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Legal Action Against Human Rights Defenders: Overview of the Current Context and its Consequences

Over the past several years, within the framework of its international accompaniment work, the PBI Guatemala Project has been concerned about the increasing number of human rights defenders linked to investigations and legal cases in which they are accused of participating in criminal activities.¹ This trend has been highlighted by organisations at the local and international level which have analysed these patterns and emphasised the negative consequences of these actions on the work of the accused human rights defenders. The present article aims to contribute to these efforts.

The situation described above is a source of concern for the international community. Several organisations have expressed concern within an international, regional and Guatemalan context. Margaret Sekaggya, the United Nations' Special Rapporteur on the situation of Human Rights Defenders, has pointed out that "some states tend to systematically invoke national security and public safety to restrict the scope of activities of defenders." As a result, many rights defenders are detained, which then contributes to their stigmatisation since the public perceives and characterizes them as trouble makers.²

In the regional setting, the Inter-American Commission on Human Rights (IACHR) has called attention to the "use of legal actions against defenders, including criminal or administrative investigations or actions that are pursued to harass and discredit them." The IACHR has noted the central role that the state plays in these types of actions: in some cases criminal accusations are used to restrict or limit the means by which human rights defenders carry out their work, while in other cases judicial proceedings are initiated against them, without the presentation of any evidence, in order to harass and force them to take on the psychological and financial burden of defending themselves.³

Within the Guatemalan context, in 2008 Hina Jilani, then United Nations Secretary General's Special Representative on Human Rights Defenders, pointed out the growing tendency towards the types of actions described above during her second visit to the country. She reported that "this phenomenon most affects defenders working on land rights, the environment, and the rights of indigenous peoples, whose enjoyment of those rights is perceived to interfere with strong economic interests."⁴ According to an investigation carried out by the Human Rights Defenders Protection Unit (UDEFEQUA), these actions against Guatemalan human rights defenders are carried out with the primary objective of weakening and paralysing their work. In a 2009 publication they noted the following: "A strategy against human rights defenders that has been on the increase in the past few years, especially in the context of the 'megaprojects', is that of 'criminalisation', which is different from the previous strategy of 'let's attack and kill those who oppose us'." The use of criminalisation manifests itself, according to UDEFEQUA, in the "arbitrary application of the law or in threats to apply the law".⁵

In line with one of the conclusions drawn by Sekaggya regarding the worldwide situation of human rights defenders in 2010, UDEFEQUA highlighted the key role played by authorities and public institutions as well as non-state actors in the criminalisation strategy.⁶ In addition, human rights representatives from eight Latin American countries (including Guatemala) who met in Bogotá, Colombia, in 2009, referred to the same strategy, concluding that "in Latin America criminalisation policies exist. These policies are understood to include the application of a group of strategies and both political and judicial actions by the government and/or powerful groups with the objective of placing communities, organisations and individuals who fight for the rights established in international and national norms in a position of illegitimacy or illegality."⁷

1 PBI Guatemala previously made note of this issue in an article entitled Criminalisation and the social movement, published in Bulletin 18 August 2009. http://www.pbi-guatemala.org/fil_eadmin/user_files/projects/guatemala/files/english/PBI_Guatemala_-_Bulletin_19.pdf

2 Sekaggya, M., OHCHR, 'Report of the Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya', Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development, A/HRC/13/22. 30 December 2009.

In the report, the Special Rapporteur noted: "In many countries, trade unionists, members of NGOs and social movements face repeated arrests and criminal proceedings for charges of 'forming criminal gangs', 'obstructing public roads', 'inciting crime', 'creating civil disobedience' or 'threatening the State security, public safety or the protection of health or morals'."

3 IACHR, 'Report on the situation of human rights defenders in the Americas', OEA/Ser.L/V/II.124. 7 March 2006

4 Jilani, H., OHCHR, 'Report of the Special Representative of the Secretary-General on the situation of human rights defenders, Hina Jilani', Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development, Addendum Mission to Guatemala, A/HRC/10/12/Add.3. 16 February 2009. In the same way, in 2010 UDEFEQUA concluded that "in the majority of cases, the criminalisation strategy is applied against collective efforts to defend human rights, including against entire communities that are embroiled in conflicts over land or employment rights in areas that have historically belonged to them but that were taken away and distributed to large landholders, as well as against indigenous communities or those who defend indigenous rights (...)". UDEFEQUA, Criminalización, una forma de paralizar y debilitar la respuesta social, Guatemala, 2010.

5 UDEFEQUA (2010), *Ibid.* UDEFEQUA, Protection International, - Aj Noj Protection Desk, Criminalización en contra de defensores y defensoras de derechos humanos – Reflexión sobre mecanismos de protección, Guatemala, 2009.

6 UDEFEQUA, 2010, *Ibid.* "Currently, it is not the government that is behind the criminalisation strategy as was the case during the civil war. Now the majority of the cases stem from Guatemalan and, even more so, transnational companies, landowners, and politicians, especially those at the local level. The state, however, via its institutions (...) lends itself to the criminalisation of the 'social struggle'." Sekaggya also said that, in the international context, "the Special Rapporteur is concerned at the large number of violations which appear to be perpetrated by agents or representatives of the State, including police officers, military, Government officials and the judiciary. These violations reportedly include arrests, mistreatment, torture, criminalization, wrongful sentencing but also stigmatization, threats, death threats and killings." Sekaggya, M., OHCHR, 'Report of the Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya', Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development, A/HRC/16/44. 20 December 2010.

7 Diakonie and others, La criminalización de la protesta social y de organizaciones no-gubernamentales en América Latina. Tendencias y experiencias de procesos organizativos, 'press release' signed by 25 organisations from Guatemala, Colombia, Mexico, Brazil, Nicaragua, Peru, Paraguay and Bolivia. Bogotá (Colombia), 4 March 2009.

In this regard, the Office of the United Nations High Commissioner for Human Rights (OHCHR) in Guatemala has noted that it has “received information alleging the acquiescence or complicity of local authorities in some case of discrediting of, threats and legal action against, and even the murder of defenders. It is of concern that investigations into such serious allegations have not yet yielded results.”⁸ In addition, James Anaya, the Special Rapporteur on the Rights of Indigenous People, during his last visit to Guatemala in 2010 drew attention to the characteristic swiftness of the legal actions initiated against human rights defenders in comparison with the lack of response given to demands presented by communities whose rights have been violated. Anaya concluded that this could be interpreted as a form of discrimination in access to justice.⁹ Hina Jilani has expressed her disappointment and concern after confirming the “ongoing stigmatization and criminalization of defenders (by) some sectors of the political establishment and the media (...) By taking away credibility and legitimacy from the work of defenders, the open or subtle hostility of some politicians and some media makes them more vulnerable to attacks.”¹⁰

PBI Guatemala noted several cases in which legal action has been initiated against individuals that the organisation has accompanied for years.¹¹ The following is a description of two such cases that illustrate features of the context and consequences of these types of actions. In both cases, the accusations were very serious in nature, directly affecting a total of 10 individuals. The charges were eventually dropped after several months due to lack of evidence.

Legal Action against Jorge Luis López Sologaitoa, director of the Organisation to Support an Integrated Sexuality to Confront AIDS, OASIS (2009)

People/organisations accused: Jorge Luis López Sologaitoa, Director of OASIS. Issues/communities/location of work: AIDS prevention and education; promotion and protection of the rights of gay, lesbian, bisexual, transgender and other communities of diverse sexuality, Guatemala City. Duration of the Legal Action: 11 months. Legal action/accusations/hearings/dates:

-4th of November 2008: arrest warrant issued for alleged participation in the attempted murder of a sex worker. Warrant is not executed.

- 23rd of January 2009: voluntary appearance before a judge who

determines that the accusation against López is unfounded but that he should still be linked to the case in order to investigate possible participation in a cover up. The judge rules that López should be placed under house arrest without a guard for a period of six months and must appear before the judge every 30 days as a substitute for being placed in custody.

- 28th of September 2009: López’s second hearing before the judge

- 29th of September 2009: the judge publicises his ruling, dismissing the case against Jorge López and declaring the case brought against him by the Public Prosecutor’s Office inadmissible. The judge also determines that the provisional “measures of constraint” are to be removed.

Final Judicial Ruling: Dismissal

Key Actors: First Instance Criminal Court, Public Prosecutor’s Office
Public announcements before, during or after the judicial process/
Actors/Media: Yes. The prosecutor in charge of the case made statements after Jorge López’s first appearance in court, pointing to his responsibility in the crime for which he was accused. Those



Photo: PBI 2011

Jorge López, director of OASIS, with PBI volunteers in Guatemala City in April 2011.

8 OHCHR, 'Report of the United Nations High Commissioner for Human Rights on the activities of her office in Guatemala', A/HRC/16/20/Add.1. 26 January 2011.

9 Anaya, J., OHCHR, "Informe del Relator Especial de Naciones Unidas sobre los derechos de los pueblos indígenas", Promoción y protección de todos los derechos humanos, civiles, políticos, económicos, sociales y culturales. Inclusión del derecho al desarrollo, Adición Observaciones sobre la situación de los derechos de los pueblos indígenas de Guatemala en relación con los proyectos extractivos, y otro tipo de proyectos, en sus territorios tradicionales, Advanced unedited versión, Spanish only, A/HRC/16/xx. 4 March.2011.

10 Jilani, H., (2010), Ibid.

11 Other PBI projects in the region, such as those in Colombia and Mexico, have noted similar trends with respect to legal action initiated against human rights defenders they are accompanying, save for certain elements which are specific to the local context.

statements were published by the press during the investigation phase.¹²

Presence of local and international observers at hearings: Yes. Members of Guatemalan human rights organisations, international NGOs and other international bodies.

*Conclusions and consequences highlighted by Jorge López:*¹³

1. Unjustified use of accusations to stall or put an end to López's work and that of OASIS.
2. Work impeded and communities affected: the work of accompanying and supporting the LGBT community came to a halt. During the entire process, the organisation was completely occupied in mounting its director's defence.
3. Negative repercussions for the public image and credibility of OASIS and its director, which limited possible sources for financing. This weakened the ability of the organisation to carry out its work. These types of effects can ultimately lead to a complete paralysis of the organisation and its work.
4. Fear, psychological pressures and other emotional effect: "I stayed in the office for 58 days and nights without leaving. I was afraid that if I left they would arrest me and I figured that mounting a defence would be much more difficult from prison. I was afraid they would kill me in prison, so I opted for staying at my office."
5. Economic effects: lawyer's fees and the cost of increasing security measures at the OASIS office, which, in this case, were defrayed by funds provided for that purpose by the international community upon requests from the organisation. The financial situation of the organisation was also affected by the fact that it was forced to focus its efforts on López's defence.

Legal Action against members of the Association for the Protection of Las Granadillas Mountain, APMG (2009 and 2010)

People/organisations accused: In 2009, three people were accused. In 2010, eight people were summoned in relation to a different case, among them members of the APMG and the Lutheran Church in Guatemala (ILUGUA). Lutheran pastor José Pilar Álvarez Cabrera was linked to both cases. Issues/communities/departments of work: Advocacy for the protection of the water resources and, in general, the environmental well-being of the Las Granadillas mountain area; social auditing of the exploitation of the mountain's natural resources, including logging by private landowners on the mountain; protests against logging, the planting of monoculture crops and areas used for livestock. La Trementina, Las Granadillas mountain, department of Zacapa.

Duration of the Legal Action: Four weeks in 2009, five and half months in 2010.

Legal action/accusations/hearings/dates:

- 14th of January 2009: arrest warrants issued against three APMG members accused of "coercion", "incitement to crime" and "disturbance of private property".
- 25th of January 2009: Officers from the National Civil Police's (PNC) Criminal Investigations Division (DINC) detain Reverend José Pilar Álvarez Cabrera in Zacapa.
- 26th of January 2009: Álvarez provides a statement before a judge, who orders the Public Prosecutor's Office to conduct an investigation. Rather than being placed in custody, the judge issues an order for Álvarez to remain under unguarded house arrest. He is told to appear before the judge every 15 days and is prohibited from leaving the country without prior authorization. In addition, he is banned from entering the Las Granadillas mountain area, which is his area of work.
- 6th of February 2009: The three members of the APMG appear before the judge, who determines that there is no evidence linking them to the crimes of which they have been accused. The judge also issues an order for the restrictions on Álvarez to be lifted and closes the case.
- 29th of November 2010: Álvarez and seven other APMG and ILUGUA members receive a summons based on a new legal action against them in which they are accused of "illegal detentions", "threats" and "psychological abuse".
- 13th of April 2011: first hearing in the case after being postponed twice previously. The judge criticises the public prosecutor for having implicated the individuals in question in the commission of a crime without having carried out a proper investigation beforehand. He decides that the case lacks merit and he rules it closed.

Final Judicial Ruling: Dismissal, case lacks merit and is closed both in 2009 and 2010.

Key Actors: Zacapa First Instance Criminal, Drug-trafficking and Crimes against the Environment Unit, Public Prosecutor's Office, the PNC's DINC, several private landowners from the Las Granadillas mountain area as plaintiffs.

Public announcements before, during or after the judicial process / Actors / Media: Yes. Noted in an Internet forum in a local, digital media outlet that included commentaries discrediting and defaming the APMG and José Pilar Álvarez Cabrera.¹⁴ In addition, before, during and after the hearings, the APMG has reported that its members have been followed, rumours have been circulated about

¹² Castillo Zamora, Juan M., "Travestis piden protección al MP", El Periódico, Guatemala 30 January 2009. "Claudia Muñoz, fiscal a cargo del caso, indica que este último [Jorge López] transportó a los agresores [...] en su vehículo a la 11 calle y 2a. avenida de la zona 1 donde ocurrieron los hechos". <http://www.elperiodico.com.gt/es/20090130/pais/88911/>

¹³ PBI interview with Jorge López, 14 February 2011. Conclusions and consequences drawn from the interview.

¹⁴ The forum appeared under the title "Lanza una bomba lacrimógena, a excursionistas, hay seis niños afectados", and the final fórum entry was posted on 28 September 2010.

the association's directors, warnings have surfaced referring to work organised by the communities from the La Trementina area and Álvarez has received death threats. Presence of local and international observers at hearings: Yes. Members of Guatemalan human rights organisations, international NGOs and other international bodies.

*Conclusions and consequences highlighted by José Pilar Álvarez Cabrera:*¹⁵

1. Physical, psychological and economic impacts: after his detention Álvarez was hospitalised as his health had been negatively affected by his time in detention.

2. Impacts on organisational work: "Even within the organisation internally we have been affected because we have found it necessary to stop and reflect, in order to rethink our mission, vision and the organisation's strategic programmes. There were so many attacks that we needed to reorient ourselves, reassessing and deciding what direction the organisation's work should take. We realised that we are on the right path. The work of accompanying 'campesino' and indigenous communities who are calling for their rights to be respected is necessary and must continue."

3. Communities affected: La Trementina, department of Zacapa.

4. There is a fear of being the target of yet more legal processes or accusations if the work is continued.

5. The discrediting of and defamatory remarks against the people named in the legal action has had repercussions for their freedom to carry out their work. The restrictions caused by this can eventually affect their ability to continue their work in defending and promoting human rights.

6. The legal action has caused social fragmentation and has harmed the reputation of the communities that organised to defend the Las Granadillas mountain area's natural resources.

Even though these cases concluded with final judicial rulings in favour of the human rights defenders in question, the individuals and organisation affected say that there were still serious consequences for them and the communities they support and accompany. In both cases one of the conclusions of the UDEFEGUA study held true: "In the majority of the cases, the accusations are never proven in court, indeed the cases often never even make it to court but rather are dismissed or provisionally closed or shelved. Nevertheless, for the individuals affected, just the fact that they have been accused of a crime means that they have to leave their work and bear the economic consequences of the travel required to defend themselves

plus lawyers' fees, and there is a huge psychological burden that comes with being accused of a crime."¹⁶

In this context, the OHCHR reminded the Guatemalan state of its responsibility to protect human rights defenders, calling on the government to strengthen its efforts to provide this protection and support the crucial role these individuals and organisations play in democratic functioning and respect for the rule of law.¹⁷ It is also worth noting the opinion of the IACHR in its analysis of the situation of human rights defenders at the regional level: "The Commission wishes to reiterate that the most effective way to protect human rights defenders in the hemisphere is by effectively investigating the acts of violence against them, and punishing the persons responsible. In the region of the Americas, one of the great problems affecting human rights defenders is the failure to investigate the attacks to which they are subjected, which has accentuated their vulnerability. This is especially relevant when it comes to protecting the right to life and personal integrity."¹⁸



Photo: PBI 2011

José Pilar Álvarez Cabrera during an APMG activity in La Trementina, Zacapa, April 2011.

¹⁵ PBI interview with José Pilar Álvarez Cabrera, 29 April 2011. Conclusions and consequences drawn from the interview.

¹⁶ UDEFEGUA (2010), *Ibid.*

¹⁷ OHCHR (2011), *Ibid.*

¹⁸ IACHR (2006), *Ibid.*

Interview with Velia Muralles on the Historical Archives of the National Police

Velia Muralles is head of the Team of Experts at the Historical Archives of the Guatemalan National Police (AHPN). She was interviewed by PBI at the beginning of 2011. Below we reproduce part of the interview, with her answers quoted in full.

How was the AHPN discovered?

In May 2005 the ammunitions depot of the Mariscal Zavala Military Brigade, located in Zone 18 of the capital (Guatemala City) exploded. This event alerted the Human Rights Ombudsman's office to the imminent threat this presented to the population. As a result, inspection visits were organized to locations where explosives were stored. On the 5th of July 2005, a commission led by historian Edelberto Cifuentes, arrived to monitor the installations of the Explosives Deactivation Unit of the National Civil Police (PNC), located at Avenue La Pedrera 10-00, in Zone 6 of Guatemala City.

During the inspection they found a collection of documents guarded by PNC personnel assigned to the Historical Area and were able to establish that the archive was part of the official, administrative and historic documentation of the National Police (PN) institution. The majority of the documents were piled on the floor and in poor state of preservation. Among other factors contributing to the decay of the collection were water leaks in the building that contained the archives, insects both inside and outside the installations, rodents and bats, no ventilation and an accumulation of car parts around the premises.

On the 12th of July 2004, the Senior Judge of the First Instance of the Third Civil Court issued a resolution that "authorized the Human Rights Prosecutor and those whom he appoints to inspect the location and documents that can be found in the archives and department of the Historical Archives of the National Police", according to the Urgent Ruling 58-2005. Since the 1st of July 2009, the AHPN was transferred to the Ministry of Sport and Culture, General Directorate of Natural and Cultural Patrimony, specifically to the General Archive of Central America, in accordance with the archival law, the Decree from the Congress of the Republic no.17-86.

A variety of Guatemalan and international Human Rights organizations celebrated the finding of this collection of documents. Do you believe it might be met with opposition



PBI volunteers during a visit to the Historical Archives of the National Police in Guatemala City in June 2011.

as well? What, in your opinion, is the most important contribution of the AHPN and those documents to Guatemalan society?

Logically, the information found in the AHPN documents will not please those who committed human rights violations, given that the AHPN documents are testimonies of state actions and have the purpose of serving as evidence of events of the past. In this way the preserved and organized documents can technically be used by citizens to defend their rights and interests and are useful in historic, judicial, scientific and cultural investigations.

The National Police was one of the Guatemalan State's security mechanisms that operated during the internal armed conflict. The information registered in these documents was elaborated and accumulated throughout the exercise of their activities, containing legal, judicial, administrative and operative objectives and bares witness to their actions. The PN documents detail their duties and activities and are a product of and testimony to their conduct.

The right of access to the AHPN documents and the information they contain is a civil right. Access to the archives is one of the big democratic achievements of our time, allowing the privilege of the few to be converted into one of free use for any interested citizen whose right-to-know has become a universally recognized right.

The AHPN is an institution charged with the safeguarding, conservation, organization and custody of the document collection belonging to the PN, with the aim of making it accessible to



Photo: PBI 2011

PBI volunteers observing work in the offices of the Historical Archives of the National Police in Guatemala City in June 2011.

the public. Public awareness of the information contained in its documents contributes to establishing truth, the application of justice and the fight against impunity.

During its existence the AHPN document collection has remained located in official buildings of the Guatemalan state and its protection is governed by the Manual for the Maintenance of Documents for the Historical Archives of the National Police.

How is the AHPN team for the maintenance and organization of these documents being formed?

The first priority is to protect and preserve the documentation, principally from the rain. This long and intensive process was done under guardianship of the Human Rights Ombudsman (PDH). Human rights organizations and many young people participated in it, that is to say, without the dynamism and optimism of the young people that were involved it would have been a vastly more difficult task than it was. At the same time we began measuring the length (in metres) of the collection's contents, a system of archival measuring that was coordinated by the archivist Ingrid Molina.

After the initial protection and basic inventory work how is the process continuing?

In order to organize the documentation it was necessary to investigate the institutional history of the PN, the evolution of its structures, the functions that were assigned to it and its organizational format. For this, certain parameters were established: the date of creation, legislation, regulations, structural evolu-

tion, function, organisation, geographical orientation, relations to other structures, personnel and types of documents used by the structures to register their activities.

The consultant in the application of the archival processes was Dr Trudy Paterson, a from North American certified archivist specialised in police archives. Drawing on her support for various years was possible thanks to financial support from the Swiss government. Despite her wide experience, she said that she had never seen such a large and deteriorated archive.

The organization of the documentation was undertaken based on origin, an archival principal that establishes that documents produced by an institution or organization should not be mixed with others. In order to describe the archives the General International Norms of Archival Description ISAD(G) were used.

What period was chosen for the investigation and which departments were prioritised?

The 1975-1985 period was prioritised, a critical stage in the recent history of the country that coincides with the armed internal conflict which the Commission for Historical Clarification (CEH) and the Recovery of Historical Memory Project (REMHI) qualify as a period during which serious and systematic human rights violations were registered.

Due to its importance, one of the police departments we prioritized was the Criminal Investigations and Identification Unit that between 1927 and 1997 had different names: Secret Police, Security Police, Judicial Guards, Judicial Department, Judicial Police, Detective Agency, Department of Technical Investigations, Brigade for Special and Narcotic Investigations and the Department for Criminological Investigations. All these structures with different names over time but with the same function and unfortunately, the same methods. In reality they were repressive entities rather than investigative ones.

The first series of archival documents that were investigated was the "Master Register of Records", consisting of 850,000 records in which people and to a lesser extent facts were registered. The records are now organized according to source of origin. It is important to note that the total population of Guatemala in 1980 did not surpass 7 million inhabitants. It is a document series that due to its organization allows relatively easy searching. The entire records have been reproduced in digital form and are open to public access.

Can digital material be used as evidence in cases being investigated by the judiciary?

Yes. The Director of General Central American Archives, who has the original at hand, certifies AHPN digital documents that have been used in judicial processes. It is important to note

that a competent tribunal or judge can request to see the original of the AHPN. This is important for Guatemala given that the AHPN forms part of the nation's documentary heritage and has invaluable historical, social, scientific and judicial value. A document that today serves one case can serve others tomorrow. The personnel from the extinct PN and the current PNC frequently ask for this information for personal administrative processes. Another no less important element is that the AHPN forms part of the country's historical memory.

Faced with the huge quantity of AHPN documents how does one fit together the puzzle of information in cases of human rights abuses? How do you go about locating the documents that allow the events of each case to be reconstructed?

The Public Prosecutor's office, the specialised investigation entities, plaintiffs as the accusing party in legal cases, the relatives of victims or the victims themselves, all request information from the AHPN's Information Access Unit, or themselves undertake a direct search for information among the 12 million digitalized documents, organized and described on the basis of their source of origin. The information is searched for by using details provided by the user, for example: name of the victim, date of the event, location of the event, or type of event.

The AHPN has a database that currently consists of approximately 24,000 entries at the disposal of users containing systematized information, among other topics, on events that are considered to have some relation to human rights violations. It helps to limit the search for information in such a manner that whoever is investigating is not starting with the 12 million organized and digitalized documents, but can search based on year, place, name etc.

A starting point in the search for information on individuals is the aforementioned collection of documents, the Master Register of Records, as these records refer to other documents that make it possible to put together the pieces of the puzzle. An important aspect in the search for information is to know the function and activities of the PN departments. It requires many hours of work based on a perception of the importance to our country of knowing our past, knowing the truth, looking for justice and from there, building something new. Ultimately, the archives are always a reflection of the society that produced them.

What have been the most notable achievements up to this date?

I would say the most important achievements so far are three: 1) the rescue, preservation, organization and digitalization of 12 million AHPN documents; 2) access to their information; and 3) the use of archival documents for judicial processes.

If the access to information in the documents is already a large step, then the contribution of the archival documents in judicial processes is even more significant for the history of the country. With this there is a greater likelihood of justice being done, bringing together the reforms of the Public Prosecution's Office (MP) and the commencement of evaluating and judging cases of possible human rights violations committed during the internal armed conflict. I think the PN institutional archives portray in documents the government's actions and allow the analysis of how the state perceived the internal armed conflict and how it confronted it.

Archives and information are inseparable as archives are made up of documents that convey information. The most objective and reliable information are testimonies from a document safeguarded in an archive. Documents and archives have become an opportunity for democracy and the rule of law, and are guarantees of civil rights as far as being witness of state actions. The archives, by means of the documents, allow the possibility of supervising the activities of public officials over time.

An archival document is proof of incidents that happened at a specified time. The judicial-administrative use of an archival document constitutes its most valued and appreciated scientific worth. The archival documents, born in the process of pragmatic administration, allocate rationality, objectivity and become a fundamental tool for bureaucrats, administrators, academics and judicial agencies.

What kind of support of the international community would you consider as important for the AHPN? Additionally, regarding the historical links with other Latin American countries, which support could be offered from within the region?

The AHPN is the largest of its kind in Latin America. Its approximately 80 million files cover more than a hundred years of national and police history. It is a very important documentary heritage for the country.

The AHPN's work has been and continues to be a difficult and arduous task, counting on the solidarity of the citizenry, Guatemalan men and women, relatives of victims, academics, universities, social organizations and human rights defenders.

Additionally, it has counted on the political, financial and technical support of the people, nations, governments and diplomatic staff that represent them, international institutions and organisations and people, without whom it would have been impossible to realise it. I believe the work which has been carried out in the AHPN has had the good fortune of being able to count on a positive assessment.

The fact that the Swiss National Archives keep a copy of the digitalized documents is very important. It is a copy that history will find hard to lose. Furthermore, the technical support recei-

ved should be mentioned, as it involved international advisors of archival material and document preservation at the highest levels. The accompanying role that the AHPN's National and International Consultation Council and other Latin American archives provided also stands out.

Guatemala is the country in Latin America that lags furthest behind in terms of its archives. In reality the AHPN brought social interest in archives to the fore front. As a society we have the challenge of fighting for laws that regulate the national archival system, allowing archives generated by state institutions in the past and the present to be protected. In this way we can control the actions of public servants, rescue our country's memory and shape our identity.

The political support of the AHPN was important and therefore it is necessary to disclose the work that is done and the value of the information that are held in its documents. We will have advanced as a nation when archivists, citizens, jurists, investigators, academics, students, the youth, universities, teachers, society in its entirety benefit from this collection of documents and say "this is the heritage of the Guatemalan people and nobody can burn it, censor it or make it disappear".

The rescue of new archives is an on-going task for society. For example, the return of the archives of the Commission for Historical Clarification to Guatemala is something very important at this moment in history, because they will not have the same use in another forty years.

As I said before, the archives reflect the society that created them and I wish for Guatemala to have other archives. Let's hope that new generations can consult the archives of the immediate past, like registers of a dark period in this country and in future have archives of a more positive nature.

Thank you very much Velia!

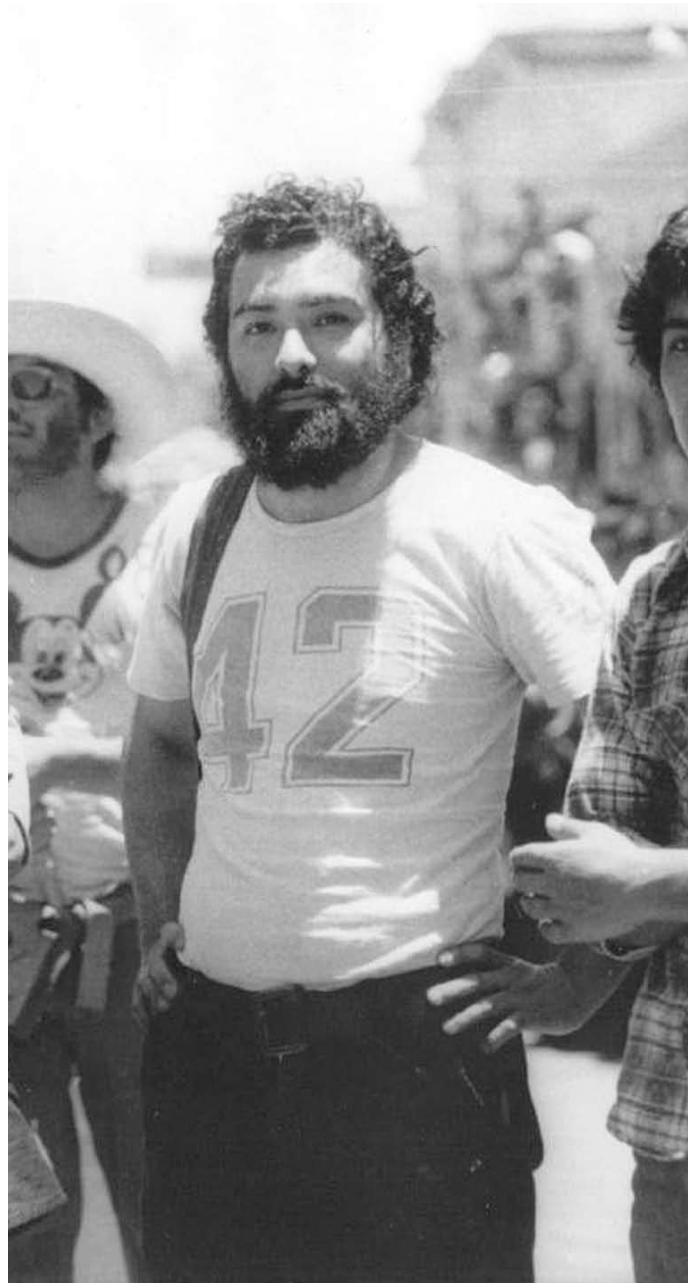


Photo: Familia de Mario Maldonado

MARIO, WE REMEMBER YOU AND MISS YOU

We wish to remember Mario Maldonado, a long-time friend of PBI, on the first anniversary of his premature death on 26th of April 2010. As well as a good friend, Mario was a key part of the production of PBI Guatemala's bulletins during the last years of his life, applying his vast knowledge and skill for their design. For PBI, he was much more than an excellent layout artist. He advised us as a journalist, in photographic, editorial and thematic issues. He gave his time to talk to us about Guatemalan history, the story of his life, and of struggle and exile in Mexico. He made us laugh with his anecdotes and it moved us to imagine him in the midst of war whistling tunes by Beethoven. We are deeply grateful for everything and will always remember you, Mario.

News About our Work

On 16th of March we accompanied members of the **Human Rights Defenders Protection Unit, (UDEFEGUA)** while they investigated the death of Antonio Bed Ac, which occurred during the forced eviction of the Miralvalle community (Panzós, Alta Verapaz) as part of a series of evictions of communities in the **Polo chic Valley** in mid-March. Two and a half months later, UDEFEGUA and other Guatemalan human rights organisations state that incidents that have since occurred in the region represent a step backward concerning human rights in the country. They also say that “the level of violence used during the evictions from 15th to 19th of March against the 12 communities, the way that public forces were used for private interest allowing campesinos’ homes and crops to be burnt and even more serious, the incidents which took place in Miralvalle and Aguas Caliente and culminated in Antonio Bed Ac’s murder and which left 7 people injured, show the lack of attention paid to the agrarian conflict and the lack of professionalism of the security forces”.¹

Problems related to **land-distribution** continue to be of structural and historical character in the Guatemalan context and manifest themselves in the present conflicts, where the legal and legitimate property and/or possession of land are under dispute. Evictions and displacements of entire campesino, indigenous and economically marginalised communities are not uncommon and victims as well as organisations supporting them frequently denounce human rights violations. The problem of land-distribution continues to be one of the main focuses of our work and due to the described context we have intensified communication with public authorities and international bodies to express our concerns and promote the compliance of rights and minimum standards to which the Guatemalan government is committed due to its ratification of international conventions: the right to life, physical integrity, food, housing, as well as the obligation to follow legal procedures and to minimize the use of force by authorities during forced evictions.

In meetings we have also emphasised the right of communities and social organisations to international accompaniment

as a means to open spaces for participation and articulation of social demands, essential for a peaceful resolution of these conflicts.

During the first months of 2011 we continued to follow-up on the **judicial processes** which human rights defenders, members of organisations we accompany, have been confronted with due to the work they are undertaking:



Photo: PBI 2011

Santos Vázquez, member of the Camoteca Campesino Association, and a PBI volunteer during a meeting in Camotán (Chiquimula), on 5th of May 2011.

Camoteca Campesino Association: Carlos Hernández and Santos Vázquez were arrested on 15th of November 2010, accused of crimes and activities against the internal security of the nation and of attending illegal meetings and demonstrations, as well as participating in a public gathering which resulted in a road block 6 months ago, the 30th of March 2010, when more than 70 people demonstrated their opposition to plans and projects to build electrical interconnections in the region. On 2nd of March we observed the second judicial hearing in Chiquimula where Hernández and Vázquez appeared.

The judge gave them a fine of 1,000 Quetzal each and banned them from promoting or taking part in illegal activities or demonstrations in the future.

¹ Centre for Legal Action in Human Rights (CALDH), International Human Rights Investigation Centre (CIIDH), Survivors Foundation, Archbishop’s Office of Human Rights of Guatemala (ODHAG), Association of Security and Democracy (SEDEM), Human Rights Defenders Protection Unit - Guatemala (UDEFEGUA), Guillermo Torriello Foundation (FGT), Community Studies and Psychosocial Action Team (ECAP), ActionAid Guatemala ONG, After the progress in the investigation of aggressions against campesinos in Polo chic. Guatemala, 30 May 2011.

Association for the Protection of Las Granadillas Mountain (APMG): At the beginning of 2009 and at the end of 2010 the on-going conflict between the owners of private estates on the mountain and the population of La Trementina and the APMG, resulted in several landowners, among them Juan José Olavarrueth, owner of the Tachoró estate, filing criminal charges against members of the association and the community. In both cases, accusations were linked to the work that APMG is carrying out to protect and preserve the mountain and in both cases they were dismissed at the first hearing by the judge. In total, nine people were affected by these unfounded accusations (three in 2009, eight in 2010). On 13th of April 2011 we accompanied the APMG and observed the last judicial hearing in Zapaca featuring eight members of the association and the Lutheran Church in Guatemala (ILUGUA). They were even



Photo: PBI 2011

Women and girls in the Las Trojes II community, San Juan Sacatepéquez, looking at a PBI bulletin on 22nd of January, 2011.

accused of crimes such as illegal detention, threats, and psychological violence against women: José Pilar Álvarez Cabrera, Rubén Aldana Guzmán, Glenda Cecilia Antón Antón, Ronaldo Meléndez, Alfredo Mejía Gregorio, José Martín Cabrera Antón, Melvin Antón Palacios and Byron Galdámez Franco. The judge dismissed the proceedings saying there was no case for criminal prosecution and pointed out that the public prosecutor had filed charges without previously undertaking the necessary investigations.

It is important to highlight that before and during these court cases, we have recorded numerous threats, acts of intimidation, and aggression against members of these organisations. Based on our observation of these cases (as well as prior ones)

and our work of international accompaniment we have analysed the impacts which these judicial processes have. We include an article on these effects in the current bulletin, aiming to highlight the central issues of concern.

Members of Q'amoló kí – People of San Juan Unite who live in the community of Las Trojes II, municipality of San Juan Sacatepéquez, have again been the target of attacks executed by people recognized and reported as being linked to the cement company whose operation the organisation is opposing. On February 27th 2011, two people from the community Pilar I were injured in a firearm attack. We have continuously maintained an international presence and accompaniment of the communities where these incidents occurred.² At the moment the organisation is worried because of the constant attacks against community members, which are believed to be carried out by people directly connected to the cement company as well as the owner of the Santa Fe de Ocaña estate who has requested a licence to fell woodland with the National Forest Institute (INAB).

We continue to accompany the **National Coordination of Guatemalan Widows (CONAVIGUA)**, the **Organisation to Support an Integrated Sexuality to confront Aids (OASIS)**, the **Association of Indigenous Women of Santa María Xalapán (AMISMAXAJ)**, the **“New Day” Chortí Central Campesina Co-ordination**, the **Cunén Communities’ Council**, the **Verapaz Union of Campesino Organisations (UVOC)** and the human rights lawyer, **Edgar Pérez Archila**.

In April 2011 we ended our accompaniment of the **Commission for Peaceful Resistance San Rafael Pie de la Cuesta, in San Marcos**, after a transitional phase following the situations of the organisation during which no further security incidents threatened the work or members of the organisation. In the course of the same month, after assessing the case, we accepted a request for accompaniment from the **Historical Archives of the National Police (AHPN)**.³ (see interview with Velia Morales on Pages 6-9)

² For more information see Alert from PBI Guatemala published in March 2011, use the link: http://www.pbi-guatemala.org/fileadmin/user_files/projects/guatemala/files/english/110310_ALERTA_PBI_Guatemala_Violencia_en_San_Juan_Sacatepequez.pdf

³ For more information about PBI Guatemala's accompaniment and work, see our Monthly Information Package (MIP) on the link: <http://www.pbi-guatemala.org/los-proyectos/pbi-guatemalapublicaciones/paquete-mensual-de-la-informacion/?L=1>



PEACE BRIGADES INTERNATIONAL GUATEMALA PROJECT

PBI is an international non-governmental organization (NGO) which protects human rights and promotes nonviolent 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.

Team in Guatemala

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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 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 sensitize the International Community of 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.



UNION EUROPEA

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