



Monthly Information Pack Guatemala

Number 136 - January 2015

1. THE CURRENT SITUATION

Monthly selection of news on the situation in Guatemala as highlighted by the press, related to the main thematic areas of PBI Guatemala's work: the fight against impunity, land issues and the negative effects of globalization on human rights.

Challenges and achievements of transitional justice in Guatemala: A verdict comes in the burning of the Spanish Embassy while the genocide trial is delayed again.

The trial of former de facto head of state Gen. Efraín Ríos Montt and former head of military intelligence, José Mauricio Rodríguez Sánchez, accused of genocide and crimes against humanity, resumed on January 5, 2015. The hearing was initially delayed due to the absence of Ríos Montt, whose lawyers claimed had health issues. Despite this claim, the judge ordered him to appear in court, but after doing so, his defence team managed to have the trial postponed. By a majority of two votes to one, the Court decided to transfer challenges presented by the defence to the appeals court to determine if the removal of Judge Irma Jeannette Valdés from the trial was necessary. Ríos Montt's defence questioned the impartiality of the judge by arguing that her graduate thesis focused mainly on genocide¹.

The prosecutor, Hilda Pineda, questioned the validity of the defence's challenges because this was the third time that Ríos Montt's defence brought a motion to delay the trial. The former head of state is also awaiting a decision on his amnesty application. Such application was based on the 8-86 decree that pardons soldiers and guerrillas for the war crimes they had committed. According to Hector Reyes, the prosecutor from the Center for Legal Action in Human Rights (CALDH), the 8-86 decree lost its force once the National Reconciliation Act was enacted. This new act dictates that no amnesty can be granted for crimes against humanity². The accused individuals are considered to be responsible for the death of 1,771 Ixil people between 1982 and 1983. Seventy judges of the Superior Court of Justice (CSJ) have so far refused to grant the amnesty that Ríos Montt has requested.

The trial began on March 2013 and on May 10th, General Ríos Montt was sentenced to 80 years in prison and Rodríguez Sánchez was acquitted. However, the Constitutional Court (CC) set aside the verdict citing flaws in the first trial. International experts expressed concern last year after becoming aware of this decision. They considered this decision to be a setback in the quest of justice in Guatemala. The International Federation for Human Rights (FIDH) is asking the defence lawyers not to delay the process again. They argue that just as in the first trial, the defence team is trying to use invalid challenges and other fraudulent means to suspend the trial³.

In January 2015, a few days before the 35th anniversary of the event, the case of the burning of the Spanish Embassy in 1981 was finally closed. On Monday January 19, 2015 the judges of High Risk Court B, unanimously convicted Pedro García Arredondo. The former head of the Sixth Command of the now defunct National Police was found guilty of murder, attempted murder and crimes against humanity and was sentenced to 90 years in prison. The state prosecutor, or Public Ministry (MP), had requested a sentence of

¹ Prensa Libre, *Suspendido juicio por genocidio a Efraín Ríos Montt*, 05.01.2015

http://www.prensalibre.com/noticias/justicia/Rios_Montt-genocidio-juicio-Guatemala-Justicia_0_1279672086.html

² La Hora, *Tres acciones detienen juicio por genocidio contra Ríos Montt*, 06.01.2015 <http://lahora.gt/tres-acciones-detienen-juicio-por-genocidio-contra-rios-montt/>

³ Centro de Estudios de Guatemala (CEG), *Piden a defensa de militares retirados no dilatar proceso por genocidio*, 07.01.2015

1,240 years for the death of 22 peasants, five students, eight diplomats and two visitors who perished in the flames. The accused was also found guilty in the deaths of Adolfo Hernandez and Jesus España, two college students attending the funerals of the fire victims two days after the Embassy was burned down.

The slaughter at the embassy "was not a coincidence, or an accident," said the prosecutor Hilda Pineda during her closing arguments at the end of the trial. The National Police "blocked the Red Cross, the relief groups and journalist" from having access to the embassy. This situation that led the MP to determine that it this was a special intelligence operation; a clandestine undercover police operation⁴. After hearing testimony for more than three months, the Court was able to confirm that the occupation of the Spanish embassy was peaceful; however, the police cut the phone lines, and prevented firefighters and medical personal from entering the building. The president of the Red Cross, Odette Arzú, testified that she heard an official saying "get them out no matter what" while other witnesses testified that they heard radio transmissions from several Command VI agents in which they said "do not leave anyone alive."⁵.

During the trial, they also heard the audio testimony of Spanish Ambassador Máximo Cajal, who died in April 2014⁶. He, along with the peasant Gregorio Yuja were the only ones that were able to escape the fire alive. However, on the same night of January 31, Yuja was kidnapped from the Herrera Llerandi hospital by an armed group. His lifeless body was found in front of San Carlos University (USAC) with visible signs of torture and a message in his pocket that read "the Spanish Ambassador will meet the same fate"⁷. The Spanish diplomat, Yago Pico de Coana, testified during the trial that the incident was nothing more than an excess use of power by authorities⁸. "Embassy security was violated by Guatemala's security forces that entered the premises without the permission of the ambassador. The police had no interest in negotiating; their only interest was to get the occupants out of the Embassy. The accused knew exactly what was going to happen" said Judge Sara Yoc Yoc when she imposed the sentence⁹. "They ignored the ambassador and the former foreign minister Adolfo Molina Orantes, who asked them not to enter the embassy. "They refused a diplomatic solution. They violated the diplomatic autonomy of the Vienna Conventions, as indicated by one of the witnesses, when they decided to act like beasts" the judge concluded¹⁰.

The arguments of the Court were based on analysis of the acts committed prior to the Embassy invasion: With the investigation, the court was able to establish that the police were conducting close surveillance on the peasants for weeks prior to the attack. Several members of the Campesino Unity Committee (CUC) came to the capital along with a group of students from the Robin Garcia Student Front (FERG) to raise awareness about all of the massacres, rapes, disappearances and abductions that were taking place in the Guatemalan highlands¹¹. In October, the court heard Oscar Clemente Marroquin Godoy's testimony. He was the former director of the newspaper "Diario Impacto". He testified that prior to the invasion of the embassy he was approached by the peasants, who wanted him to write about the human rights violations in the El Quiché region; however, he did not because he feared retaliation.

⁴ Plaza Publica, *34 años de fuego y una sentencia para intentar apagarlo*, 13.01.2015 http://www.plazapublica.com.gt/content/34-anos-de-fuego-y-una-sentencia-para-intentar-apagarlo#toc-que-no-quede-nadie-vivo--cyv_ju9C

⁵ Plaza Publica, *La justicia apaga un fuego que ardió durante 35 años*, 20. 01.2015 <http://www.plazapublica.com.gt/content/la-justicia-apaga-un-fuego-que-ardio-durante-35-anos>

⁶ Prensa Libre, *Máximo Cajal reveló que PN llevaba hachas*, 14.11.2014 http://www.prensalibre.com/noticias/justicia/Nacionales-Quema-Embajada-Espana-Maximo-Cajal-revelo-PN-llevaba-hachas_0_1248475153.html

⁷ Plaza Publica, Op. Cit.

⁸ Prensa Libre, *Ex-embajador español señala abuso de poder*, 09.01.2015 http://www.prensalibre.com/noticias/justicia/diplomatico-espanol-declara-juicio-quema-embajada_0_1282071930.html

⁹ Prensa Libre, *Ex jefe policial sentenciado a 90 años de cárcel*, 19.01.2015 http://www.prensalibre.com/noticias/justicia/sentencia-pedro-garcia-arredondo-embajada-espanola-rigoberta-menchu_0_1288071280.html

¹⁰ Plaza Publica, Op. Cit.

¹¹ Centro de Medios Independientes, *Carta Abierta de comunidades del norte de El Quiché, el día de la toma de la embajada de España. 31 de enero de 1980*, 21.01.2015, <http://cmiquate.org/carta-abierta-de-comunidades-del-norte-de-el-quiche-el-dia-de-la-toma-de-la-embajada-de-espana-31-de-enero-de-1980/>

The judges dismissed the defence's argument that victims caused the fire themselves, "The three Molotov cocktails that students had, could not have caused the flames and burns that day"¹². During the trial, which opened on 1 October, the court heard testimony from the forensic pathologists who performed the autopsies. They testified that most of the burns were located in the upper part of the bodies¹³. The MP was able to explain that the location of the burns and the fire were produced by the gas that was released through an artefact. Of great impact was the testimony of a former junior police officer identified only as Garcia Arredondo to protect his identity. The former agent told the court about a conversation he had with his colleagues after the attack: "Who knows who started the fire in there. We were just following our bosses' orders. Hopefully, no one gets out of there"¹⁴.

The Prosecutor, the victims' families and Sergio Escobar Vi and Nobel Prize Winner Rigoberta Menchú, were very satisfied with the verdict." It is a drop of hope for Guatemala. We can now start to believe in our institutions" said Menchú, but she added that "the 90-year sentence, or even the 1,240 that the prosecution sought, are no compensation for the loss of life; this is not enough to end 35 years of suffering; It is a very important verdict now, but we must not forget that this tiny drop of justice did not reach many Guatemalans"¹⁵.

However, there was some controversy surrounding the verdict. The prosecutor admitted that "in fact there was an order that needed to be followed." According to a witness this order came from "top officials", as the former junior police officer identified as Garcia Arredondo testified. The judges argued that former head of state and general Fernando Romeo Lucas Garcia (who has since died) and former interior minister Donaldo Alvarez Ruiz (fugitive in the case) were involved in the acts. "The MP was not able to demonstrate my involvement. It is clear that there was and there is someone responsible. Donaldo Alvarez Ruiz should be here but he is not" Garcia Arredondo claimed in his own defence¹⁶. The court rejected several requests made by the victims' families in which they asked the Guatemalan State for an apology; they asked that the current head of state, the minister of the interior and the National Police (PNC) publically apologize for the damage that was done.

2. ACCOMPANIMENT

PBI accompanies social organizations and individuals who have received threats for their work in the defence and promotion of human rights. In this context we are accompanying social processes in the fight against impunity, land inequality and the negative impacts of globalisation on human rights¹⁷

Throughout the month we accompanied the lawyers from the Human **Rights Law Office**. This included accompaniment of lawyer **Edgar Pérez Achila** during his travels, and visits to his office every week. We were present in several of the hearings conducted by the Law Office, including the renewal of the genocide case, and the burning of the Spanish Embassy (see above), as well as the hearing of members of La Puya and the murder of Patricia Samayoa, a human rights activist who was murdered in August 2014. In this last case, Agustín López Alvarado, owner of Shield Security, a private security company, was linked to the case, and

¹² El Periódico, *Tribunal sentencia a ex jefe policial por quema de Embajada de España*, 20. 01.2015
<http://www.elperiodico.com.gt/es/20150120/pais/7363/Tribunal-sentencia-a-exjefe-policial-por-quema-de-Embajada-de-Espa%C3%B1a.htm>

¹³ Prensa Libre, *Forenses atestiguan en caso de Embajada de España*, 25.10.2014
http://www.prensalibre.com/noticias/justicia/sociologo-declara-embajada_de_espana-quema_0_1235876570.html

¹⁴ Prensa Libre, *Quema de embajada en voz de testigos*, 19.01.2015
http://www.prensalibre.com/noticias/justicia/Pedro_Garcia_Arredondo-Embajada_de_Espana-Policia_Nacional_0_1288071397.html

¹⁵ Siglo 21, "La sentencia es una gota de esperanza y de credibilidad", 21.01.2015
<http://m.s21.com.gt/nacionales/2015/01/21/ula-sentencia-una-gota-esperanza-credibilidad>

¹⁶ Plaza Publica, Op. Cit.

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Further general information on accompaniment and the organisations and people we accompany available on our website: <http://www.pbi-guatemala.org/field-projects/pbi-guatemala/who-we-accompany/>

accused of providing unlawful security services, and of manslaughter. The defendant was to be released after posting a bail of Q50.000 (about \$6500), but would remain under house arrest and was ordered to sign-in regularly with the court as a defendant.

Following the events of September 2014, it has become difficult for us to establish face-to-face communication with members of the **12 Kakchiqueles resistance communities in San Juan Sacatepequez**. The lack of communications has affected our global accompaniment work; that is why we have decided to wait for conditions to improve to continue with the global accompaniment. Until then, we can only continue monitoring the situation.

In January, we continued accompanying some members of the **Ch'ortí Nuevo Día Campesino Association (CCCND)**, which supports the efforts of communities seeking official recognition as Ch'orti communities. In this respect, we attended one of the public hearings in Chiquimula that addressed the injunction against the recognition of the community of Las Flores, Jocotán (See table below). We also accompanied members of the organization as they requested the recognition of other communities, and we have maintained weekly phone contact.

The Obstruction of Indigenous Community Recognition

There are several communities in the municipality of Chiquimula who have submitted a request to be formally recognized as indigenous Maya Ch'orti. Las Flores became the first community in the region to obtain such recognition on August 2014. (Please see MIP No. 131). However, a representative of the CODODE (community development council) of the San Pedrito neighbourhood filed an administrative appeal against the municipality of Chiquimula for the recognition that was granted, making evident the divisions among communities. The hearing took place on 26 January and the results will be issued in writing¹⁸.



International accompaniment of members of the organization Ch'orti' Nuevo Día (CCCND) during a hearing in Chiquimula. Picture: PBI 2015

We maintained our international presence at the headquarters of the **Association of Indigenous Women of Santa María Xalapán, Jalapa (AMISMAXAJ)**. We continue to have weekly telephone communication with the organization, and frequent contact by phone with its members when they are traveling. We have also provided physical accompaniment to one of the members during several procedures. Throughout this month, we have been expanding our accompaniment of the young women of the organization.

We made weekly visits to the headquarters of the **National Association of Guatemalan Widow (CONAVIGUA)** and maintained regular telephone communication with its members. We have also been in regular telephone contact with members of the **Council of Cunén Communities (CCC)**, and have been following their informational activities in the community.

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Comunicado de la Procuraduría de Derechos Humanos (PDH), *Tribunal será quien determine reconocimiento de comunidad indígena*. 28.01.2015.
<http://www.pdh.org.gt/noticias/breves-informativas/item/5262-tribunal-ser%C3%A1-quien-determine-reconocimiento-de-comunidad-ind%C3%ADgena.html#.VNjdJmVtqM>



We continue with our regular visits to the **Peaceful Resistance of La Puya** camp, as well as our weekly phone calls to its members. We witnessed an intensification of the conflict while accompanying members of the resistance to the election of a COCODE (community development council) in the village of La Choleña, San José del Golfo, on January 18 (photo). In October 2014, the municipality authorized the creation of this new COCODE (in addition to an existing one), a situation that has generated discord in the community¹⁹. The election was interrupted by violent acts and finally cancelled. One member of the resistance stated, "They are trying to create conflict and violence to weaken the resistance."

Elections in the village of La Choleña. Picture: PBI 2015.

In the context of the criminal prosecution of social protest, we were present at the court hearing of several members the Peaceful Resistance of La Puya on 22 January. The hearing that was later cancelled.

We continue to accompany the **Council of the K'iche People (CPK)**, with weekly phone calls, and have been monitoring the situation since precautionary measures were withdrawn for leader Lolita Chavez. These measures had been granted by the Inter-American Commission on Human Rights (IACHR) in 2005 after Chavez was the target of serious threats and attacks. We are currently accompanying her to meetings with several institutions.

In January, we visited the office of Jorge Luis Morales on a weekly basis. He is a lawyer for the Verapaz **Union of Campesino Organizations (UVOC)**. We also maintained weekly telephone communication with some of the other members, and on certain occasions maintained regular telephone contact with some members when they were traveling. We also followed the case of La Primavera, which addresses the issue of *mozos colonos*, and we attended the trial of several people accused of aggravated theft.

3. INTERNATIONAL OBSERVATION

PBI Guatemala provides international observation of those public events in which Guatemalan social organizations request it, to show international attention and interest and to communicate outside the country what we observe.

We maintained regular telephone contact with the Lutheran minister Rev. **José Pilar Álvarez Cabrera** and members of **La Trementina hamlet in Zacapa** this month. We continue to monitor their situation as they work to defend water sources in the forests of the Macizo del Merendón.

¹⁹ El Periódico, *Minería divide a pobladores de aldea La Choleña*, 19.01.2015.
<http://www.elperiodico.com.gt/es/20150119/pais/7324/Miner%C3%ADa-divide-a-pobladores-de--aldea-La-Chole%C3%B1a.htm>

4. POLITICAL ACCOMPANIMENT

Meetings and other contact with the diplomatic bodies, international organisations and Guatemalan authorities

Meetings with national and international authorities are an important way for PBI to make known what we do and what our objectives are. Through these meetings, where necessary and in a reserved manner, we share our concerns about worrying situations that we have witnessed first hand from the work we do in the field.

In January, we met with various representatives of international bodies and with the diplomatic corps, such as Catalina Lleras, **Human Rights Officer for the UN Office of the High Commissioner for Human Rights (OHCHR)**; Terry Steers-González **Political and Economic Advisor to the Ambassador of the United States**, and Norman Galimba, **Human Rights Director for the Embassy of the United States**.

We held a meeting in Guatemala with Mario Minera, **The National Director of Political Advocacy of the Guatemalan Human Rights Ombudsman's Office (PDH)**.

Meetings with civil society

The field team meets regularly with civil society in order to monitor the situation of human rights defenders human rights, inform each other about the work being done and to gather information to help analyse the internal situation. We maintain opportunities for co-ordination in the field of international accompaniment.

We have continued to meet regularly with the **Unit for the Protection of Human Rights Defenders of Guatemala (UDEFEQUA)** to discuss concerns regarding the work of human rights defenders; we visited their headquarters frequently, as well as the offices of **Madre Selva** and the **Women's Sector**.

We also met Paola Sosa. She is in **charge of the Conflict Transformation Division in the Human Rights Office of the Archdiocese of Guatemala (ODHAG)**.

5. ACTIVITIES OF PBI GUATEMALA OUTSIDE GUATEMALA

Outside the country we constantly develop and strengthen the network of support for the Guatemalan PBI project, as this is one of the essential tools necessary to protect defenders of human rights. Regional Representatives, the Project Office Coordinator and other members of the committee and the Project Office and national groups of PBI, conduct public relations campaigns with many NGOs, agencies and national governments, parliamentarians and others. In this context we develop actions and public relations campaigns, and / or advocacy aimed at protecting defenders of human rights.

In January, the European representative of the Guatemala Project held the following meetings in Brussels:

- On the 3rd, with Loes Biljeveld and Luuk Nijman, They are in **charge of both Human Rights and International relations in Latin America**. They are the permanent **representatives of the Netherlands in the European Union**.
- On the 23rd with Mychelle Rieu, **Assistant to the Special Rapporteur of the European Union for Human Rights**, with Stavros Lambrinidis, and with Julita Bas, **Human Rights Officers with the European External Action Service (EEAS)**.
- On the 26th with Anisoara Matei, **Assistant to the Romanian MEP, with Andi Cristea, member of the Subcommittee on Human Rights and the Committee on Foreign Affairs of the European Parliament**.
- On the 28th with Carlos Villota, **Assistant Spanish MEP**, and with Lola Sánchez Caldentay, **member of the Committee on Development and Delegation to the Euro-Latin American Parliamentary Assembly**.
- On the 29th with Caoimhin O Coigligh, **Political Officer with the Permanent Representation of Ireland to the European Union responsible for Human Rights**. And with Loana Logofatu, from the office of the **Subcommittee of Human Rights of the European Parliament DROI**.

6. NON- GOVERNMENTAL ORGANISATIONS

In this section we publish statements (some abbreviated) from human rights organisations in which they express their concerns regarding recent events.

COMUNICADO PUBLICO

Los pueblos Q'eqchi', Poqomchi y Mestizo, de la región Río Dolores del Municipio de Cobán, Alta Verapaz, a la opinión pública nacional e internacional, manifiesta su profundo sentimiento de descontento, por el funcionamiento del sistema de Justicia del Departamento de Alta Verapaz, que se caracteriza por ser racista y excluyente, demostrado en el juicio que se le sigue al **Defensor de Derechos Humanos y de Pueblos Indígenas Timoteo Chén Tun**.

Desde el mes de abril del 2014, a Timoteo Chen Tun, se le dicta prisión preventiva a solicitud del Ministerio Público, quien conjuntamente con la Empresa Hidro Santa Rita, y otras personas vinculadas a la misma empresa, lo criminalizan y lo persiguen penalmente. En las diferentes audiencias que se han realizado, para llegar a dictar sentencia, se han presentado testigos y pruebas que han demostrado la inocencia de Timoteo Chen, y que es criminalizado y perseguido penalmente, solo por haber actuado como Promotor de Salud y Dirigente comunitario en defensa de la tierra y territorio de la Comunidad Monte Olivo y de la región de Río Dolores.

En la región de Alta Verapaz, tenemos conocimiento que el Sistema de Justicia, algunos abogados y abogadas, están siendo manipulados por la Hidro Santa Rita y por algunos terratenientes del lugar como el Señor Sandino Ponce, quien desde muchos años ha mantenido una actitud de zozobra y de amenaza a las comunidades y sus dirigentes, hasta el día de hoy. Para el día de hoy 21 de enero del 2015, estaba programada audiencia en el juzgado de primera instancia del ramo penal, donde la jueza determinaría si clausuraba el proceso por usurpación que enfrenta Timoteo, ya que en la audiencia anterior se comprobó que no existen elementos de prueba suficientes para vincularlo a un proceso judicial, por lo que parcialmente se había clausurado el caso y que a día hoy tendría que haber quedado firme la clausura.

Unos minutos antes de la audiencia se notifica a la abogada defensora de Timoteo, que la abogada Teresa Anabella Thomae, de la Defensa Pública Penal, una institución vinculada al Sistema de Justicia Nacional y que actúa en defensa de Sebastian Caal Ixim, quien ahora goza de libertad condicional porque la empresa Hidro Santa Rita pagó las medidas sustitutivas, pide la suspensión de dicha audiencia. Esta suspensión la consideramos injusta y además una flagrante violación a los derechos humanos, según los instrumentos internacionales donde el Estado de Guatemala es parte. Para el día 29 de enero de este año, también estaba programada la apertura a Debate donde se acusa a Timoteo del asesinato de Guillermo Bol, un trabajador de la hidroeléctrica Santa Rita quien asesinó a los niños David y Ageo. Este debate también fue retrasado en su inicio y reprogramado para marzo del corriente año.

Nuestra preocupación, es porque se está utilizando la prisión preventiva en contra de Timoteo Chen Tun, para doblegar su voluntad de defender sus derechos y de su comunidad, porque en diversas ocasiones personal de la hidroeléctrica Santa Rita lo han visitado a la cárcel para que desista de su derecho de resistencia a cambio de su libertad. Además, trabajadores de la misma hidroeléctrica han estado oprimiendo psicológicamente a la familia, aduciendo que Timoteo nunca saldrá de la cárcel.

A pesar que el Ministerio Público ha contado con más de dos años para investigar con objetividad la culpabilidad o no de Timoteo, no lo ha podido demostrar, por lo que utiliza tácticas dilatorias de suspensión de audiencia y de ampliación de períodos de investigación, dilatando de esta forma el injusto encarcelamiento de Timoteo Chen Tun. Esta acción del MP no ha sido tomada en cuenta por los Jueces porque no han tenido la capacidad de clausurar dichos procesos, cuando se ha demostrado la inocencia de Timoteo, porque han actuado bajo los requerimientos y exigencia del querellante adhesivo en este caso, la Hidroeléctrica Santa Rita.

Por estos hechos que demuestran la parcialidad del Sistema de Justicia guatemalteco y el apego a los intereses de la Hidroeléctrica Santa Rita y la compra de voluntad de comunitarios, abogados y fiscales, ofreciéndoles proyectos y dinero en efectivo, a las comunidades internacional y nacional, a las organizaciones sociales y de derechos humanos, hacemos un llamado para que envíen cartas a las autoridades del Gobierno de Guatemala, demandando y exigiendo un proceso justo y humano en favor de Timoteo Chen Tun y manifestando su preocupación por esta situación.

PBI team in Guatemala: Katharina Ochsendorf (Germany), Adam Paul Lunn (United Kingdom), Daniela Jesus Dias (Portugal), Annemieke van Opheusden (The Netherlands), Andrea Czollner (Austria/ Hungary), Roberto Romero García (Mexico), Silvia Parmeggiani (Italy), Eva Virgilli Rescasens (Spanish State) , Anja Nielsen (Norway) , Tamara Castro Pousa (Spanish State) and Yolanda Garzón Montero (Colombia).

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