral Development Unit (UDINOV); and in the Campesino Committee of the Highlands (CCDA) in San Lucas Tolimán, Sololá. In April there was also a break-in at the headquarters of the United Confederation of Trade Unions of Guatemala (CUSG). Moreover, we are deeply concerned about the assassinations of Antonio Ixbalan Cali and María Petzey Coo of the Coordinating Body of Indigenous and Campesino Organisations (CONIC); and of Meregilda Súcchite, community leader of Olopa, Chiquimula, and also an active member of the Women's Network for the Observatory of Human Rights, promoted by the Centre for Human Rights Legal Action (CALDH).

## Team activities – Accompaniments

At the beginning of March we started accompanying the Organisation to Support an Integrated Sexuality to Confront AIDS (OASIS). The organisation offers support for homosexuals, bisexuals, and transsexuals, as well as educating and creating awareness about the prevention and the effects of HIV/AIDS through talks and workshops.

Members of OASIS have suffered intimidations, aggressions, and assassinations; amongst others the assassination of the transgender person Paulina in December 2005. Another member of OASIS, Zulma, who witnessed the crime, was left with serious injuries as a consequence of the attack. PBI is accompanying Zulma in her function as witness to the crime against Paulina. However, other members have also suffered harassment. During the night of the 22<sup>nd</sup> of January 2006, Jorge López, Executive Director of the organisation, was followed by a police car belonging to the National Civil Police.

In the last three months we also started working in a new department. In March we accompanied the Madre Selva Collective during its trips to Asunción Mita, department

of Jutiapa, where the collective is informing the population about the effects of mining as the mining company Glamis Gold is looking to extract gold and silver in Cerro Blanco which forms part of the municipality of Asunción Mita.

Concerning our other accompaniments, we continue accompanying the Union of Campesino Organisations for the Verapaces (UVOC), the Association of Friends of Lake Izabal (ASALI), and Carlos Guarquez of the Mayan Foundation (FUNDAMAYA) and the Guatemalan Association of Indigenous Mayors and Authorities (AGAI). In February we accompanied the National Coordination of Widows of Guatemala (CONAVIGUA) during an inhumation in Xecoxol, Chimaltenango, and in the month of April during an exhumation in Buena Vista, Sacapulas, El Quiché. We also maintain weekly contact with its office in Guatemala City.

## Follow-ups

The Union of Workers of the Company "Association of the Coffee Industry", and Other Related Industries (SITINCA), affiliated to the Federation of Trade Unions in the Food and Similar Industries in Guatemala (FESTRAS), is now one of the cases we monitor. Unfortunately, the person we mainly accompanied within the Union, José Armando Palacios, has had to leave the country due to receiving death threats and being the target of a murder attempt. We maintain contact with José

Armando, who is now abroad, and whose situation remains worrying.

We continue monitoring the situation of the community El Maguey, affiliated to the Campesino Unity Committee (CUC), which we visited in February. On the 9<sup>th</sup> of the same month the community was finally handed over the land titles of the estate for which they had fought since the 1990s, during which time they suffered various evictions. On the 25<sup>th</sup> March an event was organised within the estate in order to celebrate the handing over of the titles. However, the community is still waiting for the installation of electricity and running water, as well as the construction of a school and the paving of the roads leading up to the entrance to the estate and three and a half kilometres within the property, all of which forms part of the agreement reached with the government.

## Community consultations are found valid

On the 5<sup>th</sup> April, it was announced that on the previous day, the Court of Constitutionality (CC) had judged valid the community consultations that were carried out in Rio Hondo, Zacapa, and in Sipakapa, San Marcos, in June 2005, concerning the presence of a hydroelectric power station and the mining industry in the respective areas. The result of the consultations showed the discontent of the population with the presence of hydroelectric and mining activity in their territory. The consultations were strongly supported by the Madre Selva Collective and were observed by,



PBI accompanying CONAVIGUA during an exhumation in Buena Vista, Sacapulas.  
Photo: PBI

### Current PBI Accompaniments

Each accompaniment concerns one or more of the three main topics of concern defined by the project as areas of work: the fight against impunity, access to land, and the effects of globalisation on human rights. During the past months, the team has accompanied the following organisations through international presence, meetings with local authorities and the diplomatic corps, and through flows of information:

- **The National Coordination of Residents of Marginal Areas in Guatemala (CONAPAMG).** We continue to carry out regular visits to the office and maintain regular contact.
- **The Union of Campesino Organisations for the Verapaces (UVOC).** Since the 13th of May 2005 we have accompanied Carlos Morales, leader of UVOC, on a 24 hour basis during his activities in the Verapaces as well as in other parts of the country.
- **The Mayan Foundation (FUNDAMAYA).** We have periodically accompanied Carlos Guarquez of FUNDAMAYA since January 2005.
- **The Association of Friends of Lake Izabal (ASALI).** We continue to accompany Eloyda Mejia, legal representative of the association, during her activities in El Estor, in the Department of Izabal.
- **The MadreSelva Collective.** We carried out regular visits to their office and accompanied some of their activities throughout the country.
- **The Union of Workers of the company "Association of the Coffee Industry", and other related Industries (SITINCA), affiliated to the Federation of Trade Unions in the Food and Similar Industries in Guatemala (FESTRAS).** Since June 2005 we have acted as international observers during their various protests.
- **The Movement of Campesino Workers (MTC).** We started accompanying the organisation in November 2005.
- **The Organisation to Support and Integrated Sexuality to Confront AIDS (OASIS).** Since March we have had daily visits to the office and have accompanied Zulma, witness to the murder of another transgender person at the hands of presumed members of the National Civil Police.

At the same time we are monitoring following up the following cases, maintaining contact through frequent phone calls and visits:

- **Centre for Human Rights Legal Action , CALDH.**
- **The Community of El Maguey, affiliated with the Campesino Unity Committee (CUC).**
- **The Indigenous Municipality of Sololá**
- **Union of workers of the "Company of the Coffee Industry", affiliated with the Federation of Trade Unions in the Food and Similar Industries in Guatemala (FESTRAS).**

amongst others, the PBI team. However, community leaders and authorities of the municipality of Sipakapa have distributed a communiqué expressing their concern that they still have not received the official notification of the resolution of the CC.

#### Further news from the project

In February, the first of the two annual meetings of the project was held in Guatemala City. The aim of the meeting is to follow-up on, evaluate, and to plan the project's work. The members of the committee, the members of the PBI accompanying team in Guatemala, and the project's administrator participated. Furthermore, from the 26<sup>th</sup> of March to the 2<sup>nd</sup> of April the project finalised a selection/training process with an intense week of

training of new volunteers in Halifax, Canada. Four new volunteers were selected who will be incorporated into the team over the coming months.

#### Carlos Morales of the UVOC and Eloyda Mejía of the ASALIs' European Tour

The objective of the tour was to create awareness throughout European society and in some of its institutions about the current situation affecting Guatemala in regards to Economic, Social, and Cultural Rights (DESC) and, more specifically, campesino and environmental rights.

The human rights defenders' tour took place from the 18<sup>th</sup> March to the 15<sup>th</sup> April, during which they visited France, Belgium, Germany, Spain, and Portugal. Throughout the tour, as well as giving talks in a variety

of places and to a wide audience, they also met governmental representatives of the countries visited, the European Commission, the Council of Europe, and some members of parliament and members of the European parliament.

They also made contact with the media in several of the countries visited, and with other non-governmental organisations. Moreover, the trip made possible meetings with donor agencies and European universities.

The tour was made possible thanks to the efforts of the National Groups of PBI France, PBI Belgium and the PBI European Office in Brussels (BEO), PBI Germany, PBI Spain, and PBI Portugal, with the support of the PBI Guatemala Project.

### Mission

To improve the human rights situation in Guatemala and contribute to the democratising process of the country through an international presence that works to maintain the political space for human rights defenders, lawyers, union members, *campesino* and Indigenous organisations and civil society groups that are suffering repression due to their work in defence of human rights.

### Objectives

1. To provide an international presence that contributes to the opening and protection of the political space of Guatemalan organisations that are working to end impunity for human rights abuses; and to bring about national reconciliation and compensation to the victims of human rights violations as well as the fulfillment of the commitments of the Peace Accords.

2. To keep the international community informed of the human rights situation in Guatemala through the regular communication of information, as well as frequent contact with international authorities and the diplomatic community both within and outside the country.

3. To ensure that the Guatemalan Government is informed of the attention and concern of the international community to the human rights situation in the country through the regular communication of information and frequent contact with national authorities.

4. To share with Guatemalan organisations the experience and pedagogical tools that help reach the general objective of PBI's project.

### Peace Brigades International

PBI is an international non-governmental organisation (NGO) which protects human rights and promotes nonviolent transformation of conflicts.

At the request of threatened social organisations it provides international accompaniment and observation. The presence of international volunteers backed by a support network helps to deter violence.

In this way, PBI creates space for local activists to work for social justice and human rights.

### PBI in Guatemala

PBI maintained a team of volunteers in Guatemala from 1983 to 1999. During those years it carried out accompaniment work with human rights organisations,

trade unions, indigenous, and campesino organisations, refugees, and religious organisations. In 1999, after an evaluation process it was decided that, as the country had greatly advanced in the opening of space for the work of human rights organisations, the project could close. Nevertheless, PBI remained attentive to the situation in Guatemala through a follow-up committee.

In mid-2000, PBI began receiving a number of requests for international accompaniment. As a result, an investigation was carried out in the field which revealed a deterioration and in some cases a closing of the space for human rights defenders. In April of 2002 PBI decided to reopen the Guatemala Project to carry out international accompaniment and observation in coordination with other international accompaniment NGOs. The new PIB office was opened in April 2003.



From left to right: Eloyda Mejía (ASALI) and Carlos Morales (UVOC) with Montse García and Kerstin Reemstma of PBI in the headquarters of the European Parliament. Photo: PBI.

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