

# The Spanish National Court's Rogatory Commission - a step towards justice

## A long and difficult road travelled

On 7<sup>th</sup> July this year, social organisations celebrated with enthusiasm and hope the news that judge Pedraz had issued international arrest warrants for eight Guatemalans accused of genocide before the Spanish National Court. It had been a long struggle, which started in December 1999 when Rigoberta Menchú Tum denounced six members of the Guatemalan military and two Guatemalan civilians before the Spanish National Court, accusing them of genocide, torture, terrorism, assassination and illegal detention committed during the governments from 1978 to 1986. The crimes included the burning of the Spanish Embassy in Guatemala in 1980 which resulted in the death of 37 people, amongst them three Spanish citizens, and the

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Photos in Guatemala City's Central Park on the Day of the Forced Disappearance, June 2006. Photo: PBI

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Whilst in Sipacapa the people still wait for the ruling from the Court of Constitutionality to be handed down, five municipalities in Huehuetenango have organised themselves in the same way against open-pit mining...

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assassination of four Spanish priests in 1980 and 1981.

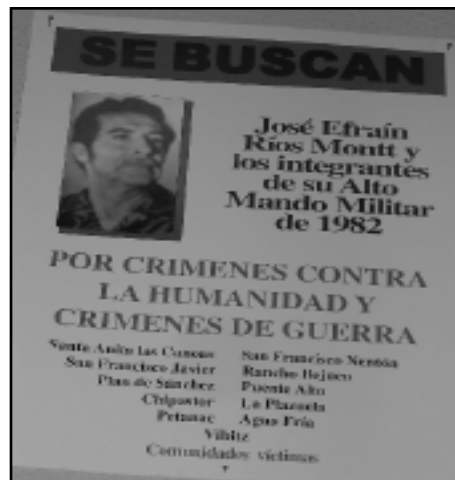
The case presented before the Spanish National Court was initially accepted and the judge, Ricardo Ruiz Polanco, started an investigation. The public prosecutor, however, quickly appealed the decision. The Court accepted the appeal and ordered the judge to archive the case. Faced with these events, the accusers lodged consecutive appeals before the High Court and Constitutional Court. At last, the National Court was obliged by the Constitutional Court to reaccept the case. This was thanks to the fact that the Spanish Constitutional Court had ruled in October 2005 that the Spanish justice system is competent to judge crimes of genocide and crimes against humanity, even when there are no Spanish victims. Due to this decree, an extension could be requested in order for the Rogatory Commission, which had been approved for the investigation of crimes committed against Spanish citizens, to include genocide. The extension was granted a few days before the arrival of the Commission in June 2006.

## The principle of Universal Jurisdiction

The principle of *Universal Justice* or *Jurisdiction*, on which Rigoberta Menchú based the initial accusations in 1999, allows or encourages States to affirm the competence of its courts to judge certain *international crimes*, regardless of where the crimes were committed and the nationality of the active or passive persons. It is applied when it is considered that the trial can not be held in the country where the crimes were committed<sup>1</sup>.

## The Spanish National Court's Rogatory Commission in Guatemala

As part of the proceedings in the genocide case which the Spanish National Court is trying, a Rogatory



Poster denouncing crimes against humanity signed by victim communities. Photo: PBI

Commission<sup>2</sup> arrived in Guatemala on the 24<sup>th</sup> of June 2006. This very entity was formed by Judge Santiago Pedr az and Public Prosecutor Jes us Alonso, to carry out the judicial proceedings in the framework of the case and to hear the statements of the witnesses and the accused. However, at the time when it was announced that the Commission was also going to investigate genocide cases due to the extension granted by the Spanish National Court, many of the accused, amongst them Colonel Chupina and General R os Montt, lodged a total of 15 appeals in order to impede the process<sup>3</sup>.

With the visit of the Spanish National Court's judge and prosecutor, and the knowledge of the extension of the charge of the crime of genocide, not only in the case of the burning of the Spanish Embassy in 1980 but also that of the murder of four Spanish priests, there were strong reactions from the military sectors. An example of this is that of the Association of Guatemala Military Veterans' (AVEMILGUA) press release in the newspaper *Al D a* on the 26<sup>th</sup> June. It was declared by aforementioned association that "the presence of the Spanish judge in Guatemala is an attempt by the fa ade of organisations of terrorist groups

that operate in our country outside the law to initiate the persecution of those that defeated them militarily speaking." The following day, retired General Jos  Luis Quilo Ayuso, president of AVEMILGUA and ex-minister of Defence, warned that the judicial process against the members of the military linked to the genocide case by Spanish justice "could bring tragic actions"<sup>4</sup>.

## International arrest warrants

The military members' appeals managed to paralyse the hearings planned by Judge Santiago Pedr az, which brought forward his return to Spain. The members of the military considered his departure a success for the sovereignty of Guatemala. However, on the 7<sup>th</sup> July, Judge Pedraz issued international arrest warrants for General Jos  Efra n R os Montt (Head of Government 1982-3), General  scar Humberto Mej a V ctores (Head of Government 1983-6), General Fernando Romeo Lucas Garc a (President of Guatemala 1978-82, died in Venezuela 27th May 2006), General  ngel An bal Guevara Rodr guez (former Minister of Defence), Donaldo  lvarez Ru z (former Home Secretary), Colonel Germ n Chupina Barahona (former Director of the National Police), Pedro Garc a Arredondo (former Head of Commando Six of the National Police) y General Benedicto Lucas Garc a (former head of the Presidential General Staff)<sup>5</sup>. According to Miguel  ngel Albizures of the Centre for Human Rights Legal Action (CALDH), issuing the arrest warrants was the only remaining possibility for the judge because of the obstruction of justice and the fact that he could not receive any statements<sup>6</sup>.

On receiving notice of the warrants "the defenders of the members of the military Efra n R os Montt,  scar Mej a V ctores, Germ n Chupina and  ngel An bal Guevara said that their clients

claim amnesty because of which they cannot be judged for crimes of genocide and crimes that took place in the country during the war"<sup>7</sup>. However, Am lcar Pop, President of the Association of Mayan Lawyers and Notaries, states that "amnesty is not applicable for genocide"<sup>8</sup>, only for political crimes, which do not include crimes of genocide nor crimes against humanity. Moreover, Lucy Turner comments that "national amnesties do not prevent the practice of universal jurisdiction by national courts or international high courts"<sup>9</sup>.

Fernando Linares Beltranena, defence lawyer of the accused Mej a V ctores, sustains that "Spanish jurisdiction doesn't reach" the United States or Mexico, due to which his client has been thinking of travelling to those countries; he also stated that "Mej a has amnesty under the National Reconciliation Law"<sup>10</sup>. However, according to Am lcar Pop, the National Reconciliation Law is unconstitutional as Congress, according to Article 171g of the Constitution of the Republic of Guatemala, can "grant amnesty" but "the term 'national reconciliation' does not appear in the Constitution, and so the law is 'extra-legal'"<sup>11</sup>. Furthermore, the Constitution's Article 46 establishes the general principles that for human rights matters, treaties and



Exhumation of genocide victims in Joyabaj, Department of Quich . Photo: PBI

conventions accepted and ratified by Guatemala have pre-eminence over national law. The Reconciliation Law is an ordinary law, which is hierarchically inferior to the Constitution, and so cannot be used for amnesty for genocide as Guatemala has ratified the *International Convention on the Prevention and Punishment of the Crime of Genocide*<sup>12</sup>.

Various opinions have been raised over whether or not the arrest warrants will be carried out in Guatemala. Benito Morales, lawyer for the Rigoberta Mench  Tum Foundation (FRMT), is optimistic. According to him, "nothing is preventing the issuing of the arrest warrants", it is just that the process is slow. The warrants have been handed over to INTERPOL, which has a division in Guatemala. Due to the fact that an arrest warrant is a judicial order, when it arrives at INTERPOL in Guatemala the extradition process has to be initiated. Lastly, the President of the Republic signs the extradition<sup>13</sup>. According to Gustavo Meo o, although the possibility exists that the warrants will not be carried out for the moment, "they are fugitives from justice"<sup>14</sup>. Miguel  ngel Albizures agrees that for the accused, the State of Guatemala "is like a prison"<sup>15</sup>.

## Other consequences for the struggle against impunity

According to those interviewed, the Rogatory Commission and the arrest warrants will have more lasting consequences in Guatemala society. On one hand now "the topic is clearly installed in Guatemala"<sup>16</sup> and society is talking openly about the genocide. Also it has given back "the hope in the human rights movement and in the witnesses that there could be justice". According to Gustavo Meo o, "it has given us the opportunity to organise ourselves, to continue fighting against impunity. [...] Something was achieved"<sup>17</sup>. There will also be effects on the Guatemalan judicial system. The last months have "proven its great weakness"<sup>18</sup>, but "it is necessary to act in accordance with the jurisdiction. They have started talking about what universal jurisdiction is and

the necessity to set precedents"<sup>19</sup>. Gustavo Meo o points out that judges are appearing who are prepared to withstand pressures and threats in order to carry out justice<sup>20</sup>. According to Miguel  ngel Albizures, "in general the results are positive...There will be a 'before' and an 'after' of the Rogatory Commission"<sup>21</sup>.

1 CALDH. Programme for Justice and Reconciliation. "Universal Penal Jurisdiction: The Genocide Case before the Spanish Penal Jurisdiction".

2 "request and authorisation that a judge or court of a country directs at a judge or court of another country in order to carry out determined procedural acts, in proceedings that the former is investigating". <http://www.sre.gob.mx/acerca/glosario/c.htm>

3 Interview with Gustavo Meo o, 20 July 2006.

4 Prensa Libre, 27 July 2006.

5 Prensa Libre, 8 July 2006.

6 Interview with Miguel  ngel Albizures, 3 August 2006.

7 Prensa Libre, 8 July 2006.

8 Interview with Am lcar Pop, 1 August 2006.

9 UNHCHR. Lucy Turner. Presentation: "Amnesty Laws and the Human Rights doctrine". 19 July 2006.

10 Prensa Libre, 8 July 2006.

11 Interview with Am lcar Pop, 1 August 2006.

12 Ibidem.

13 Interview with Benito Morales, 8 August 2006.

14 Interview with Gustavo Meo o, 20 July 2006.

15 Interview with Miguel  ngel Albizures, 3 August 2006

16 Interview with Gustavo Meo o, 20 July 2006.

17 Ibidem.

18 Interview with Benito Morales, 8 August 2006.

19 Interview with Miguel  ngel Albizures, 3 August 2006.

20 Interview with Gustavo Meo o, 20 July 2006.

21 Interview with Miguel  ngel Albizures, 3 August 2006.



# Sipacapa: a year on from the community consultation

On the 18<sup>th</sup> July, the anniversary of the community consultation carried out in the municipality of Sipacapa, San Marcos, took place. A year ago, 13 Sipacapan communities affected by the mining concessions in the zone, expressed their rejection of open-pit mining. The commemorative act took place in the framework of the *Central American week of resistance against metal mining*, convoked by various organisations including the Madre Selva Collective, the Association of Friends of Lake Izabal (ASALI), and the Movement of Campesino Workers (MTC). The activities carried out during the event, according to the participants, reaffirmed the struggle of the Sipacapan people and the environmental groups whilst at the same time strengthening ties against open-pit mining on a Latin American level. With the backing of the municipal authorities, the following demands were formulated: 1) that the rejection of mining exploitation and exploration is respected; 2) that through a definition of borders the cultural and physical territory of the people is respected; and 3) that the company Montana Exploradora S.A. completely withdraws from Sipacapan territory.<sup>1</sup>

The consultation in Sipacapa was developed according to the uses and customs of the Indigenous peoples. According to Vinicio López of the MTC, this signifies "an important step in passing from a representative democracy to a participative democracy"<sup>2</sup>. The legal basis of the community consultations are found at a national level in the Law on Urban and Rural Development Councils, the Law of Decentralisation, and the Municipal Code, and in Convention 169 of the International Labour Organisation (ILO). This Convention establishes that governments "must consult the people in interest through the appropriate proceedings and in particular through their representative institutions, each time legislative or administrative measures susceptible of affecting them directly are predicted"<sup>3</sup>. In June, not



Community Consultation in Santiago Chimaltenango, Huehuetenango, July 2006. Photo: PBI

only was it a year since the consultation in Sipacapa, but also 10 years since Guatemala ratified the Convention 169 of the ILO. Central American Inforpress pointed out in an article that up until now, the State of Guatemala has not implemented the Convention due to the lack of a mechanism that would serve for its application, "but it has authorised several projects on the exploitation of national resources without consulting the Indigenous populations"<sup>4</sup>.

According to the Ministry of Energy and Mines' (MEM) data, today there are 92 valid licences in the country, 22 for exploitation, 69 for exploration and 1 for the reconnaissance of metallic minerals. Furthermore, this institution is processing 12 applications for exploitation, 83 for exploration, and 4 for reconnaissance.<sup>5</sup> Amongst the metal minerals worked in Guatemala are gold, iron, zinc, silver, uranium, nickel, chrome, cobalt, and platinum. Environmental groups point out that the negative impacts of open-pit mining on the environment are multiple and include deforestation, the use of great quantities of water, water and air pollution and the removal of tonnes of rock. Moreover, the

use of cyanide to separate the extracted metal from the rock, due to its high toxicity, is considered a serious danger to the health of the population and to the ecological environment.<sup>6</sup>

Days before the community consultation in Sipacapa, the company Montana Exploradora lodged an appeal arguing that the consultation was unconstitutional and that it would be carried out outside of the deadline. The Guatemalan company belongs to the Canadian company Glamis Gold Ltd. and is in charge of the Marlín mining project that is located in the municipalities of Sipacapa and San Miguel Ixtahuacán. It has an exploitation license that was granted at the end of 2003 to extract gold and silver. However, 9 months later, on the 5<sup>th</sup> April this year, Prensa Libre announced the Court of Constitutionality (CC) declared the consultation valid, and in this manner denying the appeal lodged by the mining company. Despite this, on that occasion some signatures of magistrates who had finished their period in April were still missing and since then the new magistrates have not declared themselves. Environmental groups fear that the actual magistrates could vote in

favour of the appeals lodged against the community consultation.<sup>7</sup>

According to Vinicio López, the long legal process to endorse the consultation reflects that the State is not willing to recognise the use of Indigenous law.<sup>8</sup> Furthermore, the Ecumenical Forum for Peace and Reconciliation (FEPAZ) considers that the affected economic sectors and the political circles that support them have tried to de-legitimise and discredit not only the results from Sipacapa, but also the very instrument of the consultations. These sectors argue that, for example, the consultations are not valid for not being supported in the jurisdiction of the Electoral Supreme Court but only in the Municipal Code.<sup>9</sup> In this sense, to use the Convention 169 gains importance for the Indigenous peoples affected by metal mining as, according to the very political Constitution of the Republic in Article 46, for being an international treaty it has pre-eminence over national legislation.

In light of the neo-liberal politics and the coming into effect of the Free Trade Agreement on the 1<sup>st</sup> of July, the community consultations on mining activity are gaining more and more importance both in Guatemala and Latin America in general. Magalí Rey Rosa from the Madre Selva Collective points out the importance in carrying out

community consultations before mining companies enter, as is stipulated in the Convention 169; because once the licences are granted in the framework of the Free Trade Agreement, the possibilities of revoking them diminish considerably.<sup>10</sup>

At the end of July in Huehuetenango, another department greatly affected by mining concessions given its great wealth of metallic minerals, the authorities of five municipalities took the initiative to carry out community consultations. In March, the municipalities of Santiago Chimaltenango, San Juan Atitán, Colotenango, Todos Santos Cuchumatán, and Concepción Huista were notified of the grant of a license for exploration in its territories. More than 28, 000 people, in their majority Indigenous, expressed a categorical "no" to any metal mining license, whether it be of reconnaissance, exploration, or exploitation in their lands.<sup>11</sup> The Mayor of Todos Santos, Julián Ramírez, stressed to the Creative Radio of Huehuetenango, that the consultation represents a peaceful resistance without links to political parties. At the same time he pointed out that "the State has a right to extract but we as Indigenous people also have the right to conserve our beautiful homeland."<sup>12</sup>

According to Carlos Guárquez of the Guatemalan Association of Indigenous

Mayors and Authorities (AGAAI) and co-organiser of the event, for Guatemala the novelty of these consultations resides in the fact that the same municipal corporations appropriated the process, elaborating municipal agreements for its achievement. Carlos Guárquez states that they resorted to the few existing legal resources to be able to carry out the consultations.<sup>14</sup> The tool of the community consultations presents juridical vacuums, Inforpress points out: "(...) it is still pending a regulation and specific rules that say how these consultations should be carried out, as well as their binding nature."<sup>14</sup> In the mean time, the results of the recent community consultations held in Huehuetenango go so far as to reflect a rejection of business activity that leaves few benefits for the local population, many mysteries about the effects on the public health of the nearby populations, and the incompatibility of open-pit mining with the use of the earth and the Mayan cosmovision.

1 Diocesan Accompaniment Commission of Communities in Resistance, El Roble Vigoroso, 19 June 2006.

2 Interview with Vinicio López, 19 July 2006.

3 Convention 169, Article 6, Numeral 2.

4 Crosby Girón, Central American Inforpress No 1658: *Convenio 169 cumple 10 años*, 2 June 2006.

5 [www.mem.gob.gt](http://www.mem.gob.gt): licenses in force and applications in process, June 2006.

6 Interview with Magalí Rey Rosa, 30 January 2006.

7 La Hora, 14 June 2006.

8 Interview with Vinicio López, 19 July 2006.

9 FEPAZ: "Consultas Populares: Democracia participativa e instrumentos de intermediación social y política", October 2005.

10 Interview with Magalí Rey Rosa, 30 January 2006.

11 Prensa Libre, 18 August 2006.

12 Popular consultation in Todos Santos, 25 July 2006.

13 Interview with Carlos Guárquez, 21 July 2006.

14 Mar Cabanes, Central American Inforpress No 1613: *Negativa popular a la minería*, 24 de junio de 2005.



Community consultation in Todos Santos Cuchumatán, Huehuetenango, July 2006. Photo: PBI.

# The Mocca: Chronicle of a death foretold

For centuries the agrarian conflict has been a catalytic topic in Guatemala, a country where millions live off the land. The various dialogue tables on this topic continue to be very weak; at the time of writing this article the press was reporting the Supreme Court of Justice's withdrawal from the National Agrarian Dialogue, a step that Ingrid Urizar from the Agrarian Platform, describes as a "political exit"<sup>1</sup>. On the attempt to resolve the agrarian conflict, the National Coordinator of Campesino Organisations (CNOc) points out the lack of political will from the government, its institutions and officials<sup>2</sup>. Both the CNOc and Marielos Monzón, a columnist for the *Prensa Libre*, highlight the case of the Mocca estate as an example of a "tragedy that was seen coming and nothing was done to avoid it."<sup>3</sup> After a series of conflicts, amongst them contentious evictions, in the Mocca estate, municipality of Senahú, Alta Verapaz, on the 8<sup>th</sup> July 2006, Miguel Quib was killed and 38 people wounded during a confrontation.

For many years, Q'eqchi campesinos have lived and worked as tenant farmers in the Mocca estate, owned by the Hempstead Dieseldorf family. With the fall of coffee prices in 1999-2000, the owners could no longer provide work nor pay the tenant farmers their labour benefits for the years worked. In 2002, faced with the workers' demands, land was awarded to 850 families, out of the more than a thousand that lived there, in exchange for the payment of their labour benefits. On that occasion each family received between two and fourteen cuerdas of land (one cuerda is 20m squared).

These awards of land are the source of today's conflicts for many reasons. Firstly, according to the Union of Campesino Organisations for the Verapaces's (UVOC) lawyer, Jorge Luís Morales Cifuentes, on selling the land the owners did not fulfil their



**One of the Mocca community's signs stating that the land belongs to them, not to foreigners. Photo: PBI.**

obligation of showing the buyers where their lands were situated, "...when he sold the land it was his obligation to tell them which land it is. Before it is sold to him, he who buys must know what it is he is buying."<sup>4</sup> They have discovered that the lands are actually located in different municipalities, in Carchá, Panzós, Senahú, and Tukurú. Secondly, the campesinos did not just acquire their lands as individuals but rather as co-owners of a single expanse of land. Thirdly, when the lands were awarded the calculations of the labour benefits were not based on the number of years worked<sup>5</sup>. This has been a source of much conflict between all those involved. According to Hugo Herculano Pop, from the Human Rights Ombudsman's Office (PDH) in Alta Verapaz, the task of deciding who receives how much and where should have been the responsibility of the owners<sup>6</sup>. However, Mr. Morales fears that, at best, the task will fall to the campesinos. Lastly, some 235 families complain of not having benefited from the land awards despite having worked, lived and been born on the Mocca, some for more than 70 years.

In 2003, these 235 families joined the Campesino Development Association San José Mocca (ACDSJM), comprised of families demanding their labour benefits, adequate lands (some were located in hazardous areas), and that the Mocca's owners designate the land for them. In 2004 this group affiliated itself with the UVOC in order to receive consultancy, and in September 2005, when the lands that some families had received were swept away by Hurricane Stan, the ACDSJM left the Mocca estate for that of Las Cabañas (also of the Hempstead Dieseldorf family), opposite the Mocca, to look for lands to live on and also as a means of pressure.

On the 1<sup>st</sup> February 2006, some 600 policemen and 100 soldiers evicted the campesinos from the Cabañas estate. However, the following day they reoccupied the same land and on the 4<sup>th</sup> February in a confrontation over water between the farm's private security and the campesinos, three campesinos and one security guard suffered gunshot wounds. As a means of pressure, a group from the ACDSJM occupied the management house in the centre of the Mocca estate. On the 5<sup>th</sup> April the UVOC's assessor determined that the problem was a labour situation and proposed a "Collective Dispute in Prevention" against the owner in the 6<sup>th</sup> Labour Court, file No. 8-2006. The Court ruled in favour of the campesinos and the estate was subpoenaed. However, the following day another eviction of the Cabañas estate took place, after which the 235 families had no other option but to camp in the road in front of the estate. The Presidential Human Rights Coordinating Commission also transferred the case to the Public Prosecutor's Office (MP) and the National Labour Authority, but there has not been much investigation<sup>7</sup>; the wounded from the first eviction have not even been contacted by the relevant authorities<sup>8</sup>.

On the 8<sup>th</sup> July there was a confrontation between the group who received lands and the ACDSJM group occupying the management house in the Mocca. According to René Yaxcal Choc's (one of the wounded from the ACDSJM) statement, "...at 11am, when I and another 45 people were together near the farm's coffee dryer as a means of pressure to get our labour demands with our boss attended to, along came a crowd of about 1,200 people. These people circled us and said that they wanted to kill us. They started to attack us with rifles, stones, machetes, sticks, bottles, injuring us...they approached me, wounding me all over my body with projectiles from firearms, I received about 19 shots in my body, and there we were left. It was the following day, Sunday, at eight in the morning when the public security forces arrived accompanied by members of the PDH, the Assistant Public Prosecutor from the MP, CONTIERRA [the Presidential Entity of Legal Assistance and Conflict Resolution on Land Matters (CONTIERRA)], and other authorities...". Hugo Pop confirms that, "they attacked each other with bottles, with sticks, both sides. But as this group was bigger, about 800...then the small group was quickly overcome. There was not a single person wounded out of the 800, only on the other side, men, women, and children.



**The Mocca community at the entrance of the farm, August 2006. Photo: PBI**

And many; 38 injured and one dead."<sup>9</sup> On the late arrival of the PDH and the National Civil Police (PNC), Mr. Morales comments, "It's strange that it took so long. The newspapers reported eight or nine seriously wounded, but what authority took the interest to go and see where these seriously injured were? None."

On the 2<sup>nd</sup> August the Secretary for Peace and the Secretary of Agrarian Affairs (SAA) called the two sides of the conflict together in the "Agreement for peaceful coexistence between the community members of the Mocca estate communities, Senahú, Alta Verapaz". In the meeting, the ACDSJM vindicated their labour rights, specifically that their lands be designated, that they receive individual deeds and that they negotiate over the Cabañas estate. Claudia Villagran from the SAA responded that they would investigate the cases of those who received nothing and those who received land that was affected by natural phenomenon. Moreover, she asked that they look into the responsibility of the previous owners and the demand of land access. The two groups also agreed to refrain from assaulting each other. However, on the 5<sup>th</sup> August, on going to visit his family inside the Mocca estate, Mr Filiberto of the ACDSJM was detained for five hours by about 60 people of the

majority group. "They detained him saying that they were going to kill him if he didn't hand over Mateo Yat Caal and Emiliano Xé, the leaders of the group in front of the farm, because they want to kill them."<sup>10</sup>

What makes the situation all the more complicated is that they are all relatives. "The most serious part of the case is that the person who shot Mr Quib was his own son-in-law. They're killing each other."<sup>11</sup> Although it appears to be a confrontation between campesinos there is evidence that the very owners could be involved.<sup>12</sup> Despite the aggressors having been named, due to the absence of 'flagrante delito', the MP will start a six month investigation before arrest warrants can be issued. With 464 agrarian conflicts (the majority in Alta Verapaz) that the Land Fund and CONTIERRA manage, there are few resources to confront the problems. However, it is hoped that with the guarantees to investigate from the State, the situation will calm down and eventually be resolved. Meanwhile, a group of 235 families continue to live on the side of the road, suffering extremes of climate, malnutrition, lack of sanitation, lack of access to education for the children, and unemployment; waiting for a solution. Up until now there has been no communication between the owners of the Mocca S.A. estate and the ACDSJM.

- 1 Prensa Libre 11th August 2006.
- 2 Press release from CNOc, 10th July 2006.
- 3 Prensa Libre 11th July 2006.
- 4 Interview with Jorge Luís Morales Cifuentes, 1st August 2006.
- 5 Interview with Ana Gladis Ollas from the National Movement for Human Rights (MNDH), 8th August 2006.
- 6 Interview with Hugo Herculano Pop, 31st July 2006.
- 7 Prensa Libre 11th July 2006.
- 8 Interview with Ana Gladis Ollas from the MNDH, 8th August 2006.
- 9 Interview with Hugo Herculano Pop, 31st July 2006.
- 10 Interview with Ana Gladis Ollas from the MNDH, 8th August 2006.
- 11 Ibidem.
- 12 Prensa Libre 11th July 2006.



# Interview with Sandra Morán, coordinator of the strengthening, organising and leadership programme of the Women's Sector

## How did the Women's Sector Start?

The Women's Sector (WS) started up in the nineties, around the time that the Assembly of the Civilian Society was created to make proposals to the Negotiating Table, so that the Guatemalan National Revolutionary Unit (URNG) and the government would start implementing the Peace Agreement. There were people who were wondering why women were not being represented in the process and through various debates, the Women's Sector was created. We could say that the WS was born out of a political agreement with more than 30 organisations. It was originally characterised by the diversity of its members, including organizations from the popular movement as well as other professionals, some of whom, according to the perception of some of us, were rather to the right, politically speaking. In spite of this diversity, we saw the need for a basic agreement which would allow us to play the role we deserved and would ensure that our voice be heard.

In the early years we pushed ourselves to promote participation, to clarify the issues and to ensure that not only the Peace agreements, but also our proposals, would be recognised. Through the signing, we focused on encouraging national organisation and internal development, always within the context of fear, of terror of organising and participating.

During the year 2000 we carried out a self-evaluation and realised that these political negotiations were wearing us down and not making any real changes. So from that time on, we decided that we were going to strengthen ourselves, to fight to change our daily lives and not just the institution. We continue to criticise government actions and have never stopped monitoring the lack of progress in fulfilling the Peace Agreements. Ten years on and the evaluation is negative,



Members of the Women's Sector at a protest on No Violence Day. Photo: PBI

things which have been accomplished have been due to the efforts of civil society, whilst the government has been investing in constructing organisational frameworks which have not borne fruit. Contrary to the Agreements, we now have a re-militarised State, a lack of change in the party political system, an increase in poverty – we have starvation in parts of Guatemala, lack of social investment and weakness on the social side of the State.

## What is the current role for the Women's Sector?

We are now developing into a much more politicised movement, fighting to change what we define as a capitalist, racist, homophobic patriarchy. This is why we are opposed to the Central America Free Trade Agreement; we are fighting against impunity, against 'femicide', we're trying to find economic alternatives for women,

we're with the peasants' struggle, the students' movement. You'll find us in the context of the struggle coming from our identity as women, fighting for all our rights, against the elements of patriarchy which is capitalist nowadays, and keeps us in poverty. That is how the WS is today, not just about the Agreements, which we have never left because they were also our effort. The Peace Agreements were our point of arrival, an arrival after a terrible struggle, but they are now the departure point for a new struggle.

## How is the Women's Sector structured?

The Sector is a coordinating structure which seeks to compliment the work of organisations, to strengthen and activate collectively. The strength we have comes from working collectively. We're a group of about seventy organisations at national level, representing ethnic diversity and

a diversity of organisations and work foci. We are trying to arrive at common ideas and political positions. We don't subscribe to any political party and put in practice that that which is private is also political.

## Can you tell us a bit about your areas of work?

The WS is developing three programmes. The organisational strengthening and leadership programme focuses on organisational strengthening and working together within the group. The School of Political Training is inspired from this programme.

The second is the fight against violence, impunity and for justice, including national and international denunciations and actions directed against the State, the strengthening of our abilities in order to accompany other women, the creation of support groups, and actions of solidarity and accompaniment in cases of violence both past and present.

The economic development programme, the third, is less developed. At the moment we are developing a process to understand how the system functions and the effects that it has on our lives, so as to be able to take action from within the communities. Related to this is our involvement in the Central American women's resistance movement which opposes the CAFTA. Also, on a national level, we join with other organisations in the fight against the CAFTA, against privatisations, mining and deeds which intend to sell our land. In the month of



Sandra Moran, one of the leaders of the Women's Sector. Photo: PBI

June we declared ourselves to be in resistance for the recovery of our lands and power over our bodies.

## The situation for Guatemalans is complicated. How does the Sector deal with it? What is your view on 'femicide'?

We think that the country needs a policy of democratic security, not of the present criminalisation and persecution. The government belittles the problem, asking why we talk so much about 'femicide' when there are far more men murdered. Now it is the young people who are being persecuted and blamed for everything, and that is unacceptable, when they are given nothing.

They used to chase the youngsters for being organised, maybe because they were involved with the guerrillas. Now it comes in a different guise, but it is still persecution. Moreover, it is easy for the State to blame these gangs, as then they don't have to investigate. There is, unfortunately, an ideological justification for the terrible attacks of the gangs, and what the population wants is "mano dura" (a repressively strong government).

The way we see it is that 'femicide' is more than taking a woman's life, it is also the way it is done, how they throw them away and the evidence of hatred towards women for being women, for having a woman's body. It also sends a message to women that we are organised, and these murders are a means to of reinstalling a state of terror. We have seen this in the break-ins we suffered, the way they left blood in the office, glass smeared with blood, it is a symbol of a terrible death.

We think that the murdering of women cannot be disassociated from the genocide of the war. Now we are living the effects of that culture of violence, an acceptance of that culture. On the other hand there is a real situation. Where are these people who were trained to kill, to torture, who killed women in time of war, where are they? Well, they are in the communities, they are working as private police, they are the recycled police. It is an actual fact. This country went from war to peace, but without any healing process.

When they exhumed the mass graves

at Comalapa, they found women's bodies which showed they had been killed in the same way as these current murder victims. This gives us a connection - the people who are killing these women could actually be the people who were involved in the repression.

## What strategies are you using to improve the current situation?

First of all, in spite of the break-ins, we are continuing with our work. As before, we think that these acts are part of the strategy to frighten our type of organisation into giving up its work. Because they are taking advantage of the fear and terror still in our memories from the war, and re-activating it, we decided to pull through and continue our work with the same force and the same presence. We believe that by continuing our work we can do something, from our very ordinariness. Perhaps we can't transform the whole system, but transforming little by little we can achieve something. If we attempt to fight the monster we will die, but if we go about looking for ways to debilitate it, we can win. This is our hope.

There are also the little things we have achieved; the ability for our companions to stand up for themselves, to speak out and say "no", their ability to get out of the problems caused by a violent history, to talk in a different way to their daughters and to dare to come to the capital. Maybe these deeds seem small, but added together they are brave deeds, small breakthroughs and rebelliousness that we value a lot. Adding it all up, we are improving our daily life, creating bases for a movement that will take decisions.

## World you like to add anything?

We must insist on remaking the solidarity networks, fundamental in a globalised world, networks from North to South and South to North, and within both the South and North themselves, networks that will help us to find the ways to change in every sense, not only the protection of life, but also to confront this system which affects us all, men and women. We must insist on there being in our history a group of people who still have the capacity to mobilise and rebel against the impositions of governments.

# An update on the project's activities

## Latest News

In the last 3 months, the team has said goodbye to one member and welcomed three new ones, whilst continuing with the regular accompaniments, routine work and accepting two new petitions; the **Women's Sector**, that we have been accompanying since June, and the **Guatemalan National Front of Market and Informal Economy Vendors (FENVEMEGUA)**.

The **Centre for Human Rights Legal Action (CALDH)**, which we had been following up on until recently, organised various activities and actions together with other Guatemalan organisations. The objective was the search for justice over impunity, and was motivated by the Spanish Rogatory Commission's visit at the end of June. Just before the Commission arrived, CALDH organised *The Third Meeting on Racism and Genocide*; this included the subject of Universal Justice as applicable to the genocide case in Guatemala to be presented to the Spanish judge. When, on the 7<sup>th</sup> of July, Judge Pedráz issued an arrest warrant for Rios Montt and 7 other accused, CALDH mobilised human rights organisations and Guatemalan society in general, to pressure the government to carry out the arrests. During the last few weeks, in the context of the daily acts of violence which this country endures, the United Nations Office for Human Rights in Guatemala (OACNUDH) has received information on various attacks and harassment directed at NGOs and human rights organisations, and has expressed grave concern about the well-founded state of fear that exists within civil society. Although adequate investigation could reveal a wide range of causes, there are indications that suggest systematic intimidation, which many of those affected, and in some cases the very authorities themselves, attribute to so far unidentified clandestine forces. Impunity is at the root of the spiral

of fear which runs through life in Guatemala.

## Accompaniments

At the beginning of July there was a confrontation at the Mocca estate where one person was killed and 38 injured. All of them are members of a community of *campesinos* affiliated to the Verapaz Union of Campesino Organisations (UVOC) whom we have been accompanying for over a year.

We are continuing the accompaniment with the **Organisation to support an Integrated Sexuality to Confront AIDS (OASIS)**, and organisation that defends an integral sexuality. The murder of trans-gender street worker Barbara in June this year, a friend of OASIS, has still not been investigated. This year's Gay Pride march, where we accompanied the aforementioned organisation, took the theme of mourning for the murders of many transgender and transsexual sex workers over the years. The murder of Barbara a week earlier added emphasis to this.

In July we accompanied **Carlos Guarquez** of the **Guatemalan Association of Indigenous Mayors and Authorities (AGAAI)** and **Fundamaya**, in the department of Huehuetenango, during the public consultations on the mining activities in the department. Approximately 27,000 people from 5 municipalities took part, clearly expressing their opposition to mining exploitation in the area (there were only 50 votes in favour).

Environmental issues continue to be a cause of grave concern. **The Madre Selva Collective** is an organisation which aims to protect "ecologically sensitive" areas and reserves, and is also one of the very few ecologically focused organisations in Guatemala which will speak out on these matters of national interest, thus laying themselves open to political risks. Among their most contentious areas of focus at the moment are open-cast



Erwin Orrego Borrayo, leader of the **Guatemalan National Front of Market and Informal Economy Vendors (FENVEMEGUA)**. Photo: PBI

mining and hydroelectric installations. **Madre Selva** is also defending the mangroves which extend down the Pacific coast from Mexico and are at risk of extinction because of the ever-growing sugar plantations and drug-trafficking. **Madre Selva** and its members have received various threats because of their work.

We continue to accompany the **Friends of Lake Izabal (ASALI)** whose headquarters are beside the largest lake in the country. The founder and legal representative, Eloyda Mejía, has received many threats for her work aiming to protect the lake and inform the surrounding population about the harmful effects of re-opening the local nickel mine owned by EXMIBAL.

We continue to accompany the **National Coordinator of Guatemalan Widows (CONAVIGUA)** and the **Country Workers Union (MTC)** that, on the 22 of August, celebrated the end of 6 years of conflict in the Clermont estate with the handing over of land to the workers.

We have intensified the accompaniment with the **National Co-ordinator of Inhabitants of**

## 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, lobbying (within and outside of Guatemala) and through flows of information:

- **The Coordinator of Widows of Guatemala, CONAVIGUA.** We carry out regular visits to their office and have also accompanied them during various exhumations.
- **The Union of Campesino Organisations of the Verapaces, UVOC.** We accompany several leaders of the UVOC, in particular **Carlos Morales**, since the 13<sup>th</sup> of May 2005, in the Verapaces and other parts of the country.
- **The Guatemalan Association of Indigenous Mayors and Authorities, AGAAI, and the Mayan Foundation, FUNDAMAYA.** We have periodically accompanied organisation leader **Carlos Guarquez** since January 2005.
- **The Guatemalan National Front of Market and Informal Economy Vendors, FENVEMEGUA.** We started accompanying **Erwin Estuardo Orrego Borrayo** immediately after he was released from a kidnapping on the 27<sup>th</sup> of July 2006.
- **The MadreSelva Collective.** We carry out regular visits to their office and accompany some of the activities throughout the country where members are seen to be at greater risk.
- **The National Coordination of Residents of Marginal Areas in Guatemala, CONAPAMG.** We accompany CONAPAMG since the end of 2005 due to the intimidations and threats received, especially since the murder of one of the leaders **Carmen Sagastume**.
- **The Movement of Campesino Workers, MTC.** We started accompanying the organisation in November 2005. We carry out regular visits to their headquarters in San Marcos and accompany some of the movement's leaders who have received threats because of their work.
- **Organisation to Support an Integrated Sexuality to Confront AIDS, OASIS.** Since March we accompany the organisation with regular visits to their office. In particular we accompany **Zulma**, witness to the murder of another transgender person, a crime allegedly committed by members of the National Civil Police.
- **Women's Sector.** In June 2006 we began to accompany members of the organisation working in the capital after they were victims of two unlawful entries into their office. Since then we have made regular visits to their workplace and also accompanied them to various meetings with authorities.
- **The Association of Friends of Lake Izabal (ASALI).** We continue to accompany the association's legal representative, **Eloyda Mejía**, as well as other members of the organisation, during their activities in El Estor and the Department of Izabal.

**Marginal Areas (CONAPAMG)** following the murder of **Carmen Sagastume Palme**, one of the organisation's leaders, in August 2006.

## Observation

The situation of the *campesinos* evicted from the Nueva Linda estate in August 2004 is very worrying. There are still approximately 50 families living in unbearable conditions by the side of the road in front of the estate, where they have been since August 2004. The **Committee for Campesino Development (CODECA)**, which accompanies these evicted families, organised a peace camp for justice and dignity with these families, in the main square in front of the presidential palace. We visited the camp regularly during the 17 days that they endured heavy rain and cold in provisional tents.

## European Delegation visits Guatemala

From the 21<sup>st</sup> to the 27<sup>th</sup> of May 2006, a delegation from several European countries came to Guatemala to learn about the human rights defenders situation. This was organised by the Guatemalan Peace Brigades project. Amongst the participants figured a lawyer, three journalists, a senator, a Spanish town councillor and a member of the European parliament, coming from Spain, Germany, Ireland and Belgium. Their agenda included meetings with a wide range of people, social organisations, national government departments and international authorities, including Guatemalan government vice-ministers, the diplomatic corps, indigenous leaders and activists from different human rights organisations which we accompany. At the end of the visit one of the delegates made

the following comment:

*"...my understanding is much deeper now. About the Guatemalan situation in general and the human rights defenders in particular, I feel that these 5 days gave us, if not a complete panorama, at least a very wide one."*

## PBI Guatemala Project Committee Meeting

Every 6 months the project committee meets with the team of international volunteers to evaluate, follow up and plan the work of the project. During their stay this July, the committee members also met with various national and international authorities and met representatives from OASIS and the Women's Sector. **Maria Gabriela Serra**, project assistant, facilitated several workshops for the team in Guatemala.

**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 PBI office was opened in April 2003.



**Members of the team in Guatemala with project advisor María Gabriela Serra (top right), and project committee member Tara Ward (centre in black). Photo: PBI**

**Team in September 2006**

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