

ABOUT EVENTS IN SAN JUAN SACATEPEQUEZ

“Alert” is an occasional mailing by the PBI-Guatemala Project to draw attention to violations of or concerns about human rights in Guatemala from a perspective of non-interference, non-violence and non-partisanship. This informational sheet is distributed to individuals, organizations and institutions who have offered their support to the PBI-Guatemala Project.

Dear Sir or Madam,

Greetings from the PBI-Guatemala Project. The purpose of this “Alert” is to share our concerns about the current situation of violence and repression in several Kaqchiquel communities in the town of San Juan Sacatepéquez in the Department of Guatemala.

Under Article 6 of International Labour Organization (ILO) Convention 169 concerning Indigenous and Tribal Peoples in Independent Countries, ratified by Guatemala, governments must “consult the peoples concerned, through appropriate procedures and in particular through their representative institutions, whenever consideration is being given to legislative or administrative measures which may affect them directly.” In addition, the Article states that “the consultations carried out in application of this Convention shall be undertaken, in good faith [...] with the objective of achieving agreement or consent to the proposed measures.” In accordance with ILO Convention 169 and other domestic legislative provisions such as the Municipal Code¹ and the Development Councils Act², 25 public referendums were conducted from 2005 to mid 2008 in relation to cement manufacturing, oil production, hydro-electric plants and mining in various municipalities of the country, registering an overwhelming majority of votes against, and very few in favor.³ However, the Constitutional Court has ruled in one case that the results of the referendum are not binding, which might have set a precedent for other referendums.⁴

For the past two years, residents of San Juan Sacatepéquez have been demanding the right to be informed and take part in decision-making processes related to the construction of a cement plant and quarry.⁵ A lack of dialogue between the various parties involved (the central government, the communities, the companies and municipal authorities) has led to tension, protests, defamation of human rights defenders, among them Rigoberta Menchú, and the legal advisers of the communities (Guatemala Association of Mayan Lawyers),⁶ generating growing unease and worsening the violence in an area in which there have already been four fatal attacks.

The Case of San Juan Sacatepéquez

Since 2006, the Guatemalan company Cementos Progreso S.A. has been working on the San Juan project, which includes the construction of a cement plant and quarry⁷ on the San Gabriel Buena Vista estate and in the villages of San Jose Ocaña and San Antonio las Trojes I and II. Cementos Progreso holds a stake in this plan with 80% of the investment, while the other 20% is held by the Swiss company Holcim, one of the largest cement producers in the world⁸.

In January 2007, several communities of San Juan Sacatepéquez asked the municipal government to hold a referendum on the advisability of establishing this plant. However, the referendum was postponed until it was finally cancelled.⁹ Consequently, the communities decided to reactivate the process through the Development Councils¹⁰ without the backing of the municipal government, and 8,950 people participated in the referendum, with 8,946 voting against and 4 voting in favor.

¹ See Articles 63, 65 and 66.

² See Article 26.

³ Inforpress Centroamérica, No. 1755, 6 June 2008.

⁴ See the Resolution of the Constitutional Court of 8 May 2007 on the Buena Fe Community Referendum on mining exploration and operations in the town of Sipacapa, San Marcos, held on 18 June 2005 and organized by the Sipacapa Town Council.

⁵ See the Web site of the Guatemala Ministry of Energy and Mines (www.mem.gob.gt/).

⁶ Press conference of the Rigoberta Menchú Tum Foundation and the Association of Mayan Lawyers of 3 July 2008.

⁷ The production of 4,500 tons a day of clinker per day and 6,000 tons of cement is planned. Clinker is the stony residue from kilns used to make cement.

⁸ Inforpress Centroamericana No. 1760. *Termina Estado de Prevención; tensión continúa*. 11 July 2008

⁹ According to the Minutes numbered 001/2007 of the extraordinary public meeting on 27 April 2007.

¹⁰ See the Urban and Rural Development Councils Act.

“ALERT” July 2008

The Town Council and the mayor pledged to take the results into account before granting any construction permit. Since then, residents of San Juan Sacatepéquez have reported many human rights abuses. According to the report of the Human Rights Ombudsman's Office (PDH in Spanish), residents of the village of Santa Fe Ocaña filed a complaint alleging violations of the right to security and protection from bodily harm for acts committed by National Civil Police (PNC) officers who entered the community without a court order and fired tear gas, forcing women to raise their clothing to see if they had tattoos, which authorities consider a sign of gang membership. They also accused security forces of raping a Mayan woman. In light of these reports, the PDH issued a resolution stating that violations of the right to dignity, the right to order and security and the right to equality had occurred.

This conflict in the town of San Juan Sacatepéquez, which has already lasted two years, became worse on 21 July of this year when a group of people attempted to enter the cement company properties to stop the entry of machinery and to burn it. The resulting confrontation between residents and the security guards of the property was pacified by municipal authorities, which sought to reestablish a dialogue between the parties. A day later, in the early hours of 22 June, one of the town residents, Francisco Tepeu Pirir, was killed under circumstances that have still not been explained. After the killing and the resulting violence overtaking San Juan Sacatepéquez, Guatemalan President Álvaro Colom declared a “State of Prevention.” That same day, a joint operation was conducted by 1,000 members of the PNC and a number of soldiers, accompanied by staff of the Presidential Human Rights Commission (COPREDEH) and the Peace Secretariat (SEPAZ) in the community of San Antonio Las Trojas, which resulted in 43 arrests. According to the Congressional Human Rights Commission, these arrests were illegal because they occurred a day before the State of Prevention was announced in the Official State Journal.¹¹ During the 15 days that the State of Prevention was in force, the PDH received various complaints from residents about abuses committed by security forces. Among the abuses reported were demands to be fed, prevention of free movement and offenses against women. The PDH also received complaints of detentions and raids conducted without warrants. The security forces, both the military and the police, remain in the area despite the fact that the State of Prevention, which began on 21 June, was called off on 7 July.¹² The Ministry of the Interior considers the State of Prevention to be a measure to put down any revolt by residents.¹³

A number of sectors have called for the reestablishment of a dialog to resolve the conflict. The cement company itself has expressed openness to dialog in its press communications¹⁴, although it “makes clear its interest in continuing the project”.¹⁵ The Kaqchiquel communities of San Juan Sacatepéquez, through their legitimate authorities, have expressed their continued readiness to participate in a dialogue with legal and democratic mechanisms to reach agreements which benefit all parties.

The PBI-Guatemala Project is expressing its concern for the situation of these communities, particularly regarding the most recent events, which have made it even worse. These communities are asserting their right to decide, and ask to be consulted regarding the economic development model desired by the majority of the population for their locality.

Therefore, we are asking you to pay special attention to developments in San Juan Sacatepéquez.

Yours truly,
The PBI-Guatemala Project

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¹¹ See Prensa Libre *Denuncian Abusos de la PNC en San Juan Sacatepequez*, 2 July 2008

¹² Preliminary executive report. Actions taken by the PDH, Cement plant project case, town of San Juan Sacatepéquez, 4 July 2008, and PBI interview of Guillermo Tabin Álvarez, PDH, 15 July 2008.

¹³ Op cit Inforpress No 1760.

¹⁴ See full page ad of Cementos Progreso published in *El Periódico* on 4 July 2008.

¹⁵ Op cit Inforpress No 1760.