

The death penalty, faceless judges and anti-gang laws: **Pages 4 - 6**

a legitimate and adequate response to the violence in Guatemala?



Photo: PBI 2010

Seats of the deputies of the National Congress, the institution responsible for legislative decision-making in the Guatemalan state.



Photo: PBI 2010

**Petén: nobody's land,
everybody's land.**
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Photo: PBI 2010

**European advocacy tour by
Lorena Cabnal from the Association
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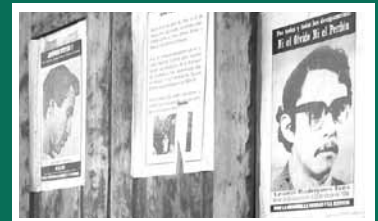


Photo: PBI 2010

**The current status of compliance
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Petén: nobody's land, everybody's land



Photo: PBI 2010

Community members of Centro 1, Sierra del Lacandón, Petén, after their eviction without plans for relocation.

The department of Petén, located in the north of Guatemala, is home to the Mayan Biosphere Reserve (RBM)¹, created by Act 5-90 on the 30th January 1990. The RBM covers an area of 2,112,940 hectares and within it lies two of the largest national parks in the country²; Sierra del Lacandón and Laguna del Tigre (PNLT).³

It is an area rich in natural resources, which, according to reports and analyses from various local sources, attracts the attention of national and international interests from different sectors such as drug trafficking, mega projects, tourist projects, oil extraction, the use of land for ranching, large farming estates and large scale logging. The situation is becoming more complex due to the interconnections between the different sectors. In addition to all of this, since the creation of the RBM and the declaration of its status as a protected area in 1990, there are ever more restrictions on human settlements; limitations that affect the population settled in the area both before and after this date.

In this context it is important to take into account the communities living in the area, who, on the whole, do not have any legal guarantees that they can remain there. According to local community members, this has meant serious limitations on their fundamental rights, not only civil and political, but also economic, social and cultural.

The presence of communities living in the RBM was recorded in 1959 when the Petén Promotion and Development Company (FYDEP) was established with the aim of administrating the use of natural resources and promoting colonization of the

department. During this period, large expanses of forest were transformed into pasture as cattle farming intensified.⁴

During the 80s, the worsening crisis in access to land across different parts of the country produced an increase in the displacement of the campesino population towards Petén. As a result the forests were turned over to agriculture and pastures (Petén's forest soil is of Karst origin, which is not suitable for agriculture). Alongside this, the FYDEP declared the northern area a forest reserve, this is territory that had been assigned to communities and local industries for logging and for which permits had been given to specialist contractors for the extraction of natural materials (chicózapote rubber, xate leaves and pepper). According to the National Council for Protected Areas (CONAP), FYDEP did not carry out its activities in line with a policy guaranteeing natural stability, organised and equitable access to the land by different groups and an adequate income generation for the national economy.⁵

In 1990 Congress approved the creation of the RBM and it was authorised as a protected area. However, various communities who continue extracting forest materials and farming remain settled in the reserve. According to CONAP, when the Law of Protected Areas took effect, it ended the policy of free access to the land for the campesino population, which generated a series of social conflicts between 1990 and 1996.⁶ The conflicts continue today and are principally based on disputes over whether the communities can or cannot continue living in the protected area.

There are 37 communities living in the PNLT, of which nine have usage agreements with CONAP. These agreements were signed between 1997 and 1998 and according to CONAP documentation, their initial objectives were to stabilize the population in the park, transform the use of the land to ensure conservation of the area, mitigate the agricultural impact and stop the expansion of the agricultural belt.⁷ However, 28 communities in the PNLT do not have such agreements. The Park Law presumes that the settlements without usage agreements must have relocated to the area after it was declared a protected area.

Large expanses of land dedicated to extensive cattle ranching in the PNLT have resulted in indiscriminate deforestation. Since 2001, CONAP has detected the presence of large private farming estates, but it was only in 2006 when they identified anomalous processes of inscription of these expansive farming estates to individual persons.⁸ Local authorities have expressed that, for different reasons, community population ceased working on the farms.⁹ Tracks and roads identified as those associated with drug trafficking have also been found in the area.

1 "RBM"; the Spanish acronym will be used henceforth to refer to the Mayan Biosphere Reserve.

2 CONAP, Plan Maestro de la Reserva de la Biosfera Maya 2001-2005. Guatemala, 2006.

3 "PNLT"; the Spanish acronym will be used henceforth to refer to the National Park -Laguna del Tigre.

4 CONAP, Política macro de Concesiones para el manejo integral de recursos naturales en áreas protegidas de Petén: Documentos de políticas, programas y proyectos. Document No. 38. Guatemala, September 2002.

5 Ibid.

6 Ibid.

7 CONAP (2006), Op. Cit.

8 Ibid.

9 Interviews held with local authorities in Petén between the 7th and 17th of October 2010.

Taken all together, these activities in the area have been interpreted by Guatemalan public authorities as a lack of local governance. The solution proposed by the Government is to implement Project Cuatro Ballam. The project has governance at its core and is planning the installation of Centres of Coordinated Operations (COC)¹⁰ in strategic points in the area with the aim to control drug trafficking, logging and encroachment onto the land. According to Mariela López, director of CONAP in Petén, eight COC currently exist and she stated that there is a misunderstanding that they will cause negative repercussions in the communities.¹¹

The battalion known as Baltallón Verde forms part of the strategy mentioned above. It is made up of 250 soldiers and is the first army battalion to operate inside the PNLT. Juan José Gutiérrez reported at its inauguration that the squad's objective was to bring law and order to the PNLT. The Governor of Petén, Rudel Álvarez, stated that the installation of this battalion demonstrates that the Government wants to take control of Petén.¹² According to the director of CONAP, the battalion will also strengthen and create new COC.¹³

Faced with this situation, communities living in the protected area have expressed their fear of being evicted. On the 10th September 2010 representatives from these communities handed a statement to Congress demanding their rights to remain living in the territory, to be consulted about megaprojects planned in the area and for their political rights to be respected, highlighting that at present this is limited. They also expressed that "political participation such as judicial recognition for the communities and rights to a dignified life with access to education and health services" has been denied.¹⁴

The reality of various communities having been evicted from the zone is one of the factors that, according to the community population, reinforces the uncertainty around staying in the area. Mariela López claimed that the aforementioned evictions have occurred for various reasons, such as, some communities were living in the protected area's core zone, or because there has been a failure to adhere to commitments laid out in the usage agreements between CONAP and some of the communities.¹⁵

In either case, the possibility of new evictions remains a real threat for the communities in the area, and one of their greatest concerns is the lack of relocation plans for the population. Between the 7th and the 17th of October 2010, PBI carried out a number of interviews with various public authorities and it was discovered that there are no such plans and difficulties exist for the municipalities and the Land Fund (FONTIERRAS) to offer an alternative for the evicted communities. The authorities in these municipalities say that on one hand they cannot count on resources to allocate new land and on the other they do not have information beforehand about evictions that are being

planned. FONTIERRAS has discovered that in various cases the evicted families have already had land allocated to them by FONTIERRAS in other parts of the country, and in these cases they are unable to authorise new pieces of land. A further limiting factor is that the fund cannot rely on a land registry and each family must search for a piece of land and then inform FONTIERRAS so they can check if it meets requirements. Finally, another obstacle identified by the authorities is that for different reasons, the price of the land has increased considerably and what FONTIERRAS can offer a seller is not competitive when compared with other offers to buy the land. In summary, from the authorities point of view, alongside the environmental problems and the lack of governance that have been identified in Petén, the coexisting problem of human impact cannot be ignored.¹⁶



Photo: PBI 2010

On the 10th of September 2010 PBI accompanied representatives from different communities of Petén to a meeting in the National Congress. Various deputies and representatives of other state institutions received the **Manifiesto of the Communities of Petén** in which they put forward 14 demands relating to their right to land, their political rights and especially their rejection of evictions.

This article gives a general overview of Petén and highlights some of the problems characterising this area. PBI visited Petén from the 7th to the 17th of October 2010. During this visit a number of meetings were held with local authorities, with various communities and their representatives, with social organisations working in the region and with representatives of the Catholic Church, amongst others. The aim was to gain a deeper understanding of the recent incidents in the area and to raise awareness about the situation of social actors and especially their demands calling for respect of their human rights.

10 "COC"; its abbreviation in Spanish, and henceforth will refer to the Centre of Coordinated Operations.

11 Interview with Mariela López, Director of CONAP - Petén, 13th of October 2010.

12 Prensa Libre, 'Batallón élite va a la selva', Guatemala, 21st of October 2010.

13 Interview with Mariela López, Cit.

14 Statement given to Congress by community representatives from Petén on the 10th of September 2010.

15 Interview with Mariela López, Cit.

16 Interviews with local authorities in Petén. Cit.

The death penalty, faceless judges and anti-gang laws: a legitimate and adequate response to the violence in Guatemala?

On the 4th November 2010, President Colom vetoed, for the second time in two years, a law intended to restore the death penalty in Guatemala. Since 2001, when ex-President Alfonso Portillo annulled the law of presidential pardon, the application of the death penalty has been in legal limbo in Guatemala, resulting in a de facto moratorium on executions. On the 5th of October 2010, the Congress of the Republic passed Law 4272 Regulatory Law of Presidential Pardon under national emergency powers and with the approval of almost all political parties. The object of the new law was the reestablishment of the system of presidential pardons for death row inmates, a prerequisite for carrying out executions. It was one of a series of



Congress of the Republic of Guatemala.

Photo: PBI 2010

legislative initiatives regarding security and justice presented to the Congress during the second session of 2010 that, according to those tabling the laws, sought to tackle the violence in Guatemala. The package of measures included a Bill for the Implementation of Faceless Judges, Agents, Prosecutors and Witnesses¹ and three Bills intended as anti-mara (anti-gang) initiatives intended to prevent the activities of syndicates and gangs.²

The law of faceless judges was tabled by the party Renewal of Democratic Freedom (LÍDER) and received a negative report from the Extraordinary Commission for Reform of the Justice Sector, presided over by Nineth Montenegro, member of congress for the party Assembly of Guatemala (EG). The three anti-mara (anti-gang) Bills were presented by the voting block comprised of LÍDER, the Patriot Party (PP) and the Unionist Party (PU). They remain without approval at the time of writing.

The political parties tabling these Bills to Congress maintain that they are a solution to the violence in the country. According to the PP, its political philosophy of 'mano dura' (the strong hand)

"responds to the urgent need to apply the full force of the law in punishing criminals".³ Manuel Baldizón, presidential candidate of the party LÍDER, stated with respect to the President Colom's veto in Decree 37-2010 relating to the Law of Presidential Pardon that "to veto this law is to oppose the wishes of more than 90% of Guatemalans who demand immediate action against gang crime and organised crime".⁴ Nevertheless, those comprising Guatemalan civil society and the international community question the legality, legitimacy and effectiveness of this type of legislation. This article is intended to present the diverse points of view of those who question the validity of these responses to the endemic violence in the country.

Legality and Legitimacy

From the outset, various Guatemalan and international institutions rejected the legality of the legislative proposals described above. Regarding the restoration of the death penalty, the Guatemalan Institute of Comparative Studies in Penal Sciences (IC-CPG) states that the Decree 37-2010 not only violates articles 18, 28 and 46 of the Political Constitution of Guatemala – relating to the death penalty, the right of petition to the administration and its duty to decide the same, and the binding nature of international law respectively, but that it also breached international norms found in articles 4 and 8 of the American Convention on Human Rights (CADH, also known as the Pact of San José) that recognise the right to life and judicial guarantees.⁵ According to Ramón Cadena of the International Commission of Jurists (CIJ), the approval of the law of reprieve would be a backwards step for Guatemala: "In 1989 a protocol for abolition was approved in the Inter-American system and at the start of the 1990s the interna-

1 Bill 4034, of Implementation of Faceless Judges, Agents, Prosecutors and Witnesses, 11th of August 2009, <http://www.congreso.gob.gt/archivos/iniciativas/registro4034.pdf>. This allows the Supreme Court to name Judges, Magistrates, Prosecutors and Witnesses who wish to hide their identity in all circumstances, in order that criminal gangs cannot identify them to avoid intimidation or risk to life and safety. The procedure is limited to criminal prosecutions in crimes of high social impact: drug-trafficking, terrorism and organised crime. The Bill is known as the "Law of Judges without face [faceless judges]" although it will also extend the same secrecy to prosecutors and witnesses. See the web address to view the proposal in full.

2 Bill 4269, to prevent the activities of illicit groups and gangs, 21st of September 2010, <http://www.congreso.gob.gt/archivos/iniciativas/registro4269.pdf>. This creates further sanctions to punish the activities of gangs and illicit groups. These groups exist, according to the initiative "when two or more people, irrespective of their age, agree to organise themselves with the end of committing or assisting in acts that in themselves or in combination with others result in the commission of crimes set out in the Penal Code" (ibid). It proposes a sentence of five years imprisonment for the members of these groups that are more than 18 years of age. Persons between 12 and 18 years of age are proposed to be interned in special rehabilitation centres "until specialised personnel determine that their reintegration into society is possible" (ibid). See the web address to view the proposal in full.

3 Patriot Party, 'Mano dura contra la delincuencia aplicando la ley', 29th of March 2009, <http://www.partidopatriota.org/guate/?p=13>

4 Press Release: Baldizón, M., 'La Pena de Muerte es parte de NUESTRO Estado de Derecho. ¡Debe aplicarse señor presidente!', Prensa Libre. Guatemala, 5th of November 2010.

5 Guatemalan Institute of Comparative Studies in Penal Sciences, Análisis Jurídico del Decreto 37-2010. Guatemala, 5th of October 2010.

tional community as a whole agreed at the UN General Assembly to pursue abolition".⁶ Consistent with this view, ambassadors of EU nations stated that to ignore this international consensus and the obligation to pursue abolition could carry serious consequences for the country, including in international economic cooperation.⁷

The Myrna Mack Foundation carried out an extensive analysis of the content of the Law of Faceless Judges and concluded that, amongst other issues, "the passage of this type of legislation violates constitutional provisions and guarantees as well as ordinary norms of criminal justice (...) and international human rights treaties of which Guatemala is a signatory".⁸ Anti-mara initiatives have also been publicly criticised by various Guatemalan social organisations as breaching fundamental rights established in the UN Convention on the Rights of the Child, the Guatemalan Constitution and the Law of Integral Protection for Children and Adolescents.⁹

Apart from these issues of legality, various organisations have raised serious questions as the legitimacy of the series of proposals. A common view is that the three bills have been put forward with electoral ends in mind: not to reduce the violence, but to capture votes. The group of NGOs known as Human Rights Convergence¹⁰ publicly stated that "the political parties represented in the Congress of the Republic have pursued a legislative agenda aimed at elections and the use of the budget, and have taken advantage of the desperation of citizens living in the climate of violence and insecurity that prevails in the country".¹¹ Together with other social organisations, the same group specifically denounced that "since the start of the year, the members of congress had the opportunity to debate and approve a legislative agenda with initiatives that are not only technically well put together, but which would also strengthen the capacities of public institutions charged with ensuring citizens' security and justice in the country. However, to this date they have not been the subject of legislative approval".¹²

Similarly, the Office of the UN High Commissioner for Human Rights (OACNUDH) has called for "a refocusing of the debate in Congress on the approval of key laws for security and justice that

remain pending, despite enjoying the support of broad sectors, including the international community".¹³ Amongst these proposals are the reform of the Law of Injunctive Review (amparo) and the proposed Law of Police of Criminal Investigation, the National Youth Law, Law of Private Security Services and the Law of Forfeiture of Assets. At the date of publishing, only the last two laws have been passed.

Paulo Sérgio Pinheiro, Vice President of the Inter-American Commission of Human Rights (CIDH), adds that the experience of other countries in Latin America has demonstrated that the death penalty and 'mano dura' politics simply do not work in dissuading criminals nor do they have any impact on drug trafficking, dismissing attempts to justify the reestablishment of the death penalty on the grounds that it will prevent or reduce violence as "pure populism".¹⁴

Effectiveness

As well as casting doubt on its legality and legitimacy, various national and international organisations argue that the rationale for the introduction of the death penalty and faceless judges and anti-gang laws is redundant, ineffective and even counter-productive in efforts to combat the violence.

Gloria Castro, Executive Director of the Social Movement for the Rights of Childhood and Adolescence, for example, states that "the country already has legal standards that those responsible for the climate of violence are breaching. An anti-gang law will not help further".¹⁵ Regarding the death penalty, OACNUDH state that "it has not been demonstrated to have a dissuasive effect on criminality. It reproduces violence and does not address the structural problems which cause it".¹⁶ Amnesty International go even further, stating that "far from achieving a safer society, the death penalty has been shown to have a brutalising effect. Homicides authorised by the state uniquely serve to approve the use of force and to perpetuate the cycle of violence".¹⁷ This reflects the study cited above of the Myrna Mack Foundation, that looked at the results of the implementation of the system of faceless judges in Colombia and Peru¹⁸, Astrid Escobedo, of the International Commission Against Impunity in Guatemala (CICIG)

6 La Hora, 'Ramón Cadena "La pena de muerte no es una solución"', Guatemala, 26th of October 2010.

7 Cereser, L., 'Embajadores piden abolir pena capital', Prensa Libre. Guatemala, 7th of November 2010.

8 Myrna Mack Foundation, Análisis Constitucional de la Iniciativa de Ley No. 4034 "Implementación de Justicia sin Rostro". Guatemala, 2010.

9 Press Release: National Youth Assembly of Guatemala and 45 other social organisations, 'Rechazo a iniciativas represivas hacia la adolescencia y juventud', Guatemala, 6th of October 2010.

10 The Human Rights Convergence is a platform comprised of seven social organisations that promote and defend human rights in Guatemala. Its members are the Association for the Study and Promotion of Security in Guatemala (SEDEM), the Centre for Human Rights Legal Action (CALDH), the International Centre for Human Rights Investigation (CIIDH), the Guatemalan Institute of Comparative Studies in Penal Sciences (ICCPG), Memory, Truth and Justice (MVJ), the Human Rights Office of the Archbishop of Guatemala (ODHAG) and the Guatemalan Human Rights Defenders Protection Unit (UDEFEQUA).

11 Press Release: Human Rights Convergence, Guatemala, 8th of October 2010, <http://www.i-dem.org/?p=47523>

12 Press Release: Human Rights Convergence and other social organisations, Guatemala, September 2010, <http://www.i-dem.org/?p=46748>

13 Press Release: Office of the UN High Commissioner for Human Rights, 'Guatemala no puede aplazar la lucha contra la inseguridad por falsas medidas', Guatemala, 29th of September 2010.

14 Calderón, E., 'Pena de muerte no disuade a delincuencia ni narcotráfico', La Hora. Guatemala, 16th of November 2010.

15 López, M., 'Rechazan propuesta de ley que criminalizaría a los jóvenes', Diario de Centro América. Guatemala, 7th of October 2010.

16 Press Release: Office of the UN High Commissioner for Human Rights, Op. Cit.

17 Amnesty International, 'Amnistía Internacional recibe con agrado la decisión del presidente guatemalteco de vetar la legislación sobre pena de muerte', 8th of October 2010,

<http://www.es.amnesty.org/noticias/noticias/articulo/amnistia-internacional-recibe-con-agrado-la-decision-del-presidente-guatemalteco-de-vetar-la-legisla/>

18 See report cited above at fn 8.

confirmed that the introduction of such a system in Peru “did not have the results that were hoped for”¹⁹, and that the law served only “to prosecute many innocent people, who could not mount an adequate defence since they did not know who accused or judged them”.²⁰

In addition to questioning its effectiveness, Paulo Sérgio Pinheiro of the CIDH affirms that the politics of ‘mano dura’ are discriminatory as they do not apply to the “white children of the elites”²¹ but instead only to “vulnerable groups, African descendents, the indigenous and those who do not have the resources to pay for a lawyer”.²² Regarding anti-gang laws, numerous Guatemalan organisations and international bodies have emphasised that such initiatives are discriminatory and lead to the stigmatisation and criminalisation of youths, in particular those who live in difficult social conditions.²³

Finally, diverse organisations agree with the OACNUDH that the changes in the law discussed in this article “do not attack structural causes but instead de-legitimise and weaken the rule of law”.²⁴ In an open letter to the President of the Republic of Guatemala, the two international networks World Organisation Against Torture (OMCT) and the Dutch Platform Against Impunity explained that “the endemic insecurity in Guatemala has been brought about more by the impunity which prevails – the incentive to commit crime – than by the lack of any severity in the punishments”.²⁵

Sebastián Elgueta, Central American investigator for Amnesty International, states that a solution to these structural causes will only come with the debate and approval in Congress of laws that “prepare in an effective manner the political and judicial systems to eradicate impunity as well as laws that tackle inequality and discrimination”.²⁶ The representative of OACNUDH, Alberto Brunori, identifies three urgent tasks that from his point of view would help to solve the societal problems at the root of the violence²⁷: the first is to carry to fruition the reform of the National Civil Police (PNC) that is currently underway; the second task is that of promoting access to quality education to overcome discrimination, “because there is a series of social policies that should attack these structural problems beyond the use of repression to

attack the phenomenon of maras”²⁸; and thirdly, Brunori points to the importance of reform of the Penitentiary System as presently “the prisons are schools of crime”.²⁹ Brunori also emphasises the particular and special responsibility of the lawmakers in Congress to advance these tasks.

Postscript on recent developments:

During the composition of this article, but prior to its publication, further developments have occurred that warrant their inclusion here as a postscript: in the presentation of his annual agenda to Congress, President Álvaro Colom has announced a project for the abolition of the death penalty. PBI will closely follow this initiative, that will be on the legislative agenda of Congress in 2011.

19 Casasola, S., ‘Surge polémica por ley de jueces sin rostro’, Siglo XXI. Guatemala, 2nd of September 2010.

20 Ibid.

21 Calderón, E., Op. cit.

22 Ibid.

23 See, for example:

- Press Release: Aguacate Collective and seven other youth organisations, ‘Posición de organizaciones juveniles sobre las iniciativas de ley antimaras y la política nacional de la juventud’, Guatemala <http://190.56.167.102/NOTICIAS/Documento%20de%20posiciones%20finales.pdf>

- Press Release: Office of the UN High Commissioner for Human Rights, Op. Cit.

- Press Release: Alioto Lokos and 17 other social organisations, ‘Leyes antimaras no resuelven la violencia, violentan la constitución, las leyes y convenios en materia de Derechos Humanos’, Guatemala, 20th of September 2010.

- Prensa Libre, ‘Organizaciones juveniles rechazan propuesta de ley antipandillas’, Guatemala, 20th of September 2010.

24 Press Release: Office of the UN High Commissioner for Human Rights, Op. Cit.

25 World Organisation Against Torture and Dutch Platform Against Impunity, ‘Carta al Presidente de la República de Guatemala sobre pena de muerte en Guatemala’, Guatemala y Bruselas, 14th of October 2010.

26 Amnesty International, Op. Cit.

27 Cardona, K., ‘Brunori: La ONU ve con tristeza actitud del Organismo Legislativo’, Prensa Libre. Guatemala, 5th of October 2010.

28 Ibid.

29 Ibid.

European advocacy tour by Lorena Cabnal, Association of Indigenous Xinka Women from the Mountain of Santa María Xalapán (Jalapa)



Photo: PBI 2010

Colombian and Guatemalan human rights defenders in Brussels (from left to right: Blanca Nieves Meneses, María Guadalupe García Hernández, Carmen Francisca Mejía Aguilar, Lorena Cabnal)

From the 5th to the 30th November, the PBI Guatemala Project, together with PBI country groups in several European countries, facilitated an advocacy tour by Lorena Cabnal. Lorena is a member of the Association of Xinka Indigenous Women of Santa María Xalapán Mountain (AMISMAXAJ), which PBI has accompanied since 2009. She visited Germany, Belgium, England and Spain. In each of these countries, she met with staff of their Ministries of External Affairs, with parliamentarians interested in human rights in the region, as well as with human rights, environmental, and women's organisations, development NGOs, and news media.

The tour's objective was to raise awareness of the history, current situation and struggle of the Xinka people in Guatemala, and especially of the Xinka women who have organised to form AMISMAXAJ. Members of the association had been victims of intimidation and death threats only weeks before Lorena's tour. She was able to raise these issues during her meetings, asking for attention to be given to the situation in order to help protect the security of AMISMAXAJ's members, including through visits to the Jalapa region and meetings with the association. Before various governmental spokespeople, Lorena reiterated the importance of the European Union (EU) Guidelines on Human Rights Defenders being more widely

known in the different regions of Guatemala. She also asked EU diplomatic missions to, where possible, carry out visits to these regions, to personally meet and talk with threatened human rights defenders, thereby implementing these protection mechanisms in rural areas as well as in the capital.

In Brussels, Lorena's visit coincided with some other Latin American human rights defenders. These were the Guatemalans Carmen Francisca Mejía Aguilar, member of the San Miguel Ixtahuacán Integral Development Association (ADISMI), and María Guadalupe García Hernández, of Mamá Maquín, as well as with Blanca Nieves Meneses, from Putumayo in Colombia. In a public event organised with several European networks, Lorena and the other women explained their work and exchanged and shared experiences of the difficulties and specific risks faced by women who work for human rights. They spoke of a whole range of attacks, from sexual aggression, disparagement and disrespect for being human rights defenders, sexist threats, accusations and defamation; and also explained the practical difficulties of remaining primarily responsible for maintaining the home while still facing challenges and obstacles to being respected and supported as human rights defenders by their families, communities and organisations.

The four women expressed their strength and resolve to continue with their work, to join together to overcome the challenges they face. They transmitted to all the participants an impressive and beautiful message of solidarity and strength and a call to action to defend the rights of indigenous peoples and women, for truth and justice, to protect the world's natural resources, and life.

PBI Guatemala thanks AMISMAXAJ, Lorena Cabnal and her family, for the opportunity to share the experiences and lessons of this tour with them. We also thank PBI's country groups and European counterparts for organising and carrying out fruitful meetings and gatherings, for all the commitments made to the security of AMISMAXAJ, for opening new relationships and stimulating enormous interest in the case.

PBI organises advocacy tours to other parts of the world by members of the human rights organisations we accompany, so that they can raise awareness of their situation, their struggles, and the security risks they face as a result of their work for human rights in their country. In this way, we hope to develop knowledge, exchange and mutual support among civil society organisations of different regions. We have also identified that organisations' ability to gain support, solidarity and action at times of serious attack is increased when their work is better known. These tours increase the organisations' public profiles, which in itself adds a layer of protection; each potential attacker will know that their acts will not pass unnoticed, but instead draw international attention and response.

Community Consultations



Photo: PBI 2010

Voting at the community consultation in Santa Cruz del Quiché on the 22nd of October 2010.

Community consultations are a traditional instrument of indigenous peoples to learn the opinions of the communities and make decisions about important aspects of community life. In recent years in Guatemala, community consultations are being undertaken in order to verify the positions of the populations regarding planned megaprojects in different regions. The right to undertake these consultations is supported by various national legal instruments, including the Municipal Code¹ and the Agreement on the Identity and Rights of Indigenous Peoples.² Likewise, Guatemala has supported and assumed international obligations regarding the consultation of indigenous peoples including the United Nations Declaration on the Rights of Indigenous Peoples³, approved with the vote of Guatemala in 2007, as well as Convention 169 of the International Labour Organization (ILO)⁴, ratified by Guatemala in 1996.

However, given the lack of a national law which regulates community consultations, the State has not organized a single consultation process with indigenous peoples prior to granting licenses for megaprojects which affect ancestral lands. Thus, while the government continued to grant multiple exploration and exploitation licenses for natural resources and planned ex-

pansive infrastructure projects, the government did not advance in the creation of such a national law.

Following their own traditions, various communities and social organizations have organized “good faith” community consultations, sometimes counting on the support of the municipal governments. As of the publication of this Bulletin, there have been a total of 57 of these types of consultations. All of which, the communities have rejected the megaprojects.⁵ These consultations and the results have not been recognized by the government.

Between September and October 2010 the PBI team observed three “good faith” community consultations. On September we observed a community consultation in Lanquín, Alta Verapaz, about a hydroelectric project. In the consultation, 14,314 people voted against and 24 voted in favour of the project. During the process of organizing and developing the consultation, various security incidents occurred. Jorge Morales Toj, member of National Coordinating Body of Guatemalan Widows (CONAVIGUA), received death threats, as well a community leader was temporarily kidnapped, and another leader was harassed.⁶ Early in the morning the day after the consultation, groups of armed men blocked the entrances and exits of Lanquín, to the community leaders, preventing that the leaders from receiving the voting results from their respective communities.⁷

In Santa Cruz del Quiché, we observed a consultation on the 22nd of October. More than 27,000 inhabitants of the municipality voted against any type of hydroelectric project or mine in their territory. The consultation had the backing of the community mayors and the Community Development Boards (COCODES). The day of the consultation, the majority of the commercial establishments in the capital remained closed until 1 p.m. in order to support the process.

As well in the department of Quiché, in the municipality of San Miguel de Uspantán, we observed a “good faith” consultation which was held on the 29th of October. The consultation was held in 104 communities of the municipality. In total 25,260 people voted “no” to megaprojects in the region and 28 voted “yes”.⁸ Prior to the consultation, various security incidents occurred against individuals involved in the preparation. Magdalena Sarat, General Coordinator of CONAVIGUA and one of the promoters of the consultation process, received a death threat via cell phone and noted various incidents of surveillance and intimidation. Finally, the consultation was held without incidents.

1 Municipal Code, articles 35 and 65.

2 'Agreement on the Identity and Rights of Indigenous Peoples', Article 6§II, 1996, which in 2005 reached the status of a commitment of the State of Guatemala through the “Framework Law of the Peace Accords”, Decree 52-2005.

3 United Nations: 'Declaration on the Rights of Indigenous Peoples', Article 19. New York, 13rd of September 2007.

4 International Labour Organization: 'Convention 169'. Article 6, Geneva, 1989.

5 Association for the Advance of Social Sciences in Guatemala, 'Consultas comunitarias contra megaproyectos por fecha y resultados'. Guatemala, <https://docs.google.com/viewer?a=v&pid=explorer&chrome=true&srcid=0B2wfu0ue6dC9MT11N2Y3MjYtOGIwMi00ZGMzLWE0ZjgtYmU0MjgxZDVkMTBk&>

6 Press Release: National Coordinating Body of Guatemalan Widows, Mayan Youth Movement, the National Mayan Coordination and Convergence WAQIB' K'EJ, Guatemala, 23rd of September 2010.

7 Press Release: Communities of Lanquín, 'Denuncia urgente: grupos armados bloquean entradas y salidas del municipio de Lanquín'. Lanquín, 28th of September 2010.

8 NISGUA Blog, Uspantán: 25,000 Demand a Different Development / 25,000 exigen un desarrollo digno, 18th of November 2010, <http://nisgua.blogspot.com/2010/11/uspantan-25000-demand-different.htm>

The current status of compliance with the recommendations of the Commission for Historical Clarification (CEH) on forced disappearance and exhumations



Photo: PBI 2010

Posters in the district 1 of Guatemala City demanding clarification of the whereabouts of disappeared people.

The internal armed conflict and the CEH's recommendations

The Historical Clarification Commission (CEH), was established in 1996, following the signing of the Peace Accords that sought to bring to an end 36 years of internal armed conflict in Guatemala. Created under the Oslo Accords, the Commission's mandate was to investigate and document human rights violations that had occurred during this period. The findings of the investigations were presented in a 1999 report entitled, "Guatemala: Memory of Silence" ("Guatemala: Memoria del Silencio"). The commission found that more than 200,000 people were killed or disappeared during the war. The report also suggested that state security forces and paramilitary groups were responsible for 93% of the documented atrocities.¹ The CEH report included a number of recommendations, some of which were incorporated under the National Reparations Programme (PNR).² An independent body without legal powers was set up to carry out this programme, within a limited time frame. From the beginning this body operated with the understanding that "the State has an obligation to uncover the truth and uphold justice . . . this is essential when providing reparations for victims of human rights violations".³

This article looks at two recommendations put forth by the CEH and examines whether they have been implemented or not. The first on the topic of forced disappearance, the CEH recommended that the government search for the missing persons and adopt legislation that recognises the legal status of persons absent due to forced disappearance. The second refers to an active policy with regard to exhumations, that con-

templates the promotion of a project for an exhumations law and also support from the government in forensic work and investigation.

Forced disappearance

Under Guatemalan legislation there is no law against the forced disappearance of an individual. Although in 2000, the government ratified the International Convention for the Protection of All Persons from Enforced Disappearance, the adoption of a Bill 35-90 which would create a Committee to Search for People who have been Forcefully Disappeared, is still pending. Forced disappearance is considered a crime under Article 201 TER of the Guatemalan Criminal Code, which expressly states that this is considered to be a permanent state if the person is not released.

Public debate on the issue reignited after a resolution on the 7th of July 2009 by the Guatemalan Constitutional Court. Referring to the case of six individuals in the community of Choatalum (municipality of San Martín Jilotepeque, Chimaltenango) who went missing during the armed conflict, the court acknowledged the crime of enforced disappearance.⁴ Also in 2009, two Guatemalan criminal tribunals issued the first rulings against members of military for their role in the forced disappearance of 14 people. In August 2009, a military commissioner (Felipe Cuscanero Coj) was sentenced to 150 years in prison, after being found guilty of the enforced disappearance of 6 people in the community of Choatalum between September 1982 and October 1984. In December 2009, a retired colonel (Marco Antonio Sánchez Samayoa) and three former military officers

1 Historical Clarification Commission, Guatemala: Memoria del Silencio. Guatemala, 1999.

2 Henceforth, the National Reparations Programme will be referred to by the acronym PNR.

3 National Reparations Programme, Informe Final del Director ejecutivo del Programa Nacional de Resarcimiento- PNR. Guatemala, 2005.

4 Myrna Mack Foundation, 'Justicia transicional: una deuda pendiente', January 2010, <http://www.myrnamack.org.gt/index.php/comunicados/57-justicia-transicional-una-deuda-pendiente>. See also CALDH, 'Desaparición forzada del pasado, hoy debe ser juzgada', July 2009, www.caldh.org.

were sentenced to 53 years and four months in prison in connection with the disappearance of 8 people, detained on the 19th of October 1981 in the community of El Jute (Chiquimula). In this last case, the court also called for an investigation into the role of a number of high-ranking military officers (Ángel Aníbal Guevara, former Defense Minister; Benedicto Lucas García, former head of the Defense Department) and various officers and soldiers assigned to the Zacapa military base in 1981.

A third conviction of the alleged perpetrators of a forced disappearance was issued in late October 2010, by the Guatemala City Eighth Criminal Court. Two officers of the now disbanded National Police (Policía Nacional, PN), Héctor Ramírez Ríos and Abraham Lancero Gómez, were sentenced to 40 years in prison in connection with the disappearance of Edgar Fernando García, labour and student leader who has been missing for more than 26 years. In regards to the search for disappeared individuals, in a report entitled "Recognising the Past: Challenges in the Combat of Impunity in Guatemala" the NGO Impunity Watch notes that Guatemala has failed on some fronts – for example, there is no unified information registry on disappeared persons, and a law creating a Commission for the Search of Disappeared Persons has yet to be approved.⁵



Photo: PBI 2010

Observation of a church service carried out in September 2010 during an inhumation ceremony (reburial of the remains) organised with the support of CONAVIGUA in Paraje Tiox Abaj- Caserío Xeabaj, Municipality of Santa María Joyabaj, Quiché.

Exhumations

The lack of a legal framework guiding or propelling the exhumation of those who were killed or disappeared during the internal armed conflict, to a large degree determines the current state of affairs in how this work is carried out in Guatemala. Exhumations and the accompanying investigations have mostly been carried out by non-governmental organisations (NGOs), acting in conjunction with a diverse array of partners (local communities, committees of the victims and their family members, survivors of atrocities, etc.).

More than 10 years ago, one of the reports issued by the United Nations Verification Mission in Guatemala (MINUGUA) noted that, "Exhumations carried out in Guatemala (from 1997 to 2000)", were undertaken by various NGOs which have also been gathering information on massacres, extrajudicial executions and forced disappearances." Among the organisations that have been involved in these tasks, the report lists the Foundation of Forensic Anthropology (FAFG), the Guatemalan Archdiocese's Human Rights Office (ODHAG), the Center for Legal Action in Human Rights (CALDH), the Group for Mutual Support (GAM), Association of Families of the Detained and Disappeared in Guatemala (FAMDEGUA), the Center for Forensic Analysis and Applied Sciences (CAFCA), Mayan Defense and the Group which was known as the Movement of the Displaced of Northern Quiché.⁶ It is worth mentioning that two exhumations were undertaken by the State in September⁷ and November 2010.⁸

As already mentioned, the CEH had recommended that the government provide support for exhumations. One noteworthy undertaking involved the Prosecutor's Office (MP) - one of the government entities responsible for prosecuting perpetrators of serious human rights violations - working in conjunction with Guatemalan NGOs with expertise in forensic anthropology. The result of this collaboration was the publication of a "Procedural Manual for Forensic Anthropology Investigations in Guatemala". The manual outlines the procedures involved in the exhumation process and the type of evidence required to criminally prosecute the perpetrators of these crimes.⁹

Despite these developments, FAFG personnel point out that the exhumation process is still hampered by certain obstacles and difficulties. For example, there are challenges groups such as the FAFG face when trying to identify the exhumed bodies. Other limitations stem from a lack of funds that would enable groups to maintain communication with relatives of the

5 Impunity Watch, *Reconociendo el pasado: desafíos para combatir la impunidad en Guatemala. Resumen y recomendaciones*. Guatemala, 2008.

6 United Nations Mission in Guatemala, *Verification report. Procedimientos de exhumación en Guatemala (1997- 2000)*, Guatemala, September 2000.

7 René Oliva, O., 'Estado desentierro a víctimas de guerra 14 años después de firma de la paz', *Prensa Libre* newspaper. Guatemala, 30th of September 2010.

8 EFE News Agency, 'Estado exhumará resto de seis víctimas de la pasada guerra', *Siglo XXI Guatemala*, 05th of November 2010.

9 Prosecutor's Office and Foundation of Forensic Anthropology in Guatemala, Center for Forensic Analysis and Applied Sciences, and the Human Rights Office of the Guatemalan Archbishops' Office, *Manual de Procedimientos para Investigaciones Antropológicas forenses en Guatemala*. Guatemala, 2003.

10 A campaign known as "My name is not XX" ("Mi nombre no es XX") came to an end on the 15th of April 2010. Under this initiative, relatives of the disappeared were encouraged to call a telephone number (1598) and submit information and/or DNA samples on missing persons. At the end of November 2010, the campaign was relaunched, in conjunction with an exhumation carried out in the La Verbena cemetery, in Guatemala City. More information on the campaign can be found on this site: <http://www.fafg.org/pagNoticias/2010/Mayo/AvancesProyectoVerbena.html>.

disappeared, combined with these family members' fears about speaking out.¹⁰ FAFG is trying to address this problem because the organisation is very aware of the key role witnesses and family members have played since 1990 by denouncing atrocities and providing information on clandestine cemeteries and mass graves. This is an important piece of the puzzle that can "shed light on the past and highlight atrocities that resulted in the death of thousands of people. [The exhumation process allows] family members to retrieve the remains of their loved ones and can help identify those responsible for these crimes".¹¹

On a parallel note, Impunity Watch points to the lack of follow up once an exhumation has been carried out. The Prosecutor's Office usually "fails to launch an investigation to shed light on the incident and identify and punish the perpetrators. Family members do not receive compensation, nor do the authorities use these cases as an example to inform and educate the community. The public is therefore deprived of an opportunity to reflect upon this tragedy and the cost of the internal armed conflict. It is important for the country to preserve its historical memory and adopt measures to ensure that these terrible events will not happen again."¹²

The importance of searching for and uncovering the truth

As mentioned above, a ruling by the Constitutional Court on the 7th of July 2009 reignited public debate about forced disappearances. The case involved six individuals who had gone missing during the armed conflict from the community of Choatalum, in Chimaltenango. Despite this notable ruling against the accused, MINUGUA has found that the majority of the investigations fail to move forward once the exhumation process has been completed. In many cases, there is still no forensic report, due to the excessive delay in the preparation and submission of these analyses.¹³

In an interview carried out by Inforpress, Victoria Sanford, a cultural anthropologist who has been investigating the internal armed conflict, said that after the signing of the Peace Accords, the Guatemalan Army transferred some of its infrastructure to the civil government thus maintaining some of the structures that uphold impunity.¹⁴

According to the Myrna Mack Foundation, "impunity continues to prevail and therefore assigning blame under the law... is an important outstanding task."¹⁵ Exhumations are a key step

in the reparation process¹⁶, but they alone cannot "uncover the truth behind an atrocity".¹⁷

One important source of information is the historical archive of the former National Police (PN), which was under the jurisdiction of the Culture and Sports Ministry. Alberto Fuentes works with the project formally known as the Recuperation of the Historical Archive of the National Police. According to Fuentes, the archives contain critical information about human rights violations committed during the internal armed conflict. This documentation could serve as evidence in new cases or trials that are currently underway, such as the Fernando García case. The archives could therefore help Guatemalans in their fight for three fundamental rights: the right to uncover the truth, recover historical memory and search for justice in the fight against impunity.

Victims of the atrocities and their family members can use the evidence to launch legal actions, as well the Public Prosecutor's Office has access to reliable information that can aid in its investigations. Finally, the archives can shed light on the structure of the disbanded National Police. Being able to identify the chain of command means that in the future it may be possible to prosecute the masterminds behind human rights violations and those who ordered the atrocities.¹⁸

Aside from the legal implications of this process, we should also consider that uncovering the truth has a huge psychological impact on the victims, those closest to them and society as a whole. Impunity has a traumatising effect on a society, as it maintains social structures that favour those who hold the power. "Political violence is sheltered, hidden behind impunity".¹⁹

In its Report on the Recovery of Historical Memory Project (REMHI), the Human Rights Office of the Guatemalan Archdiocese stressed that "public acknowledgement of the atrocities and the state's responsibility are inextricably linked to restitution and the act of dignifying the victims".²⁰

11 Prosecutor's Office and and Foundation of Forensic Anthropology in Guatemala, Center for Forensic Analysis and Applied Sciences, and the Human Rights Office of the Guatemalan Archbishop's Office, Op. Cit.

12 Impunity Watch, Op. Cit.

13 United Nations Mission in Guatemala, Op. Cit.

14 Crespo, P., 'Entrevista con Victoria Sanford, autora del libro La masacre de Panzós', Inforpress Centroamericana. Guatemala, 11th to 18th of June 2010.

15 Myrna Mack Foundation, Op. Cit.

16 Myrna Mack Foundation, Op. Cit.

17 Impunity Watch and Convergence for Human Rights, La persistencia de la verdad. A diez años del informe de la CEH. Guatemala, 2009.

18 Interview with Alberto Fuentes, member of the Recuperation of the Historical Archive of the National Police, 01st of December 2010.

19 Fernández Garavito, M., Violencia política e inhibición social. Estudio psicosocial de la realidad guatemalteca. Collection Culture of Peace N° 4. FLACSO. Guatemala, 2003.

20 Human Rights Office of the Guatemalan Archdiocese, Guatemala Nunca más: impactos de la violencia. Guatemala, 1998.

Security concerns for non governmental human rights organizations: Activation of PBI's support network within Guatemala and beyond the country.



Photo: PBI 2010

Visit to evaluate a programme of reforestation in the Tashoró estate Zacapa, with the participation of members of the APMG, other social organizations and representatives of state institutions, in February 2010.

Strong concerns about the security of various non-governmental organizations and human rights defenders that PBI accompanies in Guatemala motivated the “activation of the support network” of Peace Brigades International’s (PBI) Guatemala project in October of 2010.

The “activation” is a tool that we use as part of our strategy of protection during situations that we consider especially worrying. It’s primary function is to bring attention to such situations, in Guatemala and outside the country, to public Guatemalan authorities, the diplomatic corps and other international entities, as well as other diverse contacts in our international support network, requesting and suggesting the active intervention in some cases. Among the suggestions that we propose to the support network of PBI’s Guatemala project in the activation are, for example, the sending of letters to authorities and public institutions expressing their interest in the situation, demanding the effective protection of the human rights defenders and organizations in risk and the application of the mechanisms of protection (for instance observing court cases or taking part in visits or meetings with the organizations or persons who have been threatened or attacked), and mentioning their concerns about the security and protection of the human rights defenders inside the framework of political dialogue by different countries with Guatemala.

The activation launched by PBI in October of 2010 is a result of serious threats against human rights defenders that form part of the National Coordinator of Widows (CONAVIGUA), The Association of the Protection of the Granadillas Mountain (APMG), Association of Indigenous Women of Santa Maria Xalapán (AMISMAJAX), “New Day” Chorti Campesino Central Coordinator and the Camoteca Campesino Association that have been confronted with judicial accusa-

tions as a result of the work they carry out. In the last few months as part of our work we have been constantly meeting with Guatemalan authorities, the diplomatic corps and other international entities present in Guatemala, as part of a permanent effort to update, systematize and spread relevant information and the concerns of PBI. With the aim of encouraging international commitment for the protection of the human rights defenders affected, we also contact the people who work in relation with human rights in the region that form part of the European External Action Service of the European Union, as well as various members of the European Parliament and of the United Nation’s High Commissioner for Human Rights in Geneva. Through the national groups of PBI, we also contact parliamentarians of various different countries in Europe, the Americas and Australia, as well as their respective ministries of foreign relations. Overall, we have encouraged the international community to actively participate in the protection of the human rights defenders and organizations that we accompany, requesting the implementation of concrete measures of protection that are identified as international tools, for instance, the European Guidelines on Human Rights Defenders.

We hope that the results of this activation and the different procedures carried out by the different governments, institutions and personalities that form part of our support network, contribute to promote the protection and security of human rights defenders and consequently also facilitate the continuity of their work in the defense and promotion of human rights.



Photo: PBI 2010

Silverio Perez and Santos Vasquez, members of the Camotán Campesino Association, in Puente Jupilingo, Camotán Chiquimula, during a meeting with volunteers of the PBI team.



Photo: PBI 2010

Ruben Aldana Guzmán, president of the The Association of the Granadillas Mountain (APMG) and Jose Pilar Alvarez Cabrera, reverend of the Lutheran church of Guatemala (ILUGUA), during the march to denounce the criminalization of defenders of the environment and demand the protection of the mountain. Zacapa, 1st of July, 2010.



Photo: PBI 2010

María Dolores Carrillas, Bernarda López and Lorena Cabnal, members of the Association of Indigenous Xinka Women from the mountain of Santa María Xalapán (AMISMAXAJ) with Claudia Dary Fuentes, professor of Anthropology at the University of San Carlos (USAC) in Guatemala and expert on Xinka-issues, during their meeting with the Xinka communitarian Action Xalapán (ACOXX) held on the 12th of August 2010 in Laguna de Itzacoba Municipality of Jalapa.



Photo: PBI 2010

PBI volunteer accompanying Magdalena Sarat, coordinator of the National Coordination of Guatemalan Widows (CONAVIGUA) during the days prior to the “good faith” community consultation in relation with mega projects, held on the 29th of October 2010 in the municipality of Uspantán Quiché.



Photo: PBI 2010

Observation during the “good faith” community consultation in relation with mega projects that took place in the municipality of Uspantán Quiché, 29th of October, 2010.

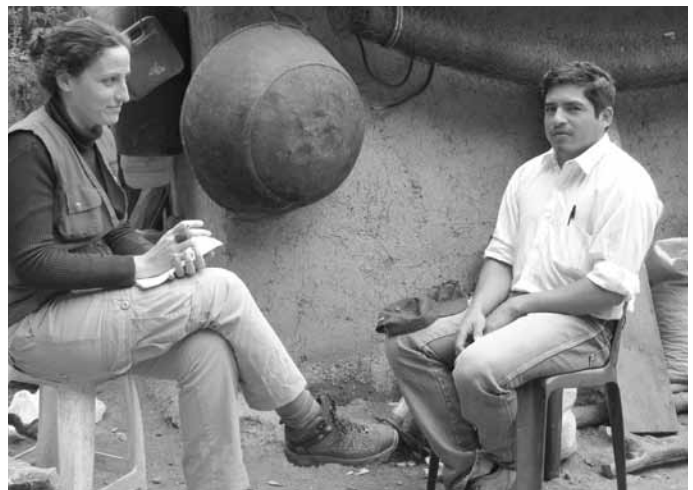


Photo: PBI 2010

PBI volunteer in a meeting with Edgar Hernández, member of the ‘New Day’ Chortí Central Campesino Coordinator in the community of Lelá Chanco, Chiquimula.

News of our work

Our work in Guatemala focuses on three themes: 1) the fight against impunity, 2) access to land and 3) the negative consequences of globalisation with regard to the proper application of human rights. Between September and December of 2010 we have noted an increase in the number of threats (even death threats) and legal accusations against some of the organisations that we accompany and which relate to the third theme listed above.

The threats have been issued in response to attempts at defending communal lands, conserving natural resources, securing the right to freedom of information and the right to be consulted on any plans that may affect the land on which the members of the organisations that we accompany live. As a result of these problems we activated our support network at the national and international level, so as to disseminate information on the increase in security incidents and legal proceedings against human rights defenders belonging to the following organisations:

Two members of the **National Coordination of Guatemalan Widows (CONAVIGUA)** received death threats in September whilst assisting in the organisation of “good faith” communitarian consultations in the municipalities of Lanquín in Alta Verapaz and Uspantán in Quiché. Over the last few years CONAVIGUA has expanded its work into the areas of legal aid and in helping indigenous communities to organise themselves in their defence of natural resources and in their struggle for self-determination, in addition to helping in the organisation of good faith communitarian consultations across a number of municipalities around the country. We have therefore increased our accompaniment of CONAVIGUA during the activities they organise in the capital city as well as in the departments of Alta Verapaz and Quiché. We have also continued meeting with a variety of Guatemalan public authorities and international institutions so as to express our concern regarding the situation described above.

In addition to this we have expanded our accompaniment of the **Camoteca Campesino Association (ACC)** and the **Central Chortí Coordination ‘New Day’** due to the increase in the number of security incidents faced by some of its members. The threats that these have received relate to their work in informing local communities of major development projects planned for their area and in defending their economic, social, cultural and environmental rights (ESCR).

Subsequent to a series of confrontations that occurred between the police, masked armed groups and various communities in the municipality of Jocotán (in the department of Chiquimula) on the 12th of October, Omar Jeronimo, the Coordinator of New Day, and Carlos Hernandez, Director of the ACC, were publicly accused by local authorities of being responsible for the aforementioned confrontations. We have physically accompanied members of these organisations in Chiquimula as well as during meetings they had with the diplomatic community and with the Human Rights Ombudsman’s Office (PDH) in the capital city. Apart from this



Photo: PBI 2010

Women reading the PBI bulletin during an inhumation in the municipality of Joyabaj Quiche 23rd of September, 2010.

1 In June of 2010, the Special Rapporteur for the Rights and Fundamental Freedoms of the Indigenous Peoples, James Anaya, stated that: “of equal concern is the news I received of the various judicial proceedings opened up against members of the indigenous communities for protesting against the activities of companies. The speed of such legal proceedings is notable when contrasted to the lack of response to the demands of the indigenous communities to investigate abuses of their rights, which one could interpret as an act of discrimination in relation to equal access to justice.” See Anaya, J., Preliminary Observations of the Special Rapporteur of the United Nations on the human rights and fundamental freedoms of the indigenous peoples relative to his visit of Guatemala (13th to 18th of June 2010), Guatemala, 18th of June 2010.

2 Various violent acts which resulted in several deaths, with other people being hurt and detained and with public buildings being set on fire (the town hall, the mam community building and a library). The exits from Jocotán were controlled as these acts occurred.



Photo: PBI 2010

Observation of a community consultation in the municipality of Lanquín Alta Verapaz on the 28th of September, 2010.

we expressed our concern about the legal accusations that have been brought against the members of the organisations in the meetings we have had with Guatemalan authorities and with international institutions present in Guatemala.

We have also visited the **Association for the Protection of Las Granadillas Mountain (APMG)** in the department of Zacapa, due to the vulnerable situation faced by the village of La Trementina, and continue to monitor the fall out to the incidents that occurred in September following the destruction of a wall built on one of the paths that leads to an estate on the mountain.

This wall had been constructed by the communities of La Trementina with the permission of the landlord over whose property the path passes, in order to limit the number of heavy vehicles that transport timber from the mountain. According to residents of La Trementina, those responsible for the destruction of the wall were a group of men accompanied by a representative of the Estate of Tashoró.

On the same day that the wall was destroyed, the Reverend José Pilar Álvarez Cabrera (member of the APMG), who was abroad at the time, received an indirect death threat via a phone call to his sister. PBI accompanied the Reverend to a Public Ministry of the capital city, where he placed a complaint regarding this incident.

Apart from our physical accompaniment we have also had meetings with Guatemalan authorities and international institutions on this case. We also intensified our accompaniment of the APMG following the emergence of legal proceedings initiated against the Reverend and 7 other people, among these members of the APMG, relating to the incidents that occurred in September.

On the 12th of October we accompanied members of the **Association of Indigenous Women of Santa María Xalapán (AMISMAXAJ)** during a celebratory march on the Day of the Resistance of the Indigenous Peoples in the department of Jalapa. During this march various members of AMISMAXAJ received death threats by unknown men, adding to the various incidents that occurred in past months. One of the members of AMISMAXAJ was invited by PBI Guatemala and PBI country offices to a tour round Europe, including the countries of Germany, Belgium, England and Spain, where she expounded on the work and experiences of AMISMAXAJ to various authorities and organisations.

In September in Guatemala City we organised a security workshop, along with the Association for Democratic Security (SEDEM), for the benefit of the organisations that we accompany.



Photo: PBI 2010

Observation of a march in the municipal capital of Jalapa for the day commemorating the resistance of indigenous people on the 12th of October 2010.



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.

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.

Team in Guatemala

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