

I THINK,

THEREFORE I RESIST

**GRASSROOTS EXPERIENCES OF ALTERNATIVE PROTECTION
AND PROMOTION OF HUMAN RIGHTS**

IN THE CONTEXT OF LARGE-SCALE ECONOMIC INVESTMENT



I Think, Therefore I Resist

**Grassroots experiences
of alternative protection
and promotion of human rights
in the context of large-scale
economic investment**

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Peace Brigades International (PBI) is an international NGO with over 35 years experience in protecting human rights defenders at risk and opening spaces for peace in conflict and post-conflict situations.

Currently, PBI has field teams in Colombia, Guatemala, Honduras, Mexico, Kenya, Indonesia and Nepal.

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Introduction

I Think, Therefore I Resist

Grassroots experiences of alternative protection and promotion of human rights in the context of large-scale economic investment

HUMAN RIGHTS DEFENDERS have important roles to play in the context of business and human rights. They have a unique perspective when it comes to the protection and respect of human rights in the context of large-scale economic projects. Often they have a profound knowledge of the situation and the local context, as well as a solid comprehension of the necessities of the affected communities. Human rights defenders carry out an important role defending the rights of the local population as well as advising on certain risks. They are also fundamental in raising awareness on a national and international level, in warning about the possibility of an imminent violent conflict, as well as documenting, reporting and distributing information when human rights violations have occurred.

Peace Brigades International (PBI) field projects are receiving an increasing number of requests for accompaniment and protection from individuals, organisations and communities that are defending and promoting human rights in the face of large-scale investments. Too often human rights defenders lack the basic guarantees of security and they are subject to smear campaigns and legal persecution designed to obstruct their work upholding the principles of human rights and the right of victims. The Special Rapporteur on the situation of human rights defenders has, on several occasions, highlighted that this group of individuals is one of the most vulnerable. According to Global Witness, at least 908 human rights defenders have been assassinated since 2002. These assassinations have taken place in a context of increased competition for control of land and natural resources. Frontline Defender's 2016 annual report identifies human rights defenders who dedicate their work to protecting the environment, the right to land and the rights of indigenous people as the group most at risk. The report also expresses concerns for women human rights defenders who are exposed not only to the risks that their work carries with it but also to gender violence, harassment and stigmatisation.¹

Local legal systems often work against human rights defenders, and PBI has observed a rise in criminalisation against those that work for the defence of land, territory and natural resources. This occurs through smear campaigns, unfounded legal accusations and long drawn out legal processes that are later declared to be baseless and lacking respect for due process. Often human rights defenders face false charges and arbitrary treatment before the law, whilst at the same time investigations into attacks against human rights defenders languish in impunity. In many cases the protection measures provided by states to these human rights defenders are inadequate to their specific needs, as well as not being implemented effectively. The result is that the communities and individuals affected are less capable to claim their rights, whilst the probability of new violations against them increases. It is essential that the work of human rights

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¹ Front Line Defenders, Annual report 2016, January 2016.



defenders is respected and supported by states as well as multilateral institutions and businesses.

In this publication we want to share our concerns for the situation that individuals, organisations and communities that promote and defend human rights in this context face. We will do this using case studies and interviews with human rights defenders that are accompanied by PBI in Colombia, Guatemala, Honduras and Mexico. The examples chosen show the threats that inhibit the fulfilment of human rights and the security of human rights defenders in the context of large-

scale investments. However, there are also some positive examples of what has been achieved through the work of human rights defenders and the experience of good practice on behalf of missions and delegations from the European Union. Furthermore, the articles in the report highlight experiences, protection tools, and the promotion of human rights that come from grassroots movements, individuals and communities affected by large-scale investment projects.

This publication concludes with recommendations to the international community, based on our own work and experiences, on how to prevent violence and respond to threats so that human rights can be enjoyed and the security of human rights defenders is guaranteed. The recommendations are based on instruments and protection mechanisms of the United Nations (UN), the European Union (EU) and the Inter-American Human Rights System.

Colombia

Experiences of Self-Protection Mechanisms and Community Resistance



Social-environmental conflicts in Colombia

Source: Environmental Justice Atlas www.ejatlases.org

The map only represents some of the social-environmental conflicts in the country

I Think, Therefore I Resist

Grassroots experiences of alternative protection and promotion of human rights in the context of large-scale economic investment

THE STRUGGLE OVER TERRITORIAL CONTROL has been one of the fundamental causes of the armed conflict that has beset Colombia for the last 50 years. High levels of poverty, concentration of land, as well as the economic, military and political situation mean that people who demand full respect for human rights in Colombia face serious risks.

At particular risk are groups working on processes advancing restitution claims of land that was taken from them through violence. Other groups at risk are peasant farmers, indigenous and Afro-Colombian communities who fight to remain in their territories, which are often areas of interest for large economic investments.

According to a report by Global Witness² on the global situation of those who defend the environment, Colombia was the second most dangerous country for this type of work in 2014, with 25 assassinations that year.³ Likewise, the regular reports from the We are Defenders Program, show a constant increase in acts of aggression and assassinations against those who defend human rights in Colombia. Between January 2009 and September 2015, 368⁴ of such assassinations were documented. In this context it is also worrying that there is such a large increase in the number of acts of aggression against women human rights defenders and women community leaders who suffered 61% of the total aggressions and assassinations registered between July and September 2015.⁵

It is important to mention that many of the most at risk human rights defenders are also beneficiaries of physical protection measures from the Colombian state through the National Protection Unit (UNP), an entity of the Interior Ministry. However, civil society has frequently pointed out that unless these physical protection measures are combined with effective “political” measures, the defence of fundamental rights will continue to be a high risk activity in Colombia.⁶ Todd Howland, representative of the Office of the United Nations High Commissioner for Human Rights (OHCHR) in Colombia, recognised, at the end of 2015, that “although distinct members of the Colombian state have acknowledged the important role of human rights defenders in the construction of a more democratic and equal society, [...] the high number of assassinations, as well as other serious incidents, is proof that the state response to effectively guarantee

² Global Witness, “How many More?”, 20th of April 2015.

³ El Espectador, Defending the environment, a risk in Colombia, 20th of April 2015.

⁴ We are Defenders Program: Annual Report 2010, aggressions against human rights defenders, 2nd of February 2011; We Are Defenders Program: Claroscuro, Annual Report 2011, 2nd of February 2012; We Are Defenders Program: The Placebo Effect, Annual report 2012, February 2013; We Are Defenders Program: Report Siaddhh 2013: D for Defense, 21 of February 2014; We Are Defenders Program The Divine Comedy, Annual Report 2014, 18th of February 2015; We Are Defenders Program. The Nobodies Report January-June 2015, 18th of August 2015; ODHACO: 178 human rights defenders were attacked between July and September 2015.

⁵ We are Defenders Program, I work for peace = Threatened, 23rd of October 2015.

⁶ We are Defenders Program, The Nobodies Report January - June 2015, August 2015.

the right to life, personal integrity and the free exercise of their work has been insufficient”⁷

According to the We are Defenders Program, of the 55 people assassinated in 2014, 60% (31 individuals) had reported previous threats. In addition, 13 of the 34 human rights defenders assassinated between January and June 2015 (38%) had also reported previous threats.⁸

Protection measures and self-protection in rural communities: Humanitarian Zones

In Colombia there are more than six million internally displaced persons.⁹ As the conflict progressed, several displaced communities returned to reclaim their taken land. As the protection mechanisms provided by the Colombian state were inadequate, these communities created their own protection mechanisms allowing them to safely return and remain in their lands.¹⁰

One of the mechanisms implemented in rural areas has been Humanitarian Zones, a self-protection model based on the norms of International Humanitarian Law (IHL); specifically the right to life, the principle of distinction between combatants and non-combatants, and the protection of the civilian population in context of the internal armed conflict. In addition, the legitimacy of Humanitarian Zones is supported by national legislation, such as article 22 of the Constitution that stipulates that “peace is a right”. Furthermore, the Inter-American Court of Human Rights has supported the creation of Humanitarian Zones in rural areas of the Urabá Chocoano, calling them “a positive mechanism for the protection of the civil population in the face of the different armed groups present in the region”. At first, the Humanitarian Zones made the collective return of people to their land possible. Territories were now safeguarded by a fence and signs stating that these were areas exclusively for civilians and that the entrance of members of illegal or legal armed groups was prohibited. This was a protection measure used by these communities that struggle to defend their lives, their rights and their territory.¹¹

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⁷ OHCHR, In 2015 the number of assassinations of human rights defenders recorded was higher than the average in the last 20 years. 19th of November 2015.

⁸ Ibid.

⁹ Semana: Colombia retains the dishonorable title of the second country with the most displaced, June 6, 2015.

¹⁰ «Provisional Measures in Respect of the Colombian Republic. Case of the rural communities of the Jiguamiandó and Curbaradó River Basins», Resolution of the Inter-American Court of Human Rights, 15th of March 2005.

¹¹ Danilo Rueda/ Inter-Church Justice and Peace Commission and Catherine Bouley/ Colombian Commission of Jurists, *Biodiversity and Humanitarian Zones Spaces of dignity for the displaced population in Colombia*, Bogota 2009.



Humanitarian space Puente Nayero Street in Buenaventura. Photo: PBI

The first experience of a Humanitarian Zone in Colombia was in the Cacarica River Basin

The rural communities of the Cacarica River Basin and members of the organisation ‘*Communities for Self-Determination, Life and Dignity of Cacarica*’ (CAVIDA), are an example of community resistance in Colombia. Their innovative mechanisms have defined standards in a context of violence and exploitation, in a region that is one of the richest in biodiversity and natural resources in the world. The first humanitarian zones in Colombia were created in Cacarica and PBI has had the privilege of accompanying CAVIDA in their struggle over many years.

Cacarica’s rural communities and other parts of the Bajo Atrato region, in the department of Chocó, were displaced in February 1997, through a joint military and paramilitary operation called “Operation Genesis”. The communities had to flee their homes and seek refuge in various places throughout the region. As a consequence of the forced displacement, the population of Cacarica were victim to economic blockades and the installation of a paramilitary base in their territory. There were also several assassinations and enforced disappearances of 82 members of the communities.¹²

Furthermore, during the displacement and during the paramilitary occupation that followed, several companies, such as Maderas del Darién and Multifruits

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¹² PBI, Cacarica: The accompaniment that marked PBI, 1st of December 2014.



Humanitarian zone in Cacarica. Foto: PBI.

CIA S.A (an affiliate of Del Monte) exploited the lands that had been taken from the communities with violence.¹³ According to reports made by The Inter-Church Justice and Peace Commission (CIJP), an organisation accompanied by PBI since the communities were displaced in 1997, the communities associated with CAVIDA, and a group of women associated with the victims' organisation CLAMORES, remain displaced in the city of Turbo and have been targets of judicial persecution, threats, harassment, exile and three episodes of forced displacement.¹⁴ The CIJP, which has also been a victim of different types of aggressions, has represented the victims of Cacarica at a national and international level. At the end of 2015, new reports showed a strong presence of neo-paramilitary groups in Cacarica and nearby territories.¹⁵

In 1999 the first exploratory mission in the territory was carried out to explore the possibilities of returning. The mission was led by community leaders, accompanied by national and international organisations. The mission set out for Cacarica without knowing if the paramilitary groups were still present in the territory or if there were other communities that had remained.¹⁶ They arrived at what would later become

¹³ Op. cit. Danilo Rueda/ Inter-Church Justice and Peace Commission and Catherine Bouley/ Colombian Commission of Jurists, *Biodiversity and Humanitarian Zones Spaces of dignity for the displaced population in Colombia*.

¹⁴ Cijp: General (r) Rito Alejo del Río is condemned for 26 years, 24 of August 2012; Cijp: Intimidation of Marco Velásquez, member of CAVIDA, 7th of January 2014; CIJP: Paramilitaries operate less than 100 metres from the military, 13th of January 2014; CIJP: Warning made against the life of Danilo Rueda 16th of January 2014.

¹⁵ CIJP: Paramilitary siege in afro and indigenous communities, 3rd of November 2015; CONPAZ: Public Letter Unilateral ceasefire at risk, 3rd of November 2015; CIJP: Paramilitaries settle in Cacarica without reaction from the armed forces, 5th of October 2015.

¹⁶ PBI, Cacarica: the accompaniment that marked PBI, 1st of December 2014.

the Humanitarian Zone of Nueva Vida (New Life). Before the displacement, the families had lived in small farms fairly isolated from one another. However, given the situation of insecurity for civilians in the territory and the lack of guarantees from the Colombian state, these families decided to live in a more collective manner.¹⁷

On the 26th of December 2013, the Inter-American Court of Human Rights published the final verdict¹⁸ in the case of Cacarica. It unanimously declared the Colombian state as "internationally responsible" for not complying with its obligation to guarantee the right of personal integrity and the right to not be forcibly displaced, endangering the Cacarica River Basin's community members. Furthermore, the Court condemned the Colombian state for not complying with its obligation to provide humanitarian assistance during the four years that the inhabitants of the Cacarica river basin were displaced and for not guaranteeing a safe return to their territory.¹⁹ Likewise, the Court concluded that the exploitation of the collective property of the communities of the Cacarica River Basin "took place in an illegitimate form and the authorities failed to protect the right to collective property despite having knowledge of the illegal exploitation that was taking place there, due to several visits to the area."²⁰

The verdict is of symbolic and great moral importance, being the first IACHR sentence that condemns a state for the forced displacement of an Afro-Descendant community.

After the experience of Cacarica, other Humanitarian Zones appeared in the same Urabá region. PBI accompanies several of such initiatives, such as the Humanitarian and Biodiversity Zones that were set up in the Curbaradó and Jiguamiandó river basins. These were territories that were affected by the planting of mono-culture farming projects such as palm oil and bananas, logging and extensive cattle farming.

Until the end of the 20th century, the Curbaradó and Jiguamiandó river basins were considered one of the biggest environmental reserves in the world. The Bajo Atrato region, especially the land that forms part of the large area of wetlands formed by the Atrato and Murindó rivers, is also exceptionally fertile. Today however, a large part of this territory has been reduced to monoculture, extensive cattle farming and large-scale logging operations, with no space for flora and fauna much less the ancestral inhabitants.

¹⁷ Ibid.

¹⁸ Inter-American Court of Human Rights, Sentence Case of the Afro - Descendant Communities Displaced from the Cacarica River Basin

¹⁹ Ibid.

²⁰ Ibid.

Resistance in urban territory: the creation of a Humanitarian Space in the city of Buenaventura

The Humanitarian Space was created in the city of Buenaventura in April 2014. It is an emblematic example of a community process of resistance. The inhabitants of the area declared themselves neutral in a context of extreme social and political urban violence. It is the first time something like this has been done in Colombia and the project has emerged because of the examples of the other Humanitarian Zones mentioned above. The basis is neutrality and the right to the principle of distinction between combatants and non-combatants in the context of an armed conflict. In Buenaventura there is no armed conflict as such, however there are political and economic interests that threaten the fundamental rights of the communities that inhabit the city.

The serious situation of violence and human rights violations in the port city of Buenaventura, located in southwest Colombia, has caused several international entities in the last two years to publish reports trying to bring attention to the situation.²¹ In different reports, the UN High Commissioner for Refugees (UNHCR), the Office of the High Commissioner for Human Rights (OHCHR), Human Rights Watch (HRW) and others have repeatedly documented the terrible socio-economic conditions in the city, as well as high levels of violence. Amongst the violent practices occurring, the majority perpetrated by illegal armed groups, there is forced displacement, enforced disappearances, torture and the dismembering of individuals in so-called “casas de pique” (chop-up houses). Unfortunately, the state response until now has not been sufficient to stop the violence. Facing this situation, the inhabitants of the area known as Puente Nayero, in the neighbourhood La Playita situated on the sea front, decided to start a process to establish a Humanitarian Space. The CIJP supported them.²²

The City of Buenaventura

Because of its geographic location, Buenaventura is a strategic point for the importation and exportation of goods, mainly to Asia and the United States. Almost 50% of the goods that enter and leave Colombia go through the port; this will increase with the Pacific Alliance, a multilateral free-trade agreement signed by Chile, Mexico, Peru and Colombia.

Currently there are several projects in motion to convert Buenaventura into a port

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²¹ HRW: The crisis in Buenaventura, March 2014, NRC and Acnur: Buenaventura, Colombia: Brutal Realities, September 2014, OCHA: Massive Interurban Displacement and Limitations to Mobility, November 2013, HRW: Nine assassinations and enforced disappearances in Buenaventura, march 2015.

²² Ibid.

that has an objective to attract foreign investment. In several poor areas situated on the waterfront and known as “low-tide neighbourhoods”, the municipal government has proposed the construction of a waterfront and tourist infrastructure, the widening the Container Terminal of Buenaventura as well as constructing a Centre for Economic Activity. Nonetheless, these projects go against the ancestral ways of life of the inhabitants of the low-tide neighbourhoods.²³

To be able to implement these mega projects, the inhabitants of the area have to accept to be relocated, which would mean moving away from the sea to zones further inland or rural areas of Buenaventura.

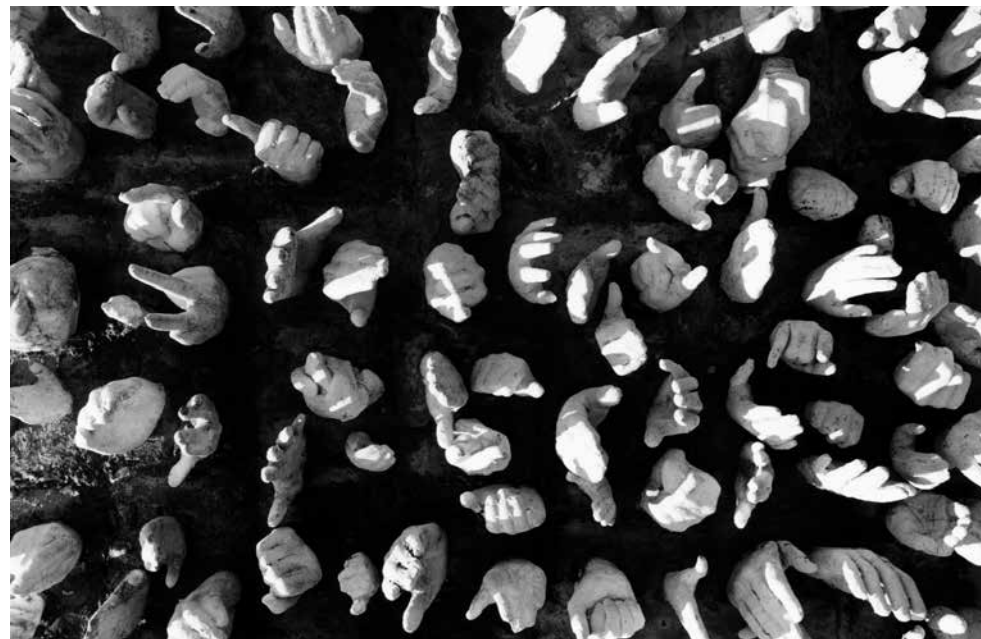
Despite being the main port of the Colombian Pacific coast and the second biggest port on the Latin American continent, 80% of the inhabitants, about 500,000 people (the majority afro-descendants), live in extreme poverty and 63% are unemployed.²⁴ As is highlighted by the United Nations Development Program “Buenaventura embodies one of the saddest examples of poverty and underdevelopment in Colombia. Its indicators of health, education employment and incomes are disheartening for anyone monitoring the situation and for those who have seen the failure of the anti-poverty policies of the local authorities,



Humanitarian space Puente Nayero Street in Buenaventura. Photo: PBI

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²³ CINEP: Noche y Niebla (pg.95), December 2013.

²⁴ CIJP: Descendants of slavery in Buenaventura, 22nd of March 2014.



Monument commemorating the forced displacement Cacarica. Photo: Jorge Mata.

however it is worse for the people who day after day have to suffer the effects of this phenomenon.”²⁵ Facing this situation of violence and the continuous threats of displacement caused by large economic investments in the city, the families of the historic Nayero street (also known as San Francisco), with the support of CIJP, founded the “Humanitarian Space of Puente Nayero” on the 13th of April 2014. This act therefore initiated a new inspiring process, an attempt to create a space free of illegal armed groups, in an urban context.

The community of Puente Nayero then decided to carry out a census of all the families (302 in total) and mark out the area. Their objective is to start constructing alternatives to violence and attempt to break the fear and take control of their environment in order to protect themselves from neo-paramilitary groups.²⁶

It is important to point out that, since the creation of the Humanitarian Space and despite the persistence of the threats, the inhabitants have been able to regain their communal lifestyle: children play in the streets after sunset, the “chop-up house” where people were dismembered has been knocked down and the people have more hope for the future as they begin to restore their lives.

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²⁵ UNDP: How to break poverty traps in Buenaventura? Proposals from the communities and Institutions, May 2013.

²⁶ CIJP: They can't find dismembered youth, 2nd of January 2015.

A few days after the installation of the Humanitarian Space, CIJP requested that the Inter-American Commission of Human Rights (CIDH) order precautionary measures to protect the integrity and lives of the 302 Afro-Colombian families who live in Puente Nayero. Finally on the 15th of September 2014, due to the situation, the CIDH considered that the circumstances were so serious and urgent, that it requested that the Colombian government adopt the necessary measures to preserve the life and integrity of the members of San Francisco street, in the La Playita neighbourhood, that formed part of what is known as the Humanitarian Space.

Guatemala

Together we move forward

Integral strategy for the defence of rights in the face of an extractive mining project: La Puya case study



Social-environmental conflicts in Guatemala

Source: Environmental Justice Atlas www.ejatlases.org

The map only represents some of the social-environmental conflicts in the country

I Think, Therefore I Resist

Grassroots experiences of alternative protection and promotion of human rights in the context of large-scale economic investment

IN GUATEMALA, as in other countries in Latin America, there are an increasing number of conflicts between companies (national and/or international) that exploit natural resources and local communities. These communities have often lived for generations in certain territories and feel that their fundamental rights, their culture and way of life are under threat. Often these conflicts turn violent, and a constant feature is the threats, intimidations and attacks from state and non-state actors, against people and organizations who are defending their land and territory.

Referring to attacks carried out against human rights defenders in Guatemala, the people most affected are precisely the people who defend land and territory. Of the 337 attacks registered by the Unit for the Protection of Human Rights Defenders in Guatemala (UDEFEQUA) in the first semester of 2015, 239 were directed against defenders of economic, social, cultural, and environmental rights, all of these are linked to the general conflictive nature of projects that exploit natural resources.

One of these projects is the El Tambor Progreso II Deriva, a gold mine located a few kilometres from the capital, Guatemala City. The mine is actually owned by the North American company Kappes, Cassidy & Associates, who operate through their local subsidiaries Exploraciones Mineras de Guatemala S.A. and Servicios Mineros de Centro América.

Since 2010, residents of the affected municipalities of San José del Golfo and San Pedro Ayampuc have carried out a range of peaceful resistance activities to show their disagreement with the project. Since then the resistance movement has been demanding a free and informed consultation process before the construction begins. They are also demanding an independent environmental impact study as the study carried out by the company itself has been heavily questioned. These vindications are due to the concerns about the impact that the mine could have on access to water, the contamination of water sources, the death of local fauna, and general damage to the local ecosystem.

“ Some of the rights violated are the right to life, the right to water and the right to health, because the water already has high levels of arsenic. What’s more the right to a consultation before the project has not been respected, nor has the right to defend rights, which has been criminalised and strongly violated. The public servants involved don’t look well upon the people who are organising themselves, we are categorised as troublemakers. The response of the state has been to avoid responsibility and justify the actions of the mining company.”²⁷

²⁷ Interview with Miriam Pixtun, member of the Peaceful Resistance of La Puya, carried out by PBI Guatemala in December 2015, Guatemala.

The communities have pointed out the lack of public information about the project, as well as the mining company's strategy of disinformation and division within the community.

“ The companies have this habit of not telling the truth when they arrive in the territory, but the municipal authorities are very weak when it comes to enforcing what they have to in able to guarantee the rights of the people. When the company arrives, it generates new divisions amongst the people living in the territory, and it fortifies the divisions that already exist. The company strategically contracts people from families who are against the mine; this generates division within the family and within the community. There is also the co-optation of municipalities on behalf of the company, because the company isn't going to do these things directly. Instead, it uses the local authorities or local people to generate confrontations with people who do not agree with the mine, and when they do not achieve this they use much more aggressive methods.”²⁸

Since the Peaceful Resistance of La Puya initiated its work, it has suffered death threats and acts of aggression, as well as an assassination attempt against one of the group's members in June 2012. Other members have been the subjects of defamation processes and false legal accusations due to their commitment to the Peaceful Resistance. On the 23rd of May 2014, the occupation camp of the Peaceful Resistance, which had been blocking the entrance of the mining installations since 2012, was evicted violently. One year later, at the commemoration of this eviction, the Resistance blocked the vehicle entrance to the mine for not receiving an answer to the petition made in 2014 soliciting a negotiating table with the President of the Republic. According to information provided by members of the Peaceful Resistance, close to 200 riot police arrived to clear the entrance in an aggressive way and using excessive force on the morning of the 26th of May 2015.

On the 15th of July 2015, The Third Tribunal of The First Instance Civil Law of Guatemala upheld a legal appeal in favour of members of the Peaceful Resistance of La Puya, the verdict ordered the Municipal Council of San Pedro Ayampuc to suspend the construction of the mine within 15 days of the sentence being passed.²⁹ This suspension was ordered because the consultation process had not been carried out and because the company lacked the necessary licence for construction. On the 23rd of July, the Municipal Council of San Pedro agreed to stop the construction work on the mining project until the legal appeal is resolved indefinitely in the form of a municipal agreement.

Despite this, from August until December 2015, arguing that the verdict was not final, the mining company disobeyed the municipal agreement and moved

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²⁸ Ibidem.

²⁹ La Puya in Resistance, Facing up to the exploitation of land PBI Guatemala No. 28, 2012; La Puya: They have made them suspend the mining licence of the North-American business, Prensa Comunitaria 15/07/2015; Violent eviction of the Peaceful Resistance of La Puya Retrieved 13/08/2015.



Peaceful resistance of La Puya one year after the violent eviction on May 2014. Photo: PBI 2015

trucks loaded with construction materials into the mine. Riot police from the National Civil Police (PNC) protected the trucks.³⁰ The director of Kappes, Cassidy and Associates in the United States argued that the construction was already finished and the mine was operational, and because of this the suspension of the construction work was not applicable.³¹

“ We have had a dialogue with the Ministry of Energy and Mines (MEM), the Ministry of the Environment and Natural Resources (MARN) and the Political Secretary of the Presidency about the issue of the PNC accompanying the workers and the mining machinery when at the same time there is a court sentence and a municipal order to suspend the construction, and they replied that it doesn't have anything to do with them. That it has to do with other ministries, that it is a different jurisdiction, and it is not their responsibility. When we spoke to the municipality of San Pedro Ayampuc, they responded that they gave, via a municipal agreement, the order to suspend construction because the company did not have the relevant licence.”

[...] In tribunals it was shown that the company falsified their construction licence and because of this the judge opened a criminal investigation, he asked the public prosecutor's office to investigate illegal actions. The memorandum that the company makes reference to is completely different to the municipal memorandum, where supposedly the licence was authorised.”³²

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³⁰ El Periodico, Guatemala. Conflict persists in La Puya due to the mining project.

³¹ Vice News Tension in Guatemala for the immediate closure of goldmine exploited by US 05/08/2015.

³² Interview with Miriam Pixtun, Cit.

There are at least thirty community members that have different legal accusations against them, three of them have been condemned to nine years in prison.

[...] Actually this a good example of the criminalisation of human rights defenders. There were nine people suspected of four crimes, where one crime, a wounding charge, had already been dismissed. So the nine accused all started their trials in different moments. The first three went to public debate and were sentenced to nine years in prison for death threats, coercion and illegal detention. This despite the fact that in the public and oral hearings no evidence could incriminate any of the accused, and with all the irregularities that occurred in the trial, the judge still handed out prison sentences. Curiously, this is the same case that other members of the Peaceful Resistance are involved in, and their trials continue. It is the same dossier, the crimes are the same, the claimants are the same, the incidents are the same, and they happened at four individual moments. After these three accused, there were another five who were included in the proceedings. Amongst these five there was a woman, she was dismissed as it was argued that because she was a woman, she could not take a machete and hit a man. For the other four the trial continued. However, they were eventually acquitted from the criminal process, because there did not exist any type of effective evidence against them. In the same criminal process it was shown that the Public Ministry of Palencia had falsified proceedings in order to incriminate the individuals. Because of this, the sentence was absolved and an investigation was opened against the Public Ministry of Palencia. This is a clear example of how people are unjustly criminalised. Another of the individuals accused was not even linked to the criminal process.³³



Members of Peaceful Resistance of La Puya awaiting the outcome of the trial of their accused colleague on the day they were acquitted, Photo: PBI 2015

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33 Ibid.

Ways of non-violent resistance and protection mechanisms

The rural communities of San José del Golfo and San Pedro Ayampuc have in the last few years developed creative and diverse activities with the objective of promoting their rights and protecting themselves in the face of attacks and intimidations to which they repeatedly suffer. They initiated a permanent occupation camp that has, with a lot of willpower on behalf of the occupants, remained in place for the last four years. The local communities have organised themselves in a rotation system to keep the camp in place. Furthermore, they have always highlighted the peaceful nature of their resistance.

Miriam Pixtun, member of the Peaceful Resistance of La Puya, talks first-hand about the goals and achievements of the Peaceful Resistance. Specifically in the promoting of their rights and the search for a peaceful resolution to the situation that they are living:

PBI: The Peaceful Resistance of La Puya has been resisting the gold mine for years and is demanding the fulfilment of their rights. Because of this work the security of the organisation and the people who belong to it is at risk. What strategies have been used to achieve your objectives and minimise the impacts that this struggle is having on the lives of the people involved?

Miriam Pixtun:

- *Peaceful resistance*
Our resistance is diverse and peaceful. However, those who perpetrate violence in La Puya are the mining company and the Guatemalan State through it's the security forces. So, one of our measures to safeguard our lives and defend our integrity is, just that, the non-violent struggle for the protection of life.
- *Communication between communities*
Another important thing is the ongoing communication within the affected communities, and the confidence we can generate amongst ourselves; this has allowed us to look out for one another.
- *Alliances and accompaniment*
The accompaniment and support that we have received from international organisations like PBI and Protection International (PI) has been very important. The fact that there are external organisations that are monitoring our situation has been fundamental. It has given us a certain amount of security facing this alliance of companies and public institutions, as well as against other actions that could occur.

On a more general level, we have high expectations in creating more alliances with other organisations in the international community that fight for life and for human rights. We have the political advocacy that allows us to have meetings with individuals in the international community who are dedicated to human rights, so that they can become witnesses to the dialogue we have with the Guatemalan government. This is important because when we hold dialogues with public servants there is always a risk that they distort the information and create a defamation campaign against us, and others who are defending the rights of the population. This makes people scared to talk to the government. What we want is that the international community can observe these things.

The judicial route

We have also been thinking about, and analysing the Guatemalan legal system. We try to understand the judicial framework better, and the mechanisms that exist within it, but this sometimes can be frustrating. For example, when looking at what they contemplate as protection measures, in practice it just doesn't happen. It is very complicated. For example, in the case of the Guatemalan National Civil Police, their function according to the judicial framework is protecting the life and security of Guatemalan citizens. However, when we analyse the behaviour of the national police force in La Puya, we see that their function is simply to be the private security of the mining company and not so much the preservation of the security and integrity of the population.

We have also documented, through legal actions, the falsification of the construction license that the mining company uses. However, due to the levels of corruption and impunity that exist, the police lends its services to the mining company. This way, the company can keep accessing the mine and carry on with the construction, and not in compliance of the judicial and administrative orders.

It is very difficult to demand that the law be respected when in practice not even the public servants who are supposed to be in charge of implementing these laws respect them.

Dialogue

Another mechanism that has been very important for resistance at La Puya has been the intention to create dialogue.

La Puya has passed through various moments of dialogue. The first just after the first period of repression in December 2012. We requested that the National System of Dialogue (SND) participate at the negotiating table. However, we were surprised that they did not listen to us, nor did they try to mediate the situation in any way. Actually, it seemed as if the SND was the spokesperson for the mining company. They arrived at the negotiating table with a pre-planned agenda, and with an arrogant attitude; they were only there to justify the actions of the mining company. You could not distinguish the rhetoric of the public servants from that of the mining company. It was precisely because of this situation of inequality and the lack of respect for us on behalf of the public servants that we could not continue this dialogue.



Miriam Pixtum, a member of The Peaceful Resistance of La Puya.

Later, in June-July 2013, there was another phase of dialogue. The president of Guatemala, Otto Pérez Molina, called us to a meeting in the presidential palace. However, when we arrived at the meeting the president of the mining company, Daniel Caps, was present. We explained that our position was that we wanted to initiate a dialogue with the government and not the mining company. It is one of our criteria to have a dialogue not with the mining company but with the government, which has the responsibility to guarantee our rights, and if there are problems at the moment, it is because the Guatemalan state did not do its work, as it should have done.

For this reason, we asked the president if he could attend to us separately. In other words, one meeting for the government and Peaceful Resistance of La Puya

and another, separate meeting for the government and the mining company. He complied, and in this meeting the OHCHR, the Human Rights Ombudsman (PDH) and the Centre for Independent Media were also present as witnesses of honour. Despite all the witnesses, the government still twisted the information and justified the repression that occurred in May 2014 with the argument that the communities involved did not want a dialogue.

Unfortunately, in several of the meetings we have had throughout this whole process, the people that have arrived to represent the government have been public servants that cannot independently take decisions. Therefore, on the third attempt to establish a dialogue, at the end of 2015, when we brought up the issue of the legal appeal and the environmental impact study, the response from the public servants was that they did not have any information. Facing this situation, we formally handed over the documentation. In the next meeting, when asking them their opinion on the legal and administrative issue that were outlined in the documentation, it turned out that they had not even read it.

In the last meeting we reported that in the rainy season, water contaminated by the waste material caused by the mining process was spilling into the nearby communities. We came to an agreement that the authorities would carry out a visit to monitor and verify the area on behalf of the Ministry of Energy and Mining (MEM), the Ministry of the Environment and Natural Resources (MARN) and the Human Rights Ombudsman (PDH). In the next meeting we found out that in the visit there was only participation of delegates from the MEM and neither the MARN nor the PDH were told of the visit. The argument was that it was only a routine visit. We were told that if we wanted them to do the verification of the contaminated water, we should stop the resistance, get rid of the occupation camp. We thought this was disgraceful, because they were violating our constitutional right for them to do their work, which should be an obligation.

We continue our disposition to dialogue with the government, despite the repression that we have suffered and the frustration that all this has caused. We continue with a broad mind in relation to a dialogue, because it is the only way to achieve solutions, but it should be a dialogue that actually satisfies the necessities of each party involved. It is important that there are public servants that can take decisions, because if not, is disheartening for the communities involved in these types of conflicts to have so many meetings and not achieve anything. For the moment, we have seen that the Guatemalan government has no capacity for dialogue. It knows how to repress and how to criminalise. Unfortunately, the capacity for dialogue that involves listening and finding solutions in an impartial way, conforming to its commitments to the international standards of human rights, is beyond it.

In this process we supported each other.

One important question that we have learnt in the experience of La Puya is how all these mechanisms of oppression they forced upon us and we have internalised; like machismo, patriarchal, racism, class struggle and other oppression, can be combated in these spaces. The Peaceful Resistance has been, and is, an opportunity to create a rupture in this oppression. It doesn't matter if I am a woman or Maya, or if I am an academic or if I have money; here we are all at risk, and we are seeing that we can provide something that comes from diversity to achieve a common objective, that is life. The experience of La Puya is a very interesting one, to see how we have transcended these negative practices that we have internalised in order to work towards a common goal. We start to see, perhaps by force, from a more complementary perspective, from our diverse actions. If from within we start to see ourselves as complementary, with the diversity of knowledge, skills, and experience; this creates strength. The Peaceful Resistance of La Puya has achieved exchanges with diverse organisational, personal and community expressions, and for me this is something of historical importance because from this we construct everything around us.

Mexico

Protection strategies in the context of the development of wind farms in the Isthmus of Tehuantepec



Social-environmental conflicts in Mexico
Source: Environmental Justice Atlas www.ejatl.org
The map only represents some of the social-environmental conflicts in the country

I Think, Therefore I Resist

Grassroots experiences of alternative protection and promotion of human rights in the context of large-scale economic investment

The wind of the Isthmus as an energy resource

The Isthmus of Tehuantepec is located in the state of Oaxaca, southern Mexico. It is a region that has one of the largest potentials in the world in relation to wind resources. This makes it extremely attractive for foreign companies in the energy sector that are looking to enter emerging markets. The exploitation of wind resources in this region is still relatively recent. The first wind farm (La Venta I) was built in 1994 as a pilot project that started with the installation of seven aerogenerators. From the year 2000, the local government of the state of Oaxaca, with support from the Institute of Electrical Investigations (IIE), organised several international conferences with the objective of promoting opportunities to invest in wind energy in the area. The idea was to create a Wind Corridor in the Isthmus of Tehuantepec. In 2004, the Global Environment Fund (GEF) approved the granting of economic support to Mexico, in the form of a non-refundable subsidy to carry out a project called the Action Plan for Removing Barriers to the Full-scale Implementation of Wind Power in Mexico.³⁴ Within this framework, from 2006 the first tenders for the construction of wind centres were awarded to foreign companies, mainly of Spanish origin. Currently, there are 24 wind farms operating in the Isthmus of Tehuantepec.³⁵

Rights of Indigenous communities in the Isthmus of Tehuantepec

The state of Oaxaca is characterised by its ethnic and cultural diversity, with the presence of 18 ethnic groups, and more than 60% of the population identify themselves as indigenous. There are communities of Zapotecos, Huaves, Mixes, Chontales and Zoques living in the Isthmus of Tehuantepec. Specifically in the municipality of Juchitán de Zaragoza, 53,226 of the inhabitants speak an indigenous language,³⁶ this represents 57% of the total population. The presence of indigenous communities means that the Mexican government has the responsibility to protect and promote the rights of the indigenous communities. This is recognised not only by Mexican law but also in certain instruments of international law that have been ratified by Mexico. The right to self-determination, as well as the right to choose their own political system and pursue their own economic, social and cultural developments have been affected by the installation of mega-projects in their territory. The diagnostic and strategic agenda of human rights of the state of Oaxaca points out that in 2014 the Zapoteco and Huave indigenous communities were not consulted in the construction of wind

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³⁴ Opportunities and challenges for wind energy development in Mexico Boletín IIE Emerging renewable energy April - June 2008 Vol 32.

³⁵ Wind Energy Capacity Installation in Mexico 2015.

³⁶ INEGI, 2010. Data on the population of 5 years and above, speakers of an indigenous language.



Wind farm in La Venta, Isthmus of Tehuantepec, 2015. Photo: PBI

farms in their territory.³⁷ Therefore the Free, Prior and Informed Consent (FPIC) that is established in the Indigenous and Tribal Peoples Convention 169 of the International Labour Organisation (ILO) and in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) was not being fulfilled. This neglect has generated worrying situations of social conflict and alarming levels of violence against human rights defenders from the community, who are constant targets of harassment, death threats and physical aggressions. The lack of consultation, in turn, does not take into account the traditional decision making process of indigenous communities, therefore undermining the organs of self-government that promote a vision of collective defence of their rights.

Human rights defenders working on land and environment issues are at risk

The United Nations Special Rapporteur on the situation of Human Rights Defenders highlights, from information collected in consultations, that “human rights defenders [working on land, the environment] are object of distinct forms of surveillance, attacks, enforced disappearances or smear campaigns where



PBI volunteer with community advocate at wind farm Bii Ixho. Photo: PBI

they are portrayed as individuals who are against progress and development in their country”. He adds “the distinct violations and death threats are seen to be fostered by a defective institutional environment, in which certain states do not activate binding mechanisms to condemn violations committed by national/international companies”.³⁸ This information identifies a global tendency of high risk for human rights defenders that carry out their work at a community level, and in the context of the development of mega-projects or the exploitation of natural resources.

³⁷ Coordination for the attention of human rights in the State of Oaxaca , rights of indigenous peoples and communities, 2013.

³⁸ Report of the Special Rapporteur on the Situation of Human Rights Defenders 30th of July 2015.

In Mexico, between May 2014 and June 2015, the Mexican Centre for Environmental Law (CEMDA) registered 109 cases of attacks against human rights defenders in the country, pointing out that Oaxaca was the state with the second highest number of attacks, with 13 cases registered.³⁹ Furthermore, eight of these attacks are linked to actions where the victims are opposing mega-project wind farms. Likewise, Urgent Action for Human Rights Defenders (ACUDDEH), highlights the fact that “there are some organisations that have been constantly attacked in the three different time periods that correspond to our reports, for example, the Popular Assembly of the Pueblo Juchiteco (APPJ);⁴⁰ have been victims of 7.5% of the incidents registered between June 2014 and May 2015.

In the context of the implementation of large-scale wind farms in the Isthmus of Tehuantepec, there have been numerous violent episodes against human rights defenders. There has also been a significant rise in human rights violations, including death threats, intimidation, harassment, physical aggression, surveillance and assassinations of human rights defenders from the communities affected. PBI Mexico has observed a concerning rise in risks for human rights defenders and community leaders that work in this context in the region.⁴¹

“ Who are you? It’s Karina. No, it’s Liliana.” With this phrase we have registered a series of threatening telephone calls, mainly to members of the organisation. It is always difficult when members of the organisation receive threats. When they tell you about them, well there are things that are sometimes quite direct, other times they are more subtle [...]. They are signs that your work is bothering someone, sometimes we are probably being a nuisance for some authorities or businesses or maybe interest groups that we see in the region; and our presence is visible.”

Sara Méndez, Código DH, *Land of Corn Documentary*, June 2015⁴²

The Popular Assemblies, community networks of protection

Parallel to the surge in wind farms, the indigenous communities of the Isthmus of Tehuantepec have started to recuperate their political, economic, social and cultural systems. These efforts are not only a way to recover their traditional forms of self-government but also so they can organise and articulate themselves in the defence of the rights of indigenous people. This is what led to the creation of various popular assemblies; in 2007, the Assembly of Indigenous Peoples of the Isthmus of Tehuantepec in Defence of Land and Territory (APIITDTT); in 2011, the Popular Assembly of San Dionisio del Mar; in 2013, the Popular Assembly of the Pueblo

³⁹ CEMDA; Report on the situation of environmental rights defenders in Mexico 2015. December 2015.

⁴⁰ Urgent Action for Human rights Defenders, AC. ACUDDEH; Defend Human Rights in Mexico: Political repression, a generalised practice, Report June 2014 - May 2015.

⁴¹ PBI; Windfarms in Oaxaca; Concerns about human rights abuses in the state, 2014.

⁴² PBI; Land of Corn Documentary, 2015.



PBI Mexico volunteer, Oaxaca Team, observes the Assembly meeting in the context of the National Indigenous Congress held in Alvaro Obregon, Isthmus of Tehuantepec, 2014. Photo: PBI

Juchiteco (APPJ), to name but a few. The interaction between the Assemblies allows them to coordinate their actions of peaceful resistance, and furthermore acts as a network of community protection in the face of eventual aggressions against human rights defenders.

In April 2013, human rights defender Mariano López, a member of the Popular Assembly of the Pueblo Juchiteco (APPJ), was detained by state police, and accused of extortion. This incident took place a day before the APPJ was asked to participate in “a negotiating table to lessen the conflict that had been generated due to the construction of the Bii Hioxo Wind Farm of the company Gas Natural Fenosa in the area of Playa Vicente, Juchitán municipality”⁴³. During these negotiations “the issue of cancellation of the wind project would be addressed as well as the return of the radio transmitter that was removed from Totopo Community Radio”. After the detention, several Assemblies from the Isthmus sent out an urgent press release that urged the authorities to release the human rights defender.⁴⁴ Mariano López was let go two days after his detention for lack

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⁴³ Código DH: Urgent Action for the liberty of Mariano López Gómez, 3 April 2013.

⁴⁴ APPIIDTT: Urgent Press Release. Mariano Lopez Gomez is detained. 3 April 2013.

of evidence.⁴⁵ These types of actions allow the rapid distribution of information and highlight the aggressions that are happening in rural and remote areas of the country. This brought attention to the issue not only from Mexican civil society but also from international agencies that monitor the human rights situation in the country.

The Assemblies therefore allow the creation of a network that can exchange information at a local level, alerting about attacks or situations of risk for communities or individuals. They are also spaces of empowerment and education in human rights issues, where members can create and decide on their own strategies of action, also they establish norms for their own self-protection, conscious of the risk of what they are facing because of their work as human rights defenders.

“ Since its creation, many members of the APPJ and Radio Totopo that have been leading the resistance against the Wind Farm of Gas Natural Fenosa have been the object of constant threats, aggressions and intimidation on behalf of individuals who have links to the company involved in the project, as well as other authorities in the region. [...] On the 21st of July 2013, APPJ member Hector Regalado Jiménez as well as two other supporters were seriously injured by gunshots fired by armed men with balaclavas. The assailants were accompanied by members of the Auxiliary Police for Banks, Industry, and Commerce (PABIC). On the 1st of August 2013, Héctor Regalado Jiménez died as a result of the 6 gunshot wounds he suffered during the attack.”

Faces of Impunity

Chapter 2, Código DH, March 2014.⁴⁶

Networks of human rights defenders

As a response to the risk situation that human rights defenders are facing in Mexico, they have started creating networks that go from a local level to a region level. Their actions have mainly focused on highlighting certain cases and the distribution of information through urgent actions and press releases, documenting cases of attacks against human rights defenders as well as education. They also serve as spaces of encounters, reflection and exchanging knowledge and information. These spaces inspire the analysis of the human rights situation and help the planning of global strategies.

A prime example is the National Network of Women Human Rights Defenders in Mexico (RNDDHM). The network is formed of 172 women human rights defenders as well as journalists from several different states in Mexico. These women human

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⁴⁵ Código DH: Community human rights defenders Mariano López Gómez free! 4 April 2013.

⁴⁶ Código DH: Indigenous communities and mega-projects in the Isthmus of Tehuantepec, Chap.2 of Report “Faces of Impunity in Oaxaca”, March 2014.

rights defenders form part of a network of information and analysis that provides the capacity to react in the event of an attack against a woman human rights defender. The RNDDHM promotes an integral concept of security that includes using self-care as a protection method in order to achieve emotional, psychological and spiritual stability. In the Security and Urgent Action work group, they carry out joint analyses of the risk situation as well as creating protection plans. In cases of emergency that require the immediate relocation of human rights defenders or their families, the Network facilitates their relocation in shelters or safe houses at a regional or national level.⁴⁷

In September 2014, Bettina Cruz, a member of RNDDHM and a human rights defender from the Zapoteca community, was asked to attend a judicial hearing. She was accused of crimes against national wealth and illegal deprivation of liberty. These incidents are said to have taken place during a peaceful demonstration of the APIITDTT in front of the installations of the Federal Commission of Electricity in 2011. The protest concerned the installation of wind farms. It is important to mention that the day that the crimes supposedly took place Bettina Cruz was not actually present. However, this did not stop the judicial process against her going ahead, and in 2012 the Federal Ministerial Police arrested her. In light of the reactivation of the trial in August 2014, the Consultative Council of the Protection Mechanism for Human Rights Defenders and Journalists expressed its concern “about the use of the criminal system on behalf of the Federal Electricity Commission to criminalise freedom of expression and restrict the right that everybody has to defend human rights”.⁴⁸ The RNDDHM accompanied Bettina Cruz throughout her legal process, and formed part of the commission of women human rights defenders that handed over to the Sixth District Judge, an amicus curiae endorsed by over 300 national and international organisations.⁴⁹ The document emphasised the “non-existence of elements necessary to consider the human rights defender as responsible for the crime”.

Observation Mission to the consultation process in Juchitán

In October 2014, entities of three levels of the Mexican government started a consultation process for the development of an energy generating project that had been proposed by the company Energía Eólica del Sur S.A.PI (now known as Eólica del Sur). This Mega-project concerns the construction of 132 aerogenerators

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⁴⁷ Red Nacional de Defensoras de Derechos Humanos en México.

⁴⁸ Advisory Council Protection Mechanism Human Rights Defenders and Journalists, *Public letter on the legal status of the Human Rights Defender Bettina Cruz, September 2014.*

⁴⁹ National Network of Human Rights Defenders in Mexico, “Human Rights NGOs to deliver Amicus Curiae to the Judge presiding over the case of the defender Bettina Cruz”, September 2014.

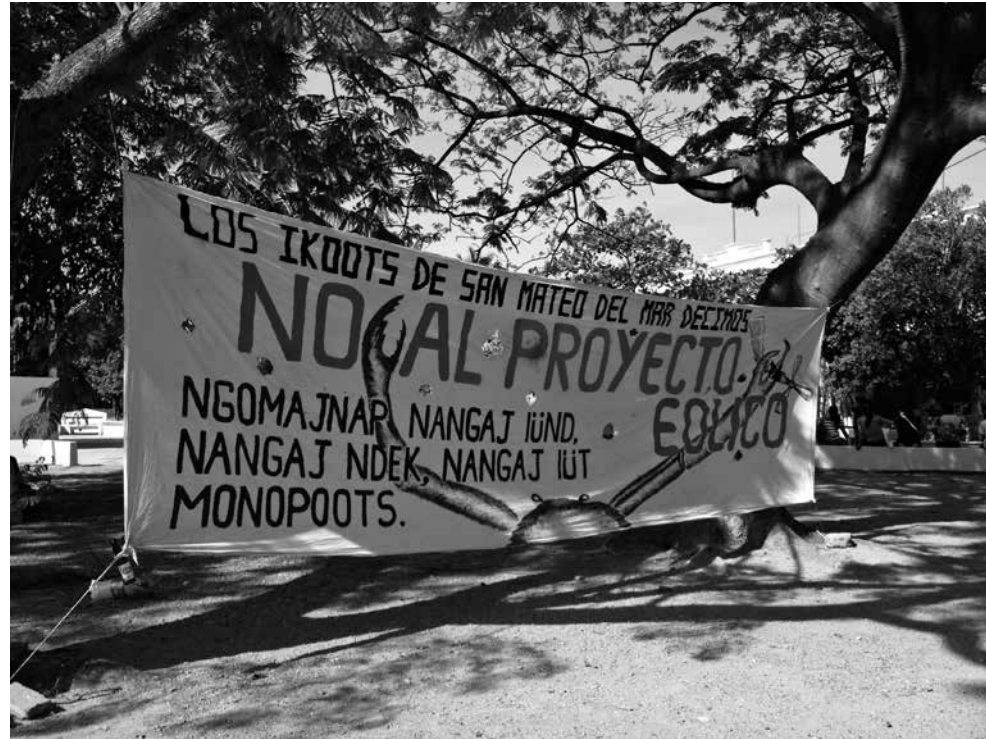


PBI Mexico volunteer, Oaxaca Team, observes the Assembly meeting in the context of the National Indigenous Congress held in Alvaro Obregon, Isthmus of Tehuantepec, 2014. Photo: PBI

over an area of 5332 hectares in the municipalities of Juchitán and Espinal.⁵⁰ The consultation is directed at the inhabitants of Juchitán de Zaragoza, and has four phases: Pre-Agreement Phase, Informative Phase, Deliberative Phase and Consultative Phase. From the beginning, human rights organisations Código DH, PRODESC and PODER formed part of the Observation Mission. They would monitor the consultation process and respond to a strategy of dissuasion, assuming that the “the presence of human rights organisations is important in increasing the political cost of any possible aggressions against the participants”. This particularly taking into account “the aggressions directed against human rights defenders in the region of the Isthmus of Tehuantepec in the last few years”.⁵¹ Additionally, they wanted to inform Mexican civil society and the international community about the development of the consultation process as a way of complying with international standards. In this way, the observation mission was present in the majority of sessions that were organised, and also published five reports that detailed the procedural infractions observed according to the criteria

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⁵⁰ Protocol for the implementation of the process of free, prior and informed consultation on the development of a wind energy project..

⁵¹ ProDESC, PODER and Código DH, Report of “Observation Mission” of the first week of sessions of the Consultation for the implementation of a wind project in Juchitan, Oaxaca.



Banner vindicating the resistance of indigenous peoples against wind projects. Photo: PBI

of a free, prior, informed, in good faith, culturally appropriate and transparent consultation process. Amongst the findings, the observation mission observed the failures to comply with the criterion of prior consultation, because the Secretary of Energy had already giving permission to the wind generation company Eólica del Sur in January 2015 before the consultation process had been finalised.⁵² The observation mission also documented the lack of compliance with the criterion of free consultation, as at least 30 acts of aggression against members of the community were documented throughout the process. The majority of these incidents were perpetrated against people who were against the proposal of the construction of wind farms, and in at least one case a public servant was threatened.⁵³ Despite all the documented incidents, the process continued and on the 30th of July 2015 the consultative and voting phase took place. However there was only participation of 0.5 percent of the community's population.⁵⁴ In this context, on the 15th of September, 1166 members of the Zapotec community

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⁵² Energy Regulatory Commission, RESOLUTION Núm.RES / 006/2015, January 2015.

⁵³ ProDESC, PODER and Codigo DH, Second Report of the Observation Mission on Indigenous Consultation process for the implementation of a wind project in Juchitan, Oaxaca.

⁵⁴ PODER and CDH-Tepeyac, Fifth Report of the Observation Mission on Indigenous Consultation process for the implementation of wind project in Juchitan, Oaxaca.

of the Isthmus of Tehuantepec presented a demand for legal protection from the Seventh District Court in the State of Oaxaca "with the objective to protect rights that have been violated by the federal, state and municipal authorities in giving approval of the construction and operation of the energy mega-project Eólicadel Sur".⁵⁵ The protective order was given by a federal judge, "who pronounced a suspension order which left the wind energy's authorisations on the change of use of the ground null and void". According to the Centre of Human Rights Tepeyac, this suspension implies that the project should be stopped during the legal process until there is a verdict from the judge.⁵⁶

“ Those of us who oppose the looting of our land, face death threats by telephone, insults, public threats inside the consulting forum, physical aggressions against our comrades as well as against their families, attempted kidnapping, being pursued by bulletproof vehicles without licence plates, defamation, harassment, gunshots fired outside our houses».

Isabel Jiménez,
Human Rights Ombudsman Zapoteca, during 156 period of sessions of the Inter-American Commission of Human Rights (CIDH), October 2015.⁵⁷

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⁵⁵ El Imparcial, Legal injunction to avoid construction of wind farm in Juchitan, October 13, 2015.

⁵⁶ Quadratin Agency, approval of final suspension of the wind project in the Isthmus, December 16, 2015.

⁵⁷ IACHR session 156 Situation of land and environmental rights defenders in the context of extractive industries in America, October 2015.

Honduras

The defence of the land and environment.
A high risk activity



Social-environmental conflicts in Honduras

Source: Environmental Justice Atlas www.ejatlases.org

The map only represents some of the social-environmental conflicts in the country

I Think, Therefore I Resist

Grassroots experiences of alternative protection and promotion of human rights in the context of large-scale economic investment

BETWEEN 2002 AND 2014, there were 111 assassinations of human rights defenders, 12 of which occurred in 2014. According to Global Witness, that makes Honduras the country with the highest number of assassinations of human rights defenders per capita in the world.⁵⁸ Despite this, the Honduran state has not yet informed the Inter-American Commission of Human Rights (CIDH) about any specific measures it will take to prevent assassinations and acts of violence against community leaders and human rights defenders from indigenous communities. The case of Bajo Aguán, in the Colón department is considered one of the most bloody agrarian conflicts in the history of Central America.

Antonio Trejo Cabrera is a lawyer with the Authentic Peasant Protest Movement of Aguán (MARCA). Cabrera represents several agrarian co-operatives in the Bajo Aguán region in their legal disputes with powerful landowners. He was involved in a well-known case that came to an end in June 2012 against the businessmen Miguel Facussé and René Morales. The verdict declared the acquisition of several farms to be illegal. The result of this decision was a court order for 1776 hectares of land to be returned to MARCA. On the 22nd of September 2012, Antonio was assassinated by firearm when he was in the vicinity of the Toncontín airport in Tegucigalpa. His case remains in impunity.⁵⁹

Margarita Murillo, a human rights defender and important figure in the peasant farmer movement, was assassinated in August 2014 when she was working on her plot of land. All her life she fought for the rights of peasant farmers, and it was for this reason that she was the victim of repression, rape and repeated torture. Her husband received bullet wounds during a military operation against peasant farmers that were protesting about access to land in the locality of Choloma. A group of soldiers also kidnapped her 23-year-old son in 2014. She was a beneficiary of precautionary measures ordered by the Inter-American Commission of Human Rights (CIDH) after the military coup of 2009, however these measures were never implemented. Until today, her case remains in impunity. The two public prosecutors who took on the case and the two people suspected of carrying out the assassination have also been murdered.⁶⁰

Juan Francisco Martinez. On the 5th of January 2015 his lifeless body was found with signs of torture. Juan Francisco was a very active member of the peasant farmer movement. Members of MILPAH (The Indigenous Lenca Movement of La Paz) have reported that his death could be linked to a land dispute that the

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⁵⁸ How many more?" Global Witness, April 2015.

⁵⁹ APRODEV, CDM Watch, CIFCA, FESPAD, FIAN, LAWG, OMCT-FIDH, PIDHDD, Rel-UITA, Sisters of Mercy and Vía Campesina International Press release, "International Organisations condemn the assassination of the lawyer and human rights defender, defender of peasant farmers of the BajoAguán region and special prosecutor of human rights", October 2012.

⁶⁰ PBI Honduras, Boletín 2, 2015 and Agrarian Platform et al, Margarita Murillo, No to Impunity, 1958-2015, 2015.



Observation march against gender violence, 'Neither locked away, nor with fear' in El Progreso department Yoro, 29 August 2014. During this march several tributes to Margarita Murillo were made. Photo: PBI

organisation has with a group from the Centre of Coffee Producers; a group that is supported by the mayor of Santa Elena, Víctor Ventura.⁶¹ The mayor has declared on many occasions to be against the actions of MILPAH, as a result of their opposition to the construction of the Los Encinos S.A hydroelectric dam.

On the 1st of June 2015, MILPAH reported the assassination of **Silvestre Manueles** to the Public Prosecutor's Office. Manueles was a member of a rural community in the municipality of Santa Elena. His murdered body had appeared a month beforehand in the Chinacla River.⁶² During visits PBI has carried out in the area, we received reports of two other enforced disappearances.

Criminalization and stigmatization of community resistance

According to statistics from Vía Campesina, halfway through 2015 there were more than 5000 members of the Honduran peasant farmer community with non-custodial measures, amongst them 815 women and currently 11 find themselves deprived of their liberty in distinct prisons around the country.⁶³ The National Centre

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⁶¹ Honduras - Assassination and torture of the human rights defender Juan Francisco Martínez" Front Line Defenders, 16 of January 2015.

⁶² "Report to the Public Prosecutor's Office, Ethnicity Department, of the brutal assassination of a member of the indigenous community on the shores of the Chinacla River", CEHPRODEC, 8th of June 2015.

⁶³ Peasant farmers demand the freedom of those who fight for the land, Human Rights Defenders online, April 2015.

of Field Workers has informed that, only in the La Paz department, there are 612 peasant farmers with legal cases against them. 161 of them are women who are subjected to precautionary measures and have to present themselves each week before the courts to sign. Many of them are single mothers, and many have also been imprisoned while they were pregnant or with young children or babies. Elderly women are also imprisoned. The case of the La Paz department is not isolated and this trend has been observed all over the country.

In the rural community of Planes, Santa María, in the department of La Paz, a total of 20 human rights defenders from the community were arrested whilst protesting in June 2015. The protest concerned the right to their land. Four of them were below the age of 18, five of them were women, and some of them were elderly. There was also a woman who was pregnant who consequently suffered a miscarriage after 22 days imprisoned in poor conditions. Three remain in prison to this day.

Berta Cáceres (winner of the 2015 Goldman Environmental Prize) is a human rights defender from the indigenous Lenca people. She is also the general coordinator of the Civic Council of Popular and Indigenous Organisations of Honduras (COPINH). She heads the organisation that represents the Lenca, the largest indigenous ethnicity of Honduras. They have been defending their territory against the Agua Zarca dam on the Gualcarque River, demanding the right of prior consultation of the community according to the Convention 169 of the International Labour Organisation (ILO), and the respect of the ancestral territory of the Lenca people.

In the context of her work she has received frequent death threats and suffered false accusations on behalf of the Honduran state, in May she was accused of "illegal possession of a firearm, putting in danger the security of the Honduran state". The case was eventually dismissed. She is a beneficiary of precautionary measures of the Inter-American Commission of Human Rights (CIDH) since 2009, but she has reported that they have not been implemented adequately.⁶⁴

2016 Update:

As the first edition of this publication went to print Berta Cáceres was assassinated in her home by gunmen.⁶⁵ Since her assassination members of COPINH have increasingly been subject to harassment and intimidation. On the 15th of March 2016, Nelson García, another member of COPINH, was shot and killed.⁶⁶ The security situation for members of COPINH and other land and environmental rights defenders in Honduras remains critical.

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⁶⁴ MC 196/09 - Expansion of Precautionary Measures, Honduras.

⁶⁵ <http://www.theguardian.com/world/2016/mar/03/honduras-bertha-caceres-murder-environment-activist-human-rights>

⁶⁶ <http://www.theguardian.com/world/2016/mar/16/bertha-caceres-nelson-garcia-murdered-copinh-fellow-activist>

I Think, Therefore I Resist

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Observation in Río Blanco on the first anniversary of the Lenca community protest camp against the project Hydroelectric Agua Zarca. Photo: PBI

Agua Zarca: On the 15th of July 2013, the military opened fire against protesters from the indigenous Lenca communities of Río Blanco in the department of Santa Bárbara. With three gunshots a peasant farmer leader was killed and his son was also seriously injured. According to the reports, the demonstration was peaceful and was under supervision of the police and the military. The indigenous communities were expressing their opposition to the installation of a hydroelectric dam, referred to as Agua Zarca, on the land that they have inhabited for centuries. The project had begun without the necessary prior consultation.⁶⁷

José Isabel Morales, better known as “Chabelo”, is a member of the Guadalupe Carney rural community in the Bajo Aguán region. He is also member of the Peasant Farmer Movement of Aguán (MCA). Before he was arrested he dedicated his time to working the land, selling ice cream and playing football. He was detained on the 17th of October 2008, accused of the murder of ten people, who were family members and employees of the high ranking police officer Henry Osorto. Chabelo remained in prison for seven years, before finally being absolved of the crime in October 2015. While he was locked away in prison, his three-year-old daughter, his father and his grandfather all passed away.

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⁶⁷ Urgent Action: The military fires against protesters in Honduras,” Amnesty International, 23rd of July 2014.

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The third trial should have started in September 2015, but because the prosecution did not arrive in the determined time the judges acquitted Chabelo for lack of evidence. October 21, 2015, Trujillo, Department of Colon. Photo: Gre McCain.

“ I lost seven years of my life, I also lost part of my face, I lost the ability to talk properly (there are certain words he cannot pronounce rapidly), I lost my teeth, my lips were cut and my tongue, I lost part of my sight, and part of my nose.”⁶⁸

Guadalupe Carney Community. This community is settled on land that was used beforehand as part of the Regional Centre of Military Training (CREM) that was used during the 1980s by the Honduran army. Here they trained security forces from El Salvador and Nicaragua, countries that were mired by internal conflict. This took place under the direct coordination of the Pentagon and the Department of State of the United States.⁶⁹ The state-owned land is about 5724 hectares, and located in the Bajo Aguán region. In 1993, the CREM was closed and the Honduran state took control of the area in order to implement agrarian reform. The process was carried out through the National Agrarian Institute (INA). On the 14th of May 2000, the Honduran state officially handed over these lands to 700 peasant farmer families who were grouped in the MCA, that same day the community was founded.

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⁶⁸ Chabelo Morales: “I lost seven years of my life in prison for a crime I did not commit”, Adital, 4 September 2015.

⁶⁹ “At last Chabelo is free” Human rights defenders on line, 21 October 2015.



Accompanying Cehprodec in Santa Elena to observe the funeral of Juan Francisco Martinez, a member of Milpah found murdered on January 4 in Santa Elena, January 8, 2015. Photo: PBI

The protection framework of peasant farmer resistance

Analysing the specific risks that this group of people is facing helps us recognise that protection strategies should provide more varied responses, with specific focus. The international framework widely recognises the obligation of states to prevent human rights violations and protect human rights defenders, but also take all measures necessary to hold those responsible to account.⁷⁰ There are many international and regional mechanisms as well as guidelines that focus on protection of human rights defenders.⁷¹ In the last few years the development of tools to respond to these specific necessities of protection has been encouraged.

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⁷⁰ Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, Article 12. UN, 1998.

⁷¹ United Nations Special Rapporteur on the situation of human rights defenders (since 2001), Special Rapporteur on Rights of Human Rights Defenders of the Inter-American Commission of Human Rights (since 2011), Swiss Guidelines on the protection of human rights defenders (2013), Guidelines from the European Union, on human rights defenders (2004 and revised 2009), Norwegian Guidelines for the protection of human rights defenders (2010).

In May 2015 the Honduran government approved the Law for the Protection of Human Rights Defenders, Journalists, Social Communicators and Legal Practitioners.⁷² This represents a big step forward in protection and interaction between the state entities responsible for the protection of human rights defenders. The law creates the National System for the Protection of Human Rights Defenders, and the National Protection Council that is to act as a consultative, deliberative and advice body, to guarantee the application of this law. However, members of civil society as well as human rights organisations have expressed to PBI their worries of the presence of the Secretary for Security within the National Protection Council. These concerns are due to the fact that many of the perpetrators of human rights violations in the country are members of the Honduran security forces.

An issue of special importance for women human rights defenders is that that the regulations of the application of the law should consider the criteria with a differential focus that corresponds to criteria of gender, cultural sensitivity and context, as well as other factors.⁷³ In that regard, several people interviewed by PBI highlighted the importance of training the public servants who form part of the National Protection System on the topics of economic, social and cultural rights. They also propose the creation of a specific committee in the National Protection Council. Finally, when recognising the particular vulnerability of human rights defenders in Honduras, it is important to monitor the regulation of this new law and its input in the area of protection. Additionally, PBI considers it important that protection measures are designed from an integrated approach. This means going beyond physical protection and considering aspects such as collective protection and institutional measures that address the structural violence that exists, as well as taking steps to improve psychosocial support, capacity of self-help and the digital security of people at risk.⁷⁴

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⁷² Law for the Protection of Human Rights Defenders, Journalists, Social Communicators and Legal Practitioners, Decree No. 34-2015, 15 de Mayo 2015.

⁷³ "COFADEH socialises the Law of human rights defenders, lays out objectives and challenges", human rights defenders on line, 29th of August 2015,

⁷⁴ Amnesty International, 2014, Ibid. and Awid, March 2014, Ibid.

Women Human Rights Defenders who work on land, territory and environment issues

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THROUGHOUT THESE LAST DECADES, different mechanisms have been established at an international level to address the violent situation that women suffer all over the world. In spite of this, there are weaknesses in these protection mechanisms that fail to address the different roles that women human rights defenders carry out in the areas where they work, in their families, in their organisations, movements and communities.⁷³

Women human rights defenders working in a context of large-scale investment suffer big impacts in their lives, which in many cases inspire them to take on leadership roles in the defence of their land and territory. This makes them more visible and puts them in a situation of risk.⁷⁴

As well as facing the same risks as their male colleagues, women human rights defenders face risks specific to their gender. These risks manifest in various ways in their home life as well as their work life. Examples are bullying, defamation/ smear campaigns, physical and verbal aggressions, threats of sexual violence or death threats, attempts at forced displacement and legal cases being brought against them, as well as attacks or harassment against their families. These are the types of aggressions that have been reportedly used against women human rights defenders who work on land, territorial or environmental issues.⁷⁵

According to data collected by the Mesoamerican Registry of Attacks against women human rights Defenders; between 2012 and 2014 women human rights defenders working on land, territory and natural resource issues were the individuals most attacked. They suffered 525 incidents, representing 31% of the total 1688 acts of aggression. Of these 525 aggressions, 54% of them (284 aggressions) form part of a series of incidents, that is to say, they are part of a systematic pattern of attacks and they are not deemed as isolated events. Another important piece of information is that 14% (76 cases) of the aggression directed at women human rights defenders working on land, territory and natural resource issues, had a specific gender component in the attack. The same Register points out that between 2012 and 2014, seven women human rights defenders working on land, territory and natural resource issues have been assassinated. The Mesoamerican Initiative of Women Human Rights Defenders (IM-Defensoras) reported that in the period 2012-2014, Guatemala and Honduras women human rights defenders that are most attacked are those that defend territory or natural resources (40% and 51% respectively).⁷⁶

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⁷³ Our Right to Security: Integral Protection from the point of view of Women human rights Defenders *International Coalition of Women human rights Defenders 2014*.

⁷⁴ The role of business and the state in violations against human rights defenders working on land, territorial and environmental issues. *ISHR, 2015*.

⁷⁵ Ibid.

⁷⁶ Aggressions against women human rights defenders in Mesoamerica, report 2012-2014.

In Mexico, the Consortium for Parliamentary Dialogue and Gender Equality has documented that in the state of Oaxaca in 2015 (until the 15th of November), there were 185 attacks against 51 women, of which 44 were human rights defenders, and seven were social communicators or journalists. The group that suffered the greatest number of attacks were human rights defenders who specifically worked on land or natural resource issues; they were target of 27% of the attacks registered.⁷⁷

We have collected some reflections based on the psychosocial impacts that these women suffer and that we consider are very common in any context of violence against them.

| Examples of psychosocial impacts of violence against women | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Type of Violence | Psychosocial Impacts |
| <ul style="list-style-type: none"> — Sexual violence — Homicide — Forced displacement — Enforced disappearance — Threats against the person, her family or her body — Stigmatisation — Co-optation of family members by illegal armed groups — Extortion | <ul style="list-style-type: none"> — Traumatic Situations, Fear, Anguish, Terror, Panic: As an emotion as well as a experience that can be individual, collective or of a society⁷⁸ — Breaking up forms of resistance — Exercising of male domination over the body of a female and the use of this to “punish” other men (husbands, children, fathers, brothers) — Moral stigma that associates itself with the victims to justify some type of violence⁷⁹ — Reconfiguration of the family nucleus Widowed women, heads of the family, change of roles or the loss of a son or daughter — Excessive work burdens and emotions to restructure the family and endure role changes, a displacement situation etc. |

⁷⁷ Network of women activists and women human rights defenders of Oaxaca; Women Human Rights Defenders in The Firing Line, December 2015.

⁷⁸ E Lira, Psychology of Fear, November 1987.

⁷⁹ Carlos Berinstein, Manual on the psychosocial perspective, 2010



Member of The Peaceful Resistance La Puya. Photo: PBI

Conclusions and Recommendations

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IT IS TRUE THAT EFFORTS to advance human rights can be seen, and there are isolated actions of good practice that suppose a qualitative improvement in the security situation of affected human rights defenders. However, in practice, PBI continues to observe that there remain many challenges in the defence and protection of human rights in the context of large-scale investments. The situation needs determined and systematic action of states and multilateral organisations.

The international community has many international agreements and mechanisms that urge states to put human rights at the centre of their activities and relations; this includes commercial activities and foreign investment. There are also multiple tools to promote and protect human rights and the people who defend them. These tools are applicable in cases where businesses and investment projects can violate human rights. According to PBI's experiences of particular importance and use in this context are:

- Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (UN, 1998)
- EU Guidelines for Human Rights Defenders (EU, 2004)
- EU Strategic Framework on Human Rights and Democracy (EU, 2011)
- Action Plan for Human Rights and Democracy (EU, 2015-2019)
- Guiding Principles for Business and Human Rights (UN, 2011)
- Convention 169 on Indigenous and Tribal Peoples in Independent Countries (ILO, 1989)
- UN Declaration on the Rights of Indigenous Communities (UN, 2007)
- International Agreements on "Civil and Political Rights" and "Economic, Social and Cultural Rights" (UN, 1966)
- EU-Central America Framework Cooperation Agreement and the EU-Mexico Global Agreement.
- The Free Trade Agreement between the EU, Colombia and Peru.

**Facing the situations portrayed in this report,
PBI requests that the European Union:**

- Activate preventative and diverse mechanisms set out in the EU Guidelines for Human Rights Defenders in the regions and communities where European investments are planned. For example, visits to human rights defenders in areas and communities affected by investment projects, especially if they are located in rural or remote areas.
- Support and monitor prior consultation processes making sure that they conform to the highest international standards. This includes those consultation initiatives that are proposed by indigenous and peasant farmer communities.
- Publicly recognise the important work of human rights defenders, through declarations, awards, visiting the places where they work, invitations to round table discussions with diplomatic missions, raising awareness of specific cases etc. Likewise make safeguards so that public authorities in third countries do not make declarations and accusations against human rights defenders, organisations and communities.
- In third countries promote the adoption of positive measures that support and favour the full enjoyment of human rights and the fundamental liberties of human rights defenders (including the right to freedom of expression and of association, trade union rights as well as the right to peaceful protest). States have the obligation to protect civil society organisations and to protect human rights defenders from harassment, persecution and reprisals linked to their work in the context of large-scale investment.
- Monitor European businesses so they carry out human rights due diligence and that they do not initiate projects without gaining free, prior and informed consent from the affected communities.
- Make sure that in countries that are subject to investment, systems of effective protection are agreed with the communities involved. This is in order to guarantee that episodes of illegal acquirement of lands or forced displacement do not happen, or are not repeated in areas where they have occurred. These protection systems would have to be constructed with the communities involved, taking into account amongst other things, factors of gender, ethnicity and cultural identity.
- Actively participate in the debates on the proposed initiative in the United Nations for the creation of an international binding instrument on business and human rights.

- Make sure that in all the communications emitted by the EU delegations and state-member embassies on the issue of human rights defenders a specific perspective on gender is included; for example mentioning the necessity of adequate measures for women human rights defenders, the specific risks that they incur and the differential impacts of the aggressions against them.

Recommendation for states:

- Design National Action Plans on business and human rights, integrating the United Nations Guiding Principles on Business and Human Rights as well as an integral protection framework and recognition of human rights defenders. Make sure that the design of these National Action Plans includes a wide and genuine consultation process with different sectors of civil society.
- Guarantee the effective implementation of the National Action Plans that exist and evaluate medium term impacts of human rights with the participation of human rights defenders from countries where large-scale projects are taking place.
- Request that businesses carry out human rights impact assessments prior to the development of the project in the third country and that this impact assessment is widely publicised. The assessment should be exhaustive, transparent, and independent and count on the participation of the communities affected as well as human rights defenders.
- Embassies should regularly visit the zones affected by these projects in order to understand the situation of human rights defenders, especially in rural and remote areas.
- Inform transnational companies on who human rights defenders are and urge them to respect their human rights and fundamental freedoms.
- Make sure that there is coherence between the different political institutions, and in particular, investment and commercial policies, with the respect and promotion of human rights and protection policies for human rights defenders.
- Respect and safeguard the compliance of the right to prior, free and informed consent for communities including peasant farmer and indigenous communities affected by projects of exploitation of land and natural resources.
- Promote the focus of gender and ethnicity in the mechanisms of governmental protection, due to the specific risks and differential impacts on these vulnerable groups.



**Peace
Brigades
International**

Peace Brigades International (PBI) is an international NGO with over 35 years experience in protecting human rights defenders at risk and opening spaces for peace in conflict and post-conflict situations.

Currently, PBI has field teams in Colombia, Guatemala, Honduras, Mexico, Kenya, Indonesia and Nepal.

**A right unknown
is a right undefended.**

**A right undefended
is a right that is lost.**

PBI UK

1b Waterlow Road
London
N19 5NJ

@PBIuk

www.facebook.com/PBIUK
admin@peacebrigades.org.uk
www.peacebrigades.org.uk