



Monthly Information Pack Guatemala

Number 148 - January 2016

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.

Transitional Justice: Redress for victims and recuperation of historical memory

2016 has begun, once again, on a hopeful note for the victims of the a internal armed conflict which took place in Guatemala between 1960 and 1996. All the indications are that this will be a key year for transitional justice, since emblematic cases such as the Creompaz case, the Molina Theissen case, the judgement on Genocide and the Sepur Zarco case have all reached the Guatemalan Tribunals.

Creompaz case

On 8 January 2016 the first declarations in the case known as the Creompaz case took place. The 14 retired military men who participated in the hearing were accused of enforced disappearance and crimes against humanity, for having participated in numerous massacres committed between 1981 and 1988 against a non-combatant civilian population.¹

According to the public prosecutor, throughout those years more than 500 people were disappeared by members of the army, then killed and buried in a clandestine graveyard in the 21st Military Zone, which is situated in the hamlet of Chicoyoguito, in the municipality of Cobán, department of Alta Verapaz, now known as the Regional Command of Training Operations for the Maintenance of Peace (Creompaz), which is part of a programme of the Ministry of Defence and of the United Nations.² The families of the victims never found out their whereabouts and, years later, they decided to file a complaint. In January 2012 the investigation began and, after exhaustive work carried out by multidisciplinary teams of experts, and thanks to the testimonies of the family members of the disappeared, 558 skeletal remains, largely belonging to children, women and elderly people were exhumed and found to be carrying the marks of torture.³

A key point in the case against the ex-servicemen regards their rank at the time of the crimes committed, since they implemented the counter-insurgency policy of the State from these positions and developed military operations which considered the non-combatant civilian population to be an internal enemy. According to the Office of the Public Prosecutor, the servicemen participated directly in these plans and strategies, they were cognisant of the counter-insurgency operations and, according to each of their positions and in line with their functions and obligations, they could have avoided committing these crimes.⁴

Following a week of daily hearings, on 18 January the lead judge in the “, Court A for High-Risk Matters, Claudette Domínguez, ruled that there is enough evidence to believe that 11 of the military men committed the crimes indicated by the Office of the Public Prosecutor, but declared a lack of evidence in favour of

¹ Orozco, A., Prensa Libre, "MP señala a militares por masacres en Alta Verapaz ", 8 de enero de 2016, <http://www.prensalibre.com/guatemala/justicia/creompaz-molina-theissen-ejercito-benedicto-lucas-garcia-manuel-callejas-guatemala-conflicto-armado>

² Oliva, D., Centros de Medios Independientes (CMI), "Capturados militares vinculados al caso Creompaz", 7 de enero de 2016, <https://cmiguatate.org/capturados-militares-vinculados-al-caso-creompaz/>

³ De León, Q., Prensa Comunitaria "Caso CREOMPAZ: militares acusados de desaparición forzada y delitos contra los deberes de humanidad", 11 de enero de 2016, <https://comunitariapress.wordpress.com/2016/01/11/caso-creompaz-militares-acusados-de-desaparicion-forzada-y-delitos-contra-los-deberes-de-humanidad/>

⁴ Ibídem.

another three who stood accused. As such, 11 of the 14 retired servicemen were processed and sent to preventive prison due to the possibility, noted by the judge, that "some of the accused may prejudice the development of the investigation".⁵ Amongst those who will face trial is General Benedicto Lucas García, brother of the ex-president Lucas García (1978-82), who was Chief of the Presidential Intelligence Service during this period.⁶ The hearings will recommence on 3 May 2016.

Caso Molina Theissen

Molina Theissen's family suffered first-hand the counter-insurgency policy during the tensest years of the internal armed conflict.⁷

Marco Antonio Molina Theissen's sister, Emma Guadalupe, was illegally detained on 27 September 1981 by members of the army. The soldiers brought her to the Quetzaltenango military zone where she was tortured and raped. Eight days after her capture she managed to escape.⁸ The next day, numerous armed servicemen in civilian clothes forced entry to Emma's parents' house and illegally detained 14-year-old Marco Antonio, who has been disappeared to this day.⁹ His parents searched for him in hospitals and military outposts. They lobbied authorities, the army, the church and international human rights institutions but they never got results. Marco Antonio's family have never given up looking for him.¹⁰

On Wednesday 13 January, following a long investigation by the Office of the Public Prosecutor, the Fifth Penal Court ruled that there was sufficient proof that Francisco Gordillo, Edilberto Letona and Hugo Zaldaña, servicemen who in 1981 were assigned to the Military Brigade at Quetzaltenango, committed crimes against humanity. And that the three, together with Manuel Antonio Callejas Callejas, the then director of the Military Intelligence Headquarters (G2), participated in the enforced disappearance of Marco Antonio Molina Theissen. The four ex-soldiers were remanded in custody and sent to preventive prison while the Human Rights Prosecutor builds the formal case against them¹¹, within two months.

Genocide Case

On 11 January the reopening of the genocide case against Efraín Ríos Montt was due to take place. The ex-serviceman had already been condemned in 2013 to 80 years in prison for genocide but days after this sentence the highest court in the country, the Constitutional Court, annulled the verdict, having considered that there had been irregularities in the judicial process¹², a decision which generated profound indignation and hard criticism both inside and outside the country.¹³ Further, in August of last year, the judges decided that the new case would take place behind closed doors without media and with the presence of only the families of the victims. Ríos Montt will not be present during the hearings, having been declared unfit for trial owing to his suffering from dementia.¹⁴

⁵ Suncar, J. y Ramos, J., Prensa Libre, "Once militares son ligados a proceso y enviados a prisión", 18 de enero de 2016, <http://www.prensalibre.com/guatemala/justicia/once-militares-ligados-a-proceso-por-masacres>

⁶ Ibídem.

⁷ Rivera, N., Prensa Comunitaria, "Caso Molina Theissen: jueza envía a la cárcel a militares y los liga a proceso", 14 de enero de 2016, <https://comunitariapress.wordpress.com/2016/01/14/caso-molina-theissen-jueza-envia-a-la-carcel-a-militares-y-los-liga-a-proceso/>

⁸ De León, Q., Prensa Comunitaria, "Marco Antonio Molina Theissen, un niño de 14 años desaparecido por el ejército de Guatemala", 12 de enero de 2016, <https://comunitariapress.wordpress.com/2016/01/12/marco-antonio-molina-theissen-un-nino-de-14-anos-desaparecido-por-el-ejercito-de-guatemala/>

⁹ Rivera, N., Op.Cit.

¹⁰ De León, Q., Op. Cit.

¹¹ Villatoro García, D., Plaza Pública, "Marco Antonio: el niño con el que el ejército cobró venganza", 20 de enero de 2016, <https://www.plazapublica.com.gt/content/marco-antonio-el-nino-con-el-que-el-ejercito-cobro-venganza>

¹² Prensa Gráfica, "Suspenden juicio especial al exdictador guatemalteco Ríos Montt por genocidio", 11 de enero de 2016, <http://www.laprensagrafica.com/2016/01/11/suspenden-juicio-especial-al-exdictador-guatemalteco-rios-montt-por-genocidio#sthash.Qr5JKQaR.dpuf>

¹³ Elías, J., El País, "La anulación de la condena deja a Ríos Montt en un limbo legal", 21 de mayo de 2013, http://internacional.elpais.com/internacional/2013/05/21/actualidad/1369165087_281861.html

For Amnesty International Latin America, this new case will constitute the biggest test for the Guatemalan judicial system, an opportunity to demonstrate that the country is committed to human rights.¹⁵ However, in the end it was suspended owing to three constitutional petitions which have yet to be resolved.¹⁶ On the one hand, Ríos Montt's defense requested that the previous judge, Janneth Valdez, be removed from the case, because of having written a thesis on the crime of genocide in 2010. Additionally, they requested that the penal case be stopped given that the court determined that Ríos Montt suffers from dementia. On the other hand, the complainants, the Association for Justice and Reconciliation (AJR) and the Centre for Legal Action on Human Rights (CALDH), applied for the case against Ríos Montt and José Mauricio Rodríguez Sánchez, ex-chief of intelligence, to be separated, as the trial against the former is special and that against the latter is ordinary and public.¹⁷ These constitutional petitions must be resolved before continuing with the case.

Sepur Zarco Case

On 1 February the public oral debate on the case known as "Sepur Zarco" will begin. The case concerns acts of sexual violence and domestic and sexual slavery committed by members of the Guatemalan army between 1982 and 1986 against women of the mayan community Q'eqchi', as well as regarding the enforced disappearances of several men. The accused are the ex-soldier Esteelmer Francisco Reyes Girón and the former military commissioner Heriberto Valdez Asig. This will be the first time in the world that a national court will rule on sexual slavery in a war-time context, and the first time in Guatemala that crimes of sexual violence will be judged as international crimes.¹⁸

Sepur Zarco is a community on the dividing line between the departments of Alta Verapaz and Izabal. In this region, during the internal armed conflict, approximately six military bases were installed, each one of them with specific aims, orientated towards extermination, torture or "troop's rest", as was the case in Sepur Zarco.¹⁹ The men of this mayan Q'eqchi' community were captured and the women submitted to sexual and domestic slavery. In 2011, 15 women from this community presented a formal complaint and the case was transferred to the specialised unit for the Internal Armed Conflict of the Human Rights Section of the Office of the Public Prosecutor. In September 2012, before the Court B of the First Instance for High Risk Matters, 15 women told of their humiliation for the first time, in a penal process, as an advance on the evidence. These testimonies lead the way in the search for justice. The judge Miguel Ángel Gálvez, of Court B for High Risk Matters, accepted 11 testimonies.²⁰

This case - of national and international interest - represents a new opportunity for Guatemala to advance on its obligations to pay its debts to truth, justice and reparation, by visibilising and sanctioning violence against women during the conflict and avoiding the repetition of such abhorrent crimes.²¹

¹⁴ Morales Arana, H., El Periódico, "Ríos Montt encara nuevo juicio por genocidio", 8 de enero de 2016, <http://elperiodico.com.gt/2016/01/08/pais/exdictador-rios-montt-encara-nuevo-juicio-por-genocidio/>

¹⁵ El Confidencial, "Juicio por genocidio al exdictador guatemalteco Ríos Montt, pero sin cárcel", 10 de enero de 2016, http://www.elconfidencial.com/ultima-hora-en-vivo/2016-01-10/juicio-por-genocidio-al-exdictador-guatemalteco-rios-montt-pero-sin-carcel_791097/

¹⁶ El Informador, "Suspenden juicio por genocidio a ex dictador guatemalteco", 11 de enero de 2016, <http://www.informador.com.mx/internacional/2016/637678/6/suspenden-juicio-por-genocidio-a-ex-dictador-guatemalteco.htm>

¹⁷ López, J.D., El Periódico, "Amparo podrían cambiar rumbo del juicio por genocidio", 11 de enero de 2016, <http://elperiodico.com.gt/2016/01/11/pais/amparos-podrian-cambiar-rumbo-de-juicio-por-genocidio/>

¹⁸ Centro por la Justicia y el Derecho Internacional (CEJIL), "Organizaciones internacionales celebran el inicio del primer juicio por violencia y esclavitud sexual durante el conflicto armado en Guatemala: caso Sepur Zarco", 1 de febrero de 2016, <https://www.cejil.org/es/organizaciones-internacionales-celebran-inicio-del-primer-juicio-violencia-y-esclavitud-sexual>

¹⁹ Alianza Rompiendo el Silencio y la Impunidad, "La lucha de las mujeres por la justicia", No.1, enero de 2016.

²⁰ Pitán, E., Prensa Libre, "Comienza debate por ultrajes en Sepur Zarco", 31 de enero de 2016, <http://www.prensalibre.com/guatemala/justicia/comienza-debate-por-ultrajes-en-sepur-zarco>

²¹ CEJIL, Op. Cit.

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 rights.²²

During this month, we maintained our accompaniment of the **Human Rights Law Firm and its members**. We accompanied the lawyer Édgar **Pérez Archila** on his visits and we were present in his office on a weekly basis. We also observed several hearings of the various cases which they are working on, amongst which we would highlight the First Declaration in the CREOMPAZ case.

We continue to accompany the **Community Council of Cunén (CCC)**, via weekly calls to remain up-to-date on their activities. We also met with two of their members during our visit to the region.

In the context of our accompaniment of the **Council of the K'iche' Peoples (CPK)** we travelled to the region and met with **Lolita Chávez**, a member of the Council. Additionally, on 30 January we observed and accompanied one of their assemblies in Santa Cruz del Quiché, in the department of Quiché. Further, we maintained weekly contact via telephone with several of the members of this council.



*CPK Assembly in Santa Cruz del Quiché. 30 January 2016.
Photo: PBI.*

We have continued to accompany the **Verapaz Union of Campesina Organisations (UVOC)**, maintaining presence in their offices in Santa Cruz, Alta Verapaz and continuing with weekly visits to the office of **Jorge Luis Morales** (lawyer of the UVOC). In the context of the legal advice work carried out by UVOC, we also accompanied the lawyer Jorge Luis Morales to various hearings in Cobán, Alta Verapaz.

We continued with our accompaniment of the **Campesino Central Coordinator New Day' Chortí (CCCND)**. Additionally, we accompanied a group of people from the communities to the Court of Peace in Olopa. We maintained weekly contact via telephone with the members of the CCCND and we kept abreast of their activities.

This month we visited and were physically present during at the permanent protest camp organized by the **Pacific Resistance of the La Laguna**. We also maintained regular telephone contact with its members.

We have continued to accompany the **Association of Indigenous Women of Santa María Xalapán (AMISMAXAJ)** via weekly telephone contact, as well as maintaining contact during the long journeys which their work requires of them. We also met with two of their members in order to keep up-to-date with their activities.

As part of our work with the Defence Process of **Macizo del Merendón**, this month we accompanied the **Reverend José Pilar Álvarez Cabrera**, together with other members of the **Ecumenical and Social Coordinator for the Defence of Life in Zacapa and Chiquimula**, to an Assembly in Olopa, Zacapa. We

²² Further information on accompaniments and the organisations and people we accompany on our website: <http://www.pbi-guatemala.org/field-projects/pbi-guatemala/who-we-accompany/>

were also present in the village of La Trementina and maintained regular telephone contact with the members of the community.

This month we accompanied members of the Pacific **Resistance of La Puya** to the municipality of San Pedro Ayampuc, as they met with the municipality with the objective of asking the Mayor to commit to implementing the protective measures related to the El Tambor mine and access to it. During this meeting these measures were granted and made effective and official banners were hung at the entrance to the mine, impeding access. We also accompanied members of the Resistance to a press conference in Guatemala City, as well as to a peaceful protest outside the Constitutional Court.



Banner at the blockade in La Puya. 7 January. Photo:PBI



Rally of the Pacific Resistance of La Puya. 7 January. Photo: PBI

During this period we have had to increase our presence at the protest camp in La Puya, owing to insecurity following the members' banners being taken down by the municipality on the night of 7th January. According to the Resistance, these banners were taken down by members of the National Civil Police (PNC) and mine-workers. During those days, we observed a large presence of the PNC and anti-riot police at the rally. We have continued with weekly calls and visits.

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 continue to pay attention to the case of Sebastián Sajic. As part of this observation we accompanied the **Unit for Protection of Human Rights Defenders in Guatemala (UDEFEQUA)** to the hearing in the Nebaj Courthouse, Quiché, which was suspended.

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 the context of dialogue with the diplomatic corps and with international entities, this month we met with: Jean-Hugues Simon-Michel, **French Ambassador to Guatemala** and Lilian Cassiede-Yturbide, **Director of the Mission for Cultural Service**, Karen Hudlet, **investigator and representative for Mexico, Central**

America and the Caribbean for CIEDH (Centre for Information about Business and Human Rights) and Mauricio Lazala, **subdirector of the CIEDH.**

Concerning interlocution with Guatemalan authorities, this month we met with the **Office of the Public Prosecutor (PDH)**, a meeting at which Mario Minero, **National Director of Mediation and Conflict Resolution**, was present. At the departmental level, we met with César Augusto Paz, **Governor** of the department of Zacapa and Nery Díaz, **Human Rights Educator with the Human Rights Prosecutor of Zacapa.**

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 continue to meet regularly and to visit the offices of the **Unit of Protection of Human Defenders in Guatemala (UDEFEQUA)** to share concerns and mutually update on the work of human rights defenders in the country.

We have maintained regular contact and visited the headquarters of **Madre Selva Collective.** We meet to share information and analysis. We have also visited the office of the organisation **Women's Sector.**

Also, we maintain constant contact with international non-governmental organizations in Guatemala such as: the **Coordination of International Accompaniment in Guatemala (ACOGUATE)**, **Guatemala Human Rights Commission (GHRC)** **Protection International (PI)**, the **Forum of International Non-Governmental Organizations (FONGI)**, the **International Platform Against Impunity .**

5. ACTIVITIES OF PBI GUATEMALA OUTSIDE OF 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.

During this month, the European Representative of the Project carried out the following activities:

- On 10 January she met with the assistant of MEP Jude Kirton Darlington, **member of the Committee on International Trade of the European Parliament** and responsible within that Committee for trade with Central America
- On 26 January she participated in a meeting with MEPs Cristian Dan Preda and Beatriz Becerra, both **members of the sub-commission for Human Rights of the European Parliament** who are going to participate in a mission to Guatemala soon. Helmut Weixler, of the **Directorate General for External Policies, Latin America Unit**, also attended this meeting, along with Ioana Logofatu and Rebecca Alrutz of the **Secretariat of this Commission**, and the assistants of several MEPs.

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.

GUATEMALA: Los defensores criminalizados Saúl y Rogelio libreados tras más de 2 años de detención arbitraria

El Observatorio para la Protección de los Defensores de Derechos Humanos, programa conjunto de la Organización Mundial contra la Tortura (OMCT) y la FIDH, y UDEFEGUA se felicitan por la liberación de Saúl Méndez y Rogelio Velázquez, dos defensores del derecho a la tierra detenidos desde más de dos años por crímenes que no habían cometido, y reiteran su llamado a las autoridades guatemaltecas para que pongan fin a todo tipo de hostigamiento en contra de las personas defensoras de derechos humanos en el país.

Desde el día 14 de enero de 2016, tras casi dos años y medio encarcelados y 78 días después de la sentencia que los declaró inocentes, los Sres. **Saúl Aurelio Méndez Muñoz y Antonio Rogelio Velásquez López**, defensores del derecho a la tierra de la comunidad de Santa Cruz Barillas, Huehuetenango, se encuentran finalmente libres.

“La liberación de Saúl y Rogelio es una excelente noticia pero es importante resaltar que representa únicamente la punta del iceberg en un entramado de casos de criminalización contra defensores y defensoras y líderes comunitarios que tiene el claro objetivo de deslegitimar la protesta social en Guatemala”, ha declarado Gerald Staberock, Secretario General de la OMCT.

Después de haber sido encarcelados por primera vez durante siete meses en 2012, bajo la acusación de haber participado en los disturbios producidos tras el asesinato del líder comunitario Andrés Pedro Miguel, y ser puestos en libertad por falta de pruebas, los Sres. Saúl y Rogelio fueron nuevamente capturados el 27 de agosto de 2013. La nueva acusación en su contra, por los delitos de femicidio y asesinato, se produjo en el marco del linchamiento ocurrido en Barillas en agosto de 2010, en el cual dos personas fueron asesinadas. Las organizaciones sociales consideran que la hija de la víctima del linchamiento fue buscada y “comprada” por la hidroeléctrica Santa Cruz, para “neutralizar” a los dos defensores e impedir que siguieran con su lucha en contra la imposición de la hidroeléctrica en su comunidad. El día 14 de noviembre de 2014, ambos fueron condenados a 33 años y 4 meses de cárcel por el Tribunal de sentencia penal de delitos de femicidio y otras formas de violencia contra la mujer del Departamento de Huehuetenango por hechos en los que no habían participado y en un proceso plagado de irregularidades. Sin embargo, durante el proceso de apelación, que se concluyó el 28 de octubre de 2015, Saúl y Rogelio fueron declarados inocentes.

“Defender los derechos humanos, y concretamente el derecho a la tierra se ha convertido en una actividad de alto riesgo en Guatemala. Reiteramos nuestro llamado a las autoridades guatemaltecas para que pongan fin a todo tipo de hostigamiento, también a nivel judicial, en contra de los defensores de derechos humanos en el país”, ha añadido Karim Lahidji, Presidente de la FIDH.

Los defensores del derecho a la tierra y los líderes comunitarios trabajan en condiciones de extrema vulnerabilidad, ante la situación de violencia que enfrentan al denunciar los impactos negativos en los derechos humanos y el medio ambiente vinculados con las actividades de las empresas hidroeléctricas y extractoras. El movimiento de defensa del territorio de Santa Cruz Barillas, del cual Saúl y Rogelio forman parte, se opone desde el 2008 a la instalación de proyectos hidroeléctricos por parte de la Empresa Hidro Santa Cruz, filial guatemalteca de la compañía española Econer Hidralia Energía.

**Ginebra-París-Ciudad de Guatemala,
27 de enero de 2016.**

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