

# **Trial for Genocide: The right to truth and justice for the victims, families and survivors.** Pages. 2 - 4



March in solidarity with the Ixil people. Nebaj, El Quiche, May, 2013.

Photo: PBI 2013.



Photo: PBI 2010

**Peten: population displacement and the expulsion of communities from their land**  
Pages. 5 - 7



Photo: PBI 2013

**News of Our Work**  
Pages. 8 - 11

# Trial for Genocide: The right to truth and justice for the victims, families and survivors.



Photo: PBI 2013

The first tribunal A of high risk, hearing during the genocide trial. City of Guatemala, Guatemala, April, 2013.

## Testimonies of human rights violations in the Ixil region

The judge asked if he knew the accused. The young man responded, "I do now, but back then I didn't, because I was a child." On March 21<sup>st</sup>, 2013, Francisco Chávez Raymundo, born on February 25<sup>th</sup>, 1976 in the village of Xoloché in the municipality of Nebaj (Quiché), gave his testimony to the justice tribunal in Guatemala, about the massacre that his community suffered on May 3<sup>rd</sup>, 1982. At the time, he was just six years old. After the massacre he was taken to a military base with his four year old brother, and later to an orphanage. Five years later their mother found them. Their father remains missing.

83 year old Diego Ceto Santiago<sup>1</sup>, a self-subsistence farmer, says he doesn't recognize "their faces" (referring to the accused). On April 15<sup>th</sup>, 1982 the army came to La Perla estate where they took people from their community, Chapyac (Nebaj). He was able to escape and take refuge in the mountains. On returning to the community, he found his wife dead and his house burnt to the ground. The army later detained him in a concentration camp for

the indigenous population, where he was forced to join the ranks of the Civil Defense Patrols (PAC). On April 8<sup>th</sup>, 1983 the army killed his 17 year old son. Margarita Raymundo Meléndez, 52 years old<sup>2</sup>, recalled how on November 15<sup>th</sup>, 1982, soldiers killed her husband Sebastián Terraza Marcos in the village of Sajsibán (Nebaj), along with three other people. She fled to the mountains and suffered the loss of her 8- month old son during the journey. She remained in the mountains for a year despite army bombings in the area. She survived by concealing any trace and hiding in trees.

"Were you able to denounce these events in 1982, 1983?" 67-year old Andrés Láinez Chávez<sup>3</sup> was asked. "No. Now, at this time, yes, now it's possible", replied the witness. She recounted what happened on March 25<sup>th</sup>, 1982 in the village of Tzalbal (Nebaj). The army launched bombs against the population, set a house on fire and killed its inhabitants and hid bombs in the cornfield. 35 people were killed in this massacre, seven of them from one family. This is a small sample of the testimonials presented during the oral debate stage of the Genocide trial that took place between March 19<sup>th</sup> and May 10<sup>th</sup>, 2013 in Guatemala.

## The Genocide Trial<sup>4</sup>

On January 28<sup>th</sup> of 2013, Judge Miguel Ángel Gálvez opened the trial for war crimes and crimes against humanity committed against the Ixil population in Guatemala. The accused were José Efraín Ríos Montt, ex head of state in Guatemala from March 23<sup>rd</sup>, 1982 to August 8<sup>th</sup>, 1983, and José Mauricio Rodríguez Sánchez, who between March 23<sup>rd</sup>, 1982 and July 31<sup>st</sup>, 1983 was head of the Second Section of the Army High Command (later High Command of National Defence), in charge of military intelligence. On March 19<sup>th</sup>, 2013, the oral debate part of the trial began in the Supreme Court of Justice in Guatemala. The First Tribunal A of High Risk, charged with the case, was presided over by Judge Yassmín Barrios as well as Judge Pablo Xitumul and Judge Patricia Bustamante<sup>5</sup>. The Association for Justice and Reconciliation (AJR), represented by the lawyers Edgar Pérez Archila and Santiago Choc Coc from the Human Rights Lawyers Office, and the Centre for Legal Action on Human Rights (CALDH) was represented by lawyers Héctor Reyes y Francisco Vívar, plaintiffs in the legal process.

1 Declaration N° 2, public hearing 20.03.2013.

2 Declaration, public hearing 01.04.2013.

3 Declaration N°4, public hearing, 22.03.2013.

4 The crime of Genocide (article 376) and crimes against humanity (article 378) are described in chapter IV "of crimes of international importance", of the Guatemalan Criminal Code. Details of the accusations for the crime of genocide: PBI Guatemala, "Judicial processes open against ex head of State and Guatemalan military high command accused of genocide and crimes against humanity", Bulletin N° 27, Guatemala, 2012.

5 On June 28<sup>th</sup>, 2013, the Inter American Commission on Human Rights (IACHR), awarded protective measures in favour of these three people as a result of threats and harassment they had received due to their participation in the trial. <https://cejil.org/categoria/pais/guatemala>

The defense of Rodríguez Sánchez was taken on by four lawyers (Moisés Galindo Ruiz, César Calderón de León, Francisco Palomo Tejeda and Haroldo Ramírez Vásquez). The lawyers Francisco García Gudiel, Danilo Rodríguez Gálvez and Marco Antonio Cornejo Marroquín, defended Ríos Montt. The first complaint filed against the accused, and others accused at that time, had been presented in 1999 in the municipality of Santa María Nebaj (Quiché). 14 years on, and more than 100 people testified in a Guatemalan judicial process for the first time. They testified as survivors and witnesses to the massacres committed by the army in the municipalities of Santa María Nebaj, San Juan Cotzal and San Gaspar Chajul (Quiché), where the population is mostly indigenous Mayan Ixil. Amongst them, on April 2<sup>nd</sup> twelve women testified. They had been victims of grave human rights violations, including sexual violence carried out by the armed forces<sup>6</sup>. According to information provided during the trial, it is estimated that approximately 1,771 people were killed, disappeared or massacred in these municipalities. Up to now, the remains of 249 people have been excavated. 179 of them have been identified.

More than 50 expert witnesses were called to the trial. They were experts in different fields, including sociology, genetic and forensic anthropology, international humanitarian law and human rights and the analysis of army operations and structures, amongst others. The Public Ministry (PM) was represented by the public prosecutor Orlando Salvador López, presented the accusation and also provided documentary evidence from the army. These included the plans "Victoria 82", "Firmeza 83", and Operation "Sofía" and the "Counter subversive War Manual".

The development of the trial was marked by its intense and crowded hearings. Its impact was noted not only in the judicial arena, but also at a social and political level. This was seen by the declaration of a former Kaibil, a soldier of the special forces of the Guatemalan military, on April 4<sup>th</sup>, who identified the current president Otto Pérez Molina of having been part of the military structure of Quiché in the period during which the acts on trial occurred. Through an official response, the President refuted this declaration and warned that the trial was putting peace at risk in the country<sup>7</sup>. Later, on April 18<sup>th</sup>, the trial was suspended for several days due to a resolution by the judge Carol Patricia Flores related to a legal recourse placed by the defence of one of the accused. The Public Ministry communicated that this resolution was illegal<sup>8</sup>. The trial resumed on April 30<sup>th</sup> and was able to conclude at the beginning

of May, in spite of the strategies employed by the representatives of the accused, identified by different sources as constituting malicious litigation, such as the constant and excessive interposition of legal recourse, of blocks and other types, before various courts. The International Jurists Commission (ICJ)<sup>9</sup>, the United Nations Office of the High Commissioner of Human Rights (OACNUDH), and the UN Working Group on forced or involuntary disappearances warned that the risks of the abuse of legal resources such as legal blocks would delay judicial processes. The experts indicated, "while the legal resources are legitimate part of human rights, their use shouldn't block the effective realisation of justice"<sup>10</sup>.

On May 10<sup>th</sup>, 2013 the tribunal passed the sentence: José Efraín Ríos Montt was declared responsible of committing genocide and crimes against humanity, condemning him to 30 and 50 years in prison respectively. José Mauricio Rodríguez Sánchez was acquitted on the basis of a witness testimony, Rodolfo Robles Espinoza indicated that in his role as director of intelligence of the army, the accused did not interfere or command operations in the field, nor was he responsible for these<sup>11</sup>. On May 20<sup>th</sup>, 2013 the Constitutional Court (CC) issued a ruling which left the decision in the genocide trial without effect, effectively rendering the sentence void<sup>12</sup>. The plaintiffs, lawyers and the prosecution that participated in the process have expressed their objection; considering that this has placed the trial in a legal limbo and resulted in a situation where justice for hundreds of victims, survivors and families of serious human rights violations was unjustly denied.

In a letter to the Guatemalan government authorities in June, 34 members of the European Parliament expressed their concern: "The trial itself is a testimony to the progress of the rule of law in Guatemala. But we express our dismay at the development of certain events. First, that the multitude of judicial decisions taken during the trial based on procedural errors leave the judgement in a legal limbo that could mean flagrant violation of the fundamental right of victims to obtain justice."<sup>13</sup> PBI observed this trial as part of the accompaniment provided since 2010 to the lawyer Edgar Pérez Archila. The observation of judicial hearings by various international or foreign actors present in Guatemala, or visiting the country, made clear the international community's interest in hearing trials that make accusations public for crimes that are deeply poignant and signify an important step forward not only for Guatemalan society, but for all of humanity.

6 Audio recordings of their testimonies: <http://www.plazapublica.com.gt/content/audios-del-genocidio-abuso-sexual>

7 Amongst other: Siglo 21, "Pérez views the Genocide trial as a danger to peace", Guatemala, 16.04.2013

<http://www.s21.com.gt/nacionales/2013/04/16/perez-coincide-que-juicio-genocidio-hace-peligro-paz>

8 Public Ministry (PM), "Today judge Carol Patricia Flores passed an illegal resolution", Press Release, Guatemala 18.04.2013 <http://www.mp.gob.gt/2013/04/el-dia-de-hoy-la-jueza-carol-patricia-flores-dicto-una-resolucion-ilegal/> The follow article is suggested reading "Todo anulado", published by Plaza Pública, which details the resolution of judge Flores: <http://www.plazapublica.com.gt/content/todo-anulado>

9 Report presented by Ramón Cadena Rámila, Director of IJC for Central America, to the Board of the College of Guatemalan Lawyers. Guatemala City, 08.05.2013

10 OACNUDH, "Without justice there can't be a just and enduring reconciliation", Press Release, Geneva, 18.04.2013.

11 Full sentence: <http://paraqueseconozca.blogspot.com>

12 Full resolution: <http://www.cc.gob.gt>

13 Letter written to the President of the Republic of Guatemala, the Ministry of Foreign Affairs and the General Prosecutor signed by 34 members of the European Parliament. Brussels, Belgium, 17.6.2013

### *Impact of the sentence: the right to truth and justice for the victims*

PBI observed all of the oral sessions and other hearings related to the process, and interviewed several members of the AJR to understand their experience and journey in the search for uncovering truth and justice. Benjamín Manuel Jerónimo is the legal representative of the AJR. In 1982, at the age of 27, he lost fourteen family members (wife, mother, brothers, grandmother, cousins, aunts and uncles) during the massacre in the village of Plan de Sánchez, Rabinal (Baja Verapaz)<sup>14</sup>. Benjamin Jerónimo as a survivor of these atrocities began seeking justice collectively with other members of his community. Currently, in the AJR this collective effort brings together hundreds of victims and survivors of the massacres that ravaged the Ixil region in 1982 and 1983. He described the start of this process and his experience of this in an interview with PBI on May 13, “we started coming to the capital, people from communities in five regions of the country, Huehuetenango, Chimaltenango, Nebaj, Ixcán and Rabinal – to also learn about the atrocities they suffered, which strengthened community organization. Then we took legal advice from CALDH; formed an association (AJR), and the board presented our collective grievances before the court.

Thus, we have waited a long time, we have given our time, often leaving behind our family, our work; because we know that it is important to know the truth”. He also explained to us that they filed the accusations for genocide in 2001, first against Lucas García, and then also against Ríos Montt. The Human Rights Office of the Archbishop of Guatemala (ODHAG) and CALDH respectively, have followed the course of each case. After many years of waiting, he expressed AJR’s satisfaction and pride with the judicial sentencing issued on 10 May, 2013. They understand this is an achievement of the collective work of justice and seeking the truth about the grave human rights violations committed by the army. He lamented, however, that the responsibility of one of the defendants had not been proven in court. There is no question about the importance of this sentence in validating so many people’s testimonies about heinous crimes, and in ensuring the victims’ rights to truth and justice. In addition, Benjamin Jerome also referred to its positive impact in terms of constructing the collective historical memory, as well as lessons learnt as much for others around the world as for Guatemala, to ensure that similar events never happen again: “(...) for me, the judgement means to leave a history for our children and grandchildren, the next generation - and if it is upheld and confirmed, will also be a precedent for the people of Guatemala, to never commit acts such as those that we and our communities

suffered.” On May 10, minutes before the court would read the summary of its decision, PBI talked with Antonio Cabá Cabá, Lucia Cedillo Cedillo, and Maria Raymundo Brito, AJR members. Lucia was born in Nebaj 32 years ago; through her mother she has learnt the story of her father, who is missing. María gave testimony during the trial, describing how from mid-January 1982 twelve families fled their village, beginning a journey of survival in the mountains of the region in which she saw several children die of starvation; while army troops were continuously pursuing them. Antonio, from Ixmiquilte, municipality of Nebaj, participated as plaintiff before the Spanish National Court, testifying in Madrid (Spain) in 2008, following the case filed by Rigoberta Menchú Tum Foundation. On the 21<sup>st</sup> and 22<sup>nd</sup> of June, a month after the sentence was left without effect, events were held in Nebaj commemorating the day of the “Dignity of Ixil people”. Social organisations and human rights organisations from around the country were present to show support and solidarity. During this commemoration, CALDH and AJR presented the sentence issued on May 10<sup>th</sup>, 2013 to authorities and community representatives of Nebaj, Chajul and Cotzal. In this space, the fact that the judgement has been left without effect has been interpreted as a way to deligitimize the words and experiences of those who testified at the trial; like a denial - by the system of the administration of justice itself, - of the victims’, survivors’ and their families’ right to truth and justice. In essence, as a sign of continued impunity, which makes the foundations on which to build the rule of law even more fragile.



Photo: PBI 2013

**March in solidarity with the Ixil people. Nebaj, El Quiché, May, 2013.**

<sup>14</sup> On 18 July 1982, the Guatemalan army and the PAC stormed the village of Plan de Sánchez and killed more than 250 Mayan Achi people. They carried out sexual violence against the women and tortured the men. On April 19, 2004 the Interamerican Court of Human Rights ordered that, in relation to the massacre of Plan de Sánchez, the Guatemalan government recognise their international responsibility for the violation of human rights and investigate and discover the truth and bring justice for the events that occurred in this village ([http://www.corteidh.or.cr/docs/casos/articulos/seriec\\_105\\_esp.pdf](http://www.corteidh.or.cr/docs/casos/articulos/seriec_105_esp.pdf)). On March 14, 2012 the legal debate commenced before a Guatemalan tribunal against four ex members of the PAC and an ex-military commissioner, accused of murder and crimes against humanity. They were found guilty and sentenced to prison on March 20, 2012.

# Peten: population displacement and the expulsion of communities from their land

Different communities from the various municipalities in the province of Peten outlined in a manifesto in 2012 their proposals and collective demands regarding the problems that have affected them for decades: population displacement and the expulsion of communities from their land. Avoiding the forced eviction of communities and promoting alternatives to resolve conflicts and problems related to the land remain central issues within the communities whose populations have in many cases already experienced displacements for a variety of reasons. At the end of the first semester of 2013, after PBI's visit to the province of Peten (December 2012), the organization remains concerned for the vulnerable situation of the communities that have already suffered evictions or live in the fear of being evicted from their land in the west of the province. Various sources consulted during the visit stated that although evictions were stopped after the community of Nueva Esperanza in the National Park Sierra Lacandon (PSNL) was forced from their land in August of 2011, many are still concerned about the possible reactivation of this process with eviction orders that have remained dormant. In the last few years, PBI has followed the situation of the communities in the municipalities of San Andres, La Libertad and Las Cruces in Peten. After these events we have carried out various trips to visit the region and have met with delegates of the communities of La Libertad and San Andres. We have also met with local and regional authorities, local organizations and members of the church. The result of this work was published by PBI in the 2012 bulletin about Peten. The last visit was realized in December 2012 and was focused on following up on the situation of various communities in risk of eviction in the west of Peten<sup>1</sup>.

## Some context about the events leading up to the displacement of the population

The massive colonization of Peten beginning in the mid-20th century by rural populations from around the country can be attributed to a range of factors, characterised by a few common elements: the unequal distribution of land; restrictions in access to land which leads to the social exclusion of the rural population and the indigenous communities; the lack of interest

from the government in these problems and in proposals that seek to ratify the right to land and advance in overcoming the problems that face the indigenous and rural population; and the experiences of collective resistance confronting the continual exclusion from access to land and other related rights such as food and housing. The armed internal conflict and its consequences, in particular violence and impunity, have been central factors in the displacements in Peten and influence those who affect the province. By the end of the 19<sup>th</sup> century, Peten had begun to receive the population Maya Q'eqchi' that had migrated from Alta Verapaz. At the start of the 20<sup>th</sup> century the rubber plantations had become permanent settlements, but it was not until the second part of the century that a massive migration began to arrive in the province, linked to the lack of land and poverty of the Guatemalan rural population<sup>2</sup>. According to various sources, the company Fomento y Desarrollo del Petén (FYDEP), created in 1959, was implemented by the governments of the 70<sup>s</sup> and 80<sup>s</sup> to promote the official project of colonization in diverse regions of the country, including Peten. This contributed critically to the spontaneous migration, excessive disorganization of the country and the accumulation of land in hands of certain sectors and the army<sup>3</sup>. At the same time, part of the rural population that returned to the country after seeking refuge in Mexico in the 80<sup>s</sup> settled in Peten as they were not able to return to their original communities, sometimes because they found that other people had taken their land while they had been displaced<sup>4</sup>.

At the moment Peten remains a territory with many transit points and migrations within and around the department. One of the factors that coincides with the internal migration in Peten is the tension in the land market that frequently favours the sale of land to large agricultural companies over small land owners<sup>5</sup>. In 2008, a study published in the magazine *El Observador*, documented that the expansion of monoculture plantations in the south of Peten, above all african oil palm, has provoked the progressive displacement of the local communities towards protected areas, particularly the national parks Laguna del Tigre and Sierra del Lacandon which are the only forested areas left in the region<sup>6</sup>.

1 PBI Guatemala, "Petén: The Invisible communities. Communities of the Sierra del Lacandón, ruta Bethel, Naranjo and la Laguna del Tigre demand the compliance of human rights and attention to the land problema", Guatemala, July 2010 - December 2011. [http://www.pbi-guatemala.org/fileadmin/user\\_files/projects/guatemala/files/spanish/PBI\\_Guatemala\\_Boletin\\_especial\\_2012\\_Peten.pdf](http://www.pbi-guatemala.org/fileadmin/user_files/projects/guatemala/files/spanish/PBI_Guatemala_Boletin_especial_2012_Peten.pdf)

2 Hurtado Paz y Paz, M.: "Petén. ¿La última frontera? Construcción social de una región", Guatemala, 2010.

3 Grünberg, J. (et. al.): *Tierra e Igualdad. Desafíos para la Administración de Tierras en Petén*, Guatemala, 2012.

PBI has written about this topic in other publications: Cit. PBI Guatemala, July 2010 – December 2011, and PBI Guatemala, "La Franja Transversal del Norte: territorio en disputa", Bulletin N° 26, Guatemala, 2012, [http://www.pbi-guatemala.org/fileadmin/user\\_files/projects/guatemala/files/spanish/PBI\\_Guatemala\\_Boletin\\_26.pdf](http://www.pbi-guatemala.org/fileadmin/user_files/projects/guatemala/files/spanish/PBI_Guatemala_Boletin_26.pdf)

4 Op Cit., Hurtado Paz y Paz.

5 Op Cit. Grünberg (et. al.)

6 Chan, R.M., "Territorio en disputa. Relaciones de poder entre el desarrollo y la conservación en el departamento de Petén", *El Observador*, No. 16, Guatemala, 2008



Photo: PBI 2010

Community in 'la Ruta Naranja', La Libertad, Petén, October, 2010.

### *Vindication of the communities in the west of Peten*

Over the last few years the communities of Laguna del Tigre, Sierra del Lacando, Ruta Bethel and Ruta Naranja from the municipalities of La Libertad and San Andrés have begun a process of organization and mobilization and are now speaking out publicly about the vulnerable situation they are living. In September 2010, after the extension of the contract for the company PERENCO to extract oil in the middle of the nucleus zone of the protected area of the national park of Laguna del Tigre brought about the militarization of the area and the eviction of communities established there. A delegation of communities of the region arrived in the capital to present their proposals and demands to the Congress of the Republic, as well as human rights organizations and international entities<sup>7</sup>.

Two months later in November, representatives of the office of the high commissioner of the United Nations for human rights in Guatemala and the International Commission of lawyers (CIJ) visited the province at the request of the com-

munities. The CIJ then followed this up by publishing in 2011 a press release expressing dismay at the eviction of the community La Nueva Esperanza from the PNLT and stated that "the Guatemalan state is carrying out a systematic policy of forced evictions in different regions of the country, violating the norms developed and outlined in the Basic Principles and Guidelines about evictions and the displacements generated by the United Nations. The majority of the evictions have been violent"<sup>8</sup>. In 2012 the CIJ also published a report about the access to justice in the communities La Libertad and San Andrés<sup>9</sup>.

In February 2012 the central demands detailed in the new community manifesto were to halt the evictions, cancel the megaprojects which were established without consulting the local communities and cease the repressive politics that effect the communities in the region<sup>10</sup>. In May and June of 2013 the same communities returned to bring to the attention of the institutions and public authorities their situation and their demands. Among other aspects they rejected the Agreements of Cooperation that the National Trust of Protected Areas (CONAP) had set out to negotiate with some communities. The communities understood that CONAP could not grant rights of property and/or possession to the communities, stating that "what it shows is that there is no interest in giving land to our communities and guaranteeing our security". Furthermore they denounced "the restriction of the rights to health care, education, housing, projects of infrastructure, the use of land, food and the systematic criminalization of our communities". They also criticized the role of the army in the zone: "on repeated occasions the military institution has disrupted the communities by threatening them, burning their houses, destroying their crops and killing their horses"<sup>11</sup>.

### *The situation of high vulnerability of the evicted communities: illustrative cases*

#### *La Nueva Esperanza*

The community La Nueva Esperanza was evicted on the 23<sup>rd</sup> of August, 2011 from the PNL. According to the information from the CONAP the community had settled in the park in 2003 before it was declared as a territory in the protected area. Before the eviction the governmental authorities accused the

7 Manifiesto de las comunidades del Petén, Guatemala, 10.09. 2010.

8 CIJ, "Statement from the CIJ about the eviction carried out in the state of Peten, community Nueva Esperanza, 23<sup>rd</sup> of August", 26.08.2011

9 CIJ, "Access to Justice. The case of communities from the counties of San Andrés and La Libertad, Petén", Guatemala, August 2012.

10 Manifiesto of the different communities of the state of Petén, Guatemala, February 2012.

11 Declaration of the communities from the región of Sierra Lacandón and Ruta Naranja, Guatemala, 10.06.2013. Manifiesto from the communities of Laguna del Tigre, Guatemala, 28.05.2013.

community of collaboration with drug cartels. CIJ publicly criticized the accusation considering that to direct this claim against the 300 evicted people was an illegal generalization used to justify a forced and violent eviction. They also expressed a profound concern that “it reminds us of the period of the armed internal conflict, when the Guatemalan army generalized in the same way that all rural communities were in collaboration with the guerrilla”<sup>12</sup>. This was the last eviction carried out by the Guatemalan state in the protected areas of Peten. The families that were evicted from La Nueva Esperanza fled to the Mexican border. The same day part of the community was evicted again, this time by the Mexican authorities at the start of 2012. Since the 22<sup>nd</sup> of January, 2012, while 55 families stayed on the Mexican border, 9 families found temporary refuge in the community center in San Benito<sup>13</sup>. We can confirm their precarious situation; they have worryingly little access to essential necessities, principally food and health care.

The particular situation of the displacements that this community has lived through, has been tackled in round table talks on a national level brought around by the participation of the Mexican state, public pressure and insistence from human rights organizations. Finally on the 28th of February 2013, the displaced families from La Nueva Esperanza, agreed to be resettled in two plots of land in the municipality of Flores, Peten<sup>14</sup>. The state has committed to giving them nutritional assistance in the first few months of their move. The completion of this promise, together with the guarantee of other essentials and basic services, like health care, sanitary systems and water should represent the priorities of the public institutions after the resettlement of the evicted population.

## Centro I

In December 2012 we also visited the provisional camp of 8 families from the community Centro I who were evicted from the PNSL in 2009. After the eviction, members of the community dispersed to different locations. The 8 families we visited had found refuge on the peripherals of the municipality La Libertad. We observed the lack of basic services in the make-shift houses constructed with materials recycled from wood and plastic. The families highlighted the lack of food and work and to this date their demand for alternative land to grow their crops has

not been attended – clearly impacting the modus vivendi of the community. The families with whom we met emphasized the total lack of support from the authorities. They commented that one of the obstacles they face is that even though they reside in La Libertad, this municipality passed on the responsibility of looking after the families to the municipality of Las Cruces which corresponds to the local jurisdiction of their community in the PNSL from which they were evicted<sup>15</sup>. According to the population, the eviction was accompanied by harsh accusation against the community, identifying them as an armed group involved in logging operations, from which claims no proof has been offered.



House made from corrugated iron and wood in a community in Petén. December, 2012.

Photo: PBI 2012

12 Cit., CIJ, 2011.

13 Una Misión de Observación Civil, conformada por organizaciones mexicanas de derechos humanos publicó dos informes, sobre las violaciones a los derechos humanos de la población comunitaria de La Nueva Esperanza, en Guatemala y en México: “La frontera olvidada”, de octubre de 2011) y “Los invisibles de la frontera olvidada”, de agosto de 2012. [www.redtdt.org.mx](http://www.redtdt.org.mx)

14 Prensa Libre, 1.3.2013

15 Meeting with members of the community Centro I, La Libertad, Petén, 19.12.2012

## News of Our Work

The PBI Guatemala Project carries out its work in the country based on three thematic approaches: The struggle against impunity, problems related to access to land and the negative effects of globalization on human rights. In past publications we have highlighted concerns about the security of the organizations we accompany in Guatemala and their members. We have recorded an increase in security related incidents throughout the first part of 2013.

Megaprojects and vast economic investments – privately promoted or public/private investments– directed at the exploitation of land or the natural resources they contain, continue to define the reality of many communities and social organizations that regularly organize themselves and demand human rights in Guatemala and at an international level. This includes the defence of economic, social and cultural rights (spanish acronym DESC) which can range from the right to water, land, food and healthcare.

In many cases they collectively demand the right to be informed, consulted and taken into account with regard to plans or projects that affect them. “The resistance of the people is legitimate, in order to guarantee the protection and defence of the rights and guaranties stated in the constitution”, says article 45 of Guatemala’s Constitution. However, recently the **criminalization of social protest** has been a central and constant concern for social organizations, communities and indigenous people dedicated to peacefully **defending their land, territory and natural resources**<sup>1</sup>.

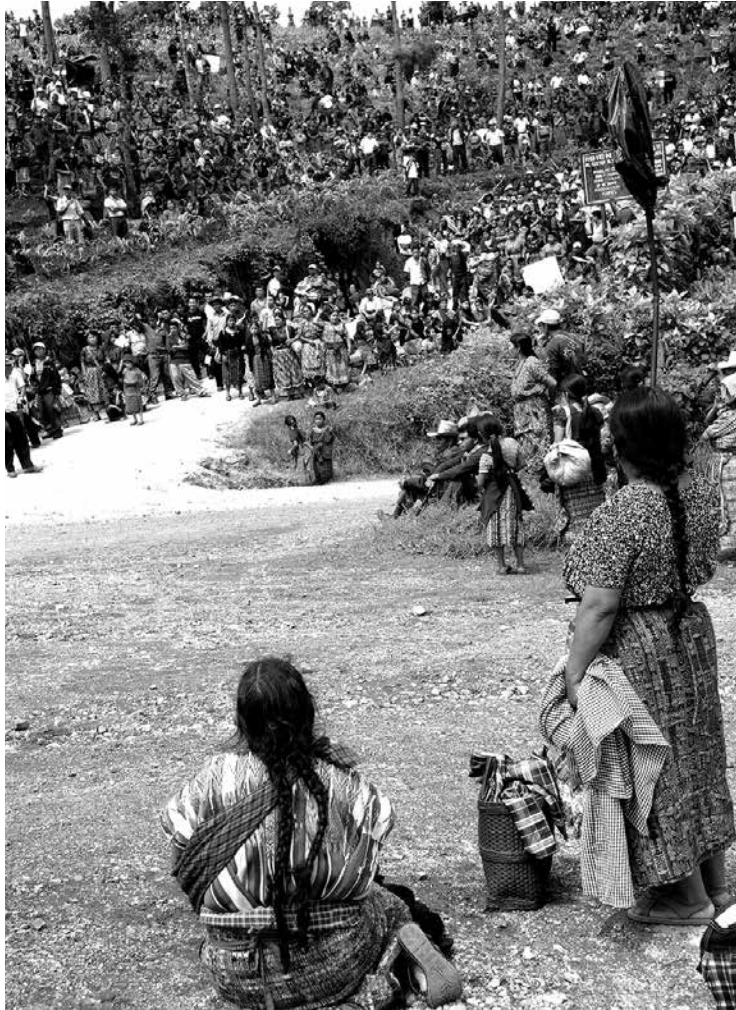


Photo: PBI 2013

**March by the twelve communities of Kakchiqueles in San Juan Sacatepéquez opposing the inauguration of the cement factory. San Juan Sacatepéquez. Guatemala, July, 2013.**

Tension and conflicts have characterized the last few months, especially in areas where private initiatives advanced without permission from the communities that are affected by them, while social demands and community proposals were ignored by public institutions. During the first part of the year in our work of international accompaniment and observation, we continued to identify **threats and serious attacks against human rights defenders** as part of the negative consequences of the aforementioned conflicts. These conflicts occur in diverse rural communities and social organizations and are particularly evident in a number of local contexts.

During the first part of 2013 the organization of the **12 Kakchiquel Communities of San Juan Sacatepéquez** have maintained their active resistance in the face of the re-opening of the cement project by the company Cemento Progreso S.A. which was announced

in an official inauguration ceremony. They have continued to demand that public institutions comply with the rights stated in the International Labour Organization convention N° 169 and Guatemalan law. In particular, they emphasise the fact that their opposition to the project was expressed collectively in the community consultation that took place 6 years ago in 2007.

At the end of January 2013, the arrival of machinery for the construction of a mechanical well in the community Las Trojes I increased concerns among the 12 communities of San Juan

<sup>1</sup> PBI Guatemala, “Forced evictions and economic investments without consultation: Concerns and requests directed at the international community for protection of human rights defenders in the context of land conflicts”, Guatemala, January 2013. PBI Guatemala, “ALERT: Increase in attacks on human rights defenders in Guatemala. Guatemala, May 2013.



Sacatepéquez. This led to protests on the 23<sup>rd</sup> and 24<sup>th</sup> of January as well as meetings with government institutions such as the mayor's office, the COPREDEH, PDH, MP and the governor of Guatemala. The tense atmosphere generated in the community finally manifested itself in various death-threats against human rights defenders. PBI carried on providing international presence in the area following petitions from community members who expressed their concern and proposed to resolve the situation through dialogue and denounced the threats they had received. We also observed a press conference on the 25<sup>th</sup> of January and 3 days later a mass protest in front of the cement plant. Weeks later, in March, it seemed as if the conflict had been resolved with the mayor's office and indigenous authorities signing an agreement that stated how the mechanical well project would be managed<sup>2</sup>.

On the 22<sup>nd</sup> of May we observed an activity in which 2,000 people opposed the inauguration of a highway which would connect the municipalities of Santo Domingo Xenacoj (in the province of Sacatepequez) and Pachalum (the province of Quiché), passing through various communities of San Juan Sacatepéquez. The local population consider this as an investment in which the interests of the cement company are prioritised over those of the local population. During this protest, the indigenous authorities of the 12 communities communicated to the President Otto Perez Molina, their concern over the lack of information and consultation of the communities who are affected by this project.

On the 22<sup>nd</sup> of June the 12 communities submitted an appeal to the constitutional court based on the International Labour Organisation convention N° 169 to stop the implementation of the project. On the 6<sup>th</sup> of July 3 members of the organization were detained after a protest march that took place the day before, in front of the cement plant, at the same time as activities to mark the inauguration of the project were taking place. The persons detained who formed part of the local indigenous authorities, had been brought in on charges that dated back to events in 2011<sup>3</sup>. Together with them, three further community leaders have received information that they too have arrest warrants pending against them. During the first 3 months of this year, the 12 communities of San Juan Sacatepequez and its members have denounced false rumours, death threats and criminalization of those who are defending the rights of indigenous people<sup>4</sup>.

In the east of the country, communities which form part of the **'Coordinadora Central Campesina Chortí Nuevo Día'**

(CCCCND), have also lived in an atmosphere of constant intimidation, threats, attacks and criminalization. This is related to their participation in the process of resistance against the hydroelectric project: "El Oregano" which is promoted by the company Las Tres Ninas S.A. en Jocotán, Chiquimula.

In this process the measuring and registering of land has been a central focus in the last few months, especially in the local context where the pressure has increased to acquire the land necessary for the implementation of the project "El Oregano". On the 8<sup>th</sup> of March, similar to what had happened last year (on the 19<sup>th</sup> of September 2012), an activity in which representatives of the Office for Land Registration (RIC) were to arrive in the Chorti community, Los Flores, was cancelled. The activity had been arranged in order to carry out a community consultation in the presence of the authorities. Even though the representatives of the RIC were absent on both occasions, increasing the conflict in the area, the community expressed its support with regards to the measurement of community land.



Photo: PBI 2013

**Maiz festival of pacific resistance of the territories in the community of Las Flores, Jocotan, Chiquimula, August, 2013.**

2 More information in the Monthly Information Packet (MIP) from PBI Guatemala, January to March 2013. No. 112 to 114. <http://www.pbi-guatemala.org/field-projects/pbi-guatemala/publications/monthly-information-package/?&L=0>

3 In October 2011 numerous communities participated in protest activities during various days at the access point to the estate Santa Fe Ocaña. By doing so they questioned the exploitation of timber and demanded a suspension of the licence issued for the felling of trees in the area as well as an investigation to determine its impact on environment. The owner of the estate brought charges against six people, accusing them of invading his property and causing injuries to his workers.

4 PBI Guatemala, "ALERT: Legal accusations, arrest warrants and detention of representatives of the Kaqchikel communities of San Juan Sacatepequez" Guatemala, July 2013.

On 8<sup>th</sup> March, Carlos Hernandez, a human rights defender in the same region, was assassinated in the state of Chiquimula. PBI accompanied him between 2009 and 2012 as a result of the threats that he and other members of the Association of Rural Workers of Camotán (ACC) received<sup>5</sup>. In the months after his death, 3 members of the CCCND received threats due to their activities. These included text messages that referred to the death of their colleague Carlos threatening similar consequences for them.

Between the 8<sup>th</sup> and 11<sup>th</sup> of May shocking events took place in the community Las Flores, which brought to the surface the consequences of the conflict in the communities which has been fueled by the El Oregano Project. The population of Los Flores was repeatedly targeted by people carrying firearms who have been linked with the hydroelectric company. As a result, one of the aggressors was detained by members of the community and handed over to the police who picked him up the following day but released him the same afternoon. Another of the attackers returned to the community on the 11<sup>th</sup> May and opened fire until he was injured by a machete and later died.

On the 19<sup>th</sup> of June in front of the offices of the MP of Chiquimula, four members of the Indigenous Council of Las Flores were detained by the police when they arrived to give evidence in a reconciliatory trial. After their first declaration, the judge opened charges against two of them and placed them under preventive arrest, accusing them of murder while the authorities investigated the case. Community authorities and the CCCND maintain that the accusation and detentions are part of a process of criminalization against community leaders that take part in the defence of the territory of indigenous people.

In the same context of the defence of DESC rights, in the east of the country we have closely followed the **informative processes and popular consultation** taking place in the **communities of San Rafael Las Flores (Santa Rosa)** in March and April. This consultation had been ongoing since the start of the year and was related to the mining Project, El Escobal. This is promoted by the company San Rafael S.A. which is affiliated with the Canadian mining project Tahoe Resources Inc.

The project has been able to go ahead thanks to a licence for exploitation which was approved in April by the Ministry of Energy and Mines (MEM) despite the results of a popular consultation that had taken place in various villages and in which more than 90% of the voters had rejected the project. As a form of protest the population has installed a permanent road block in front of the mine.



Photo: PBI 2013

Popular consultation in a community of San Rafael Las Flores.

Also in April, the communities and organizations that participate in the process of resistance in front of the mine denounced grave attacks and violence by the private security agents as well as a criminalization of members of the community.

As has occurred on many occasions before in similar contexts, the response by the state to the conflict in the region has been to declare a state of emergency. On the 9<sup>th</sup> of May the government declared states of emergency in the **municipalities of San Rafael Las Flores and Casillas (Santa Rosa), Jalapa and Mataquescuintla (Jalapa)** which limited the constitutional rights such as the right to hold large meetings and manifestations during various months. As such, the state of siege has temporally paralyzed the process of ongoing community consultation and limited other activities related to the defence of the natural resources that exists in the region.

<sup>5</sup> PBI Guatemala, "In reaction to the murder of CARLOS HERNÁNDEZ, human rights defender accompanied by PBI in recent years", Guatemala, 10.03.2013

During the state of emergency, on the 20<sup>th</sup> and 21<sup>st</sup> of May we accompanied members of the **Association of Indigenous Women of Santa María Xalapán (AMISMAXAJ)** in the Mountain of Santa María Xalapán, Mataquescuintla and San Rafael Las Flores in a visit that involved feminist organizations and women from all over the country. The activity sought to assess the situation of women, the violent illegal raids, political persecution and stigmatization of women actively defending their rights by army members<sup>6</sup>. 18 arrest warrants were issued, 6 of which were implemented while a further 12 are still pending.

PBI observed with concern how people interviewed during the Verification Commission spoke about the lack of evidence that was used to justify these arrests, highlighting in particular the case of Laura Vázquez Pineda, an activist that was involved in the resistance against the mining project in San Rafael Las Flores.

At a national level, we can highlight the tense atmosphere during the development of the **Genocide trial** against 2 high ranking army officials from the period 1982 - 1983 (an article

is included in this bulletin). During the trial we continued to accompany the **Guatemalan Human Rights Defenders Protection Unit (UDEFEQUA)** and their members who have been the target of intimidation and threats related to their work giving support and protection to the witnesses and organizations participating in the trials. On 18th April their office in Nebaj, El Quiché was raided.

Claudia Samayoa, coordinator of UDEFEGUA as well as the human rights lawyer Edgar Pérez Archilla, from the human rights lawyers office, form part of a large group of people and organizations that have been slandered in different publications over the last few months<sup>7</sup>. In reaction to the publications against them, on 22<sup>nd</sup> May we observed a public denouncement before the human rights ombudsman – Jorge León Duque – by the affected people and organisations

Apart from Edgar Pérez, we have begun to accompany **Santiago Choc Cu**, another of the lawyers from the same office who has also suffered intimidation due to his participation in the trial.

*The increase in legal prosecutions against activists that promote and defend human rights* – in particular those who work publically in the defence of land, territory and natural resources- has been worrying for PBI since the start of the year.

In the cases described there is a series of **clear similarities** that can also be seen in other cases in other regions of the country:

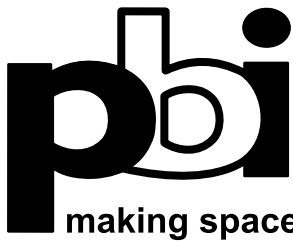
- The accusations tend to be formulated by members of the private sector with strong economic interests that focus their accusations on acts related to protest activities or pacific resistance organized by rural communities or social organizations.
- Arrest warrants sent out based on accusations of this type, are left open to be executed for years and are reactivated in strategic moments of social protest, representing a permanent threat to the security and liberty of numerous activists.
- The detained people, their communities and organizations often question the proceedings of the arrest. They demand respect for the established legal proceedings and criticize the use of excessive force in the execution of these arrests as well as the execution of arrest warrants when people come to public authorities to testify.
- In many of the cases, in the course of the judicial process in which these charges are brought forward there is an obvious lack of evidence.

All of this has negative impacts for the people, organizations and communities that confront these problematic situations: among others the limitation of their work and the spaces in which they can bring forward their demands is a strong concern.

This leaves people more exposed to acts of aggression and other types of attacks, favouring those that have tried to smear and weaken the collective initiatives of resistance.

<sup>6</sup> Various organizations, "Organizations of women and feminists, maya, mestiza and xinca: verification mission during the state of siege in the counties of Jalapa and Santa Rosa", Press release, 23.05.2013.

<sup>7</sup> Ibid., PBI Guatemala, May, 2013.



making space for peace

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

At the request of threatened social organizations, 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 organizations, unions, indigenous and campesino organizations, refugees and churches. In 1999, after an evaluation process, it was decided to close the project since the country had greatly advanced in the opening of space for the work of human rights organizations. Nevertheless, **PBI** continued attentive to the happenings in Guatemala through a follow-up committee.

From the middle of 2000, **PBI** began receiving a number of requests for international accompaniment. Due to these requests, **PBI** carried out an investigation in the field that made evident a turn in the direction and a losing of space for human rights defenders. In April of 2002, **PBI** decided to reopen the Guatemala Project in order to carry out international accompaniment and observation in coordination with other international accompaniment NGOs. In April 2003, the new **PBI** office was opened in Guatemala.

The accompaniments realized by **PBI** after receiving a petition by the Guatemalan organizations are focused in three areas: fighting impunity, right for land and negative effects of the economic globalization on human rights.

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# PEACE BRIGADES INTERNATIONAL GUATEMALA PROJECT

## Mission

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

## Objectives

1. To provide an international presence that contributes to the opening and protection of the political space of Guatemalan organizations that are working for an end to impunity, national reconciliation and compensation to the victims of human rights violations and the fulfillment of the commitments achieved through the Peace Accords.
2. To sensitize the international community to 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 sensitize the International Community to the need for creating and applying policies, tools, and mechanisms for the protection of human rights defenders.
4. To share experiences and tools with Guatemalan Organizations that help in achieving the general objectives of **PBI** in Guatemala.



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