



making space for peace



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Regulation of consultation, a highly questioned process

*“Why are we going to regulate Convention 169 here in Guatemala?
That was the question raised in Congress.
What has to be done is comply with Convention 169...”¹*

The International Labour Organization’s (ILO) Convention 169 affirms a series of fundamental rights of indigenous peoples that States must respect and guarantee. Said convention aims to mitigate historical injustice that these peoples have suffered. Thus the focus is to ensure respect and protection of their cultures and ways of life. Guatemala ratified the convention in 1996. In the words of the Constitutional Court (CC) of Guatemala, *it is a fundamental right of collective nature whereby the State is obliged to establish procedures in good faith designed to collect the free and informed opinion of those communities when governmental actions, either legislative or administrative, which are susceptible to affect them directly in order to establish agreements or measures that are meritorious*². In this sense what should be guaranteed is the full participation of indigenous peoples in the decisions on the use, administration and conservation of natural resources of the territories where they live. According to the CC, *the purpose of the consultation is*

to enable full realization as peoples, this is to say, the opportunity and real possibility of participation in decision making spheres regarding the way, moment and reason for measures that affect or directly affect their lives.

Evolution of prior consent in Guatemala: lights and shadows

Free, prior and informed consent as stated in Convention 169 have been closely linked to socio-economic current events in Guatemala. As Julio González indicates, *the consultations came in a wave because of the economic model imposed since 2000. A boom for metal mining starts to materialize due to the increase in gold and silver prices. From that moment transnational companies starting coming and see an opportunity in countries where regulations are very flexible and they can obtain privileges based on administrative corruption*³.

Given this situation, there is an appropriation of the consultation mechanism by indigenous peoples. It is worth mentioning some of the most important consultations

which are key to understanding the current context. According to González, since 2005 two emblematic consultations have taken place. The Rio Hondo, Zacapa consultation on a hydroelectric project which was won by a landslide. However when authorities were notified of the outcome, their response was that bona fide consultations were not binding. None-the-less, communities and organizations sought ways for their voices to be heard and taken into consideration through for example, the Municipal Code, whose legislation provides for democratic vote that must take into account residents’ opinions. However the CC, continued to insist that the consultations were not binding. The other emblematic case was that of Sipacapa where the same formula was used by combining the Municipal Code with the provisions in Convention 169 in order to make the consultation binding. A few hours before the consultation, an injunction was filed by the companies. This caused the mayor to desist, but residents insisted on carrying out the bona fide consultation using the criteria, norms and traditions of indigenous peoples. On this occasion the outcome was

¹ Interview with Carlos Morales, Union of Campesino Organizations of Verapaz (UVOC), April 24, 2017.

² Constitutional Court: Guatemala, March 26, 2009. Dossier 3778-2007.

³ Interview with Julio González from MadreSelva Collective, May 3, 2017.

the same, but the court⁴ dismissed the consultation, regardless of what the communities expressed.

Despite these obstacles communities have not let up on their determination to be heard and exercise their rights. Between 2005 and 2015, more than 75 consultations were carried out with the participation of more than 800,000 people⁵. González points out that *as conflict increased, people understood that what is at stake is the defense of natural resources such as water, polluted by mining, monocultures of palm and sugar cane and affected by hydroelectric dams that impact the country's water systems. The point is the lack of water in communities who depend precisely on the normal flow of rivers. All of this conflict is adding up. And as conflict increases, more consultation mechanisms to prevent the implementation of these industries without community consent are taking place.* As for the injunctions filed in several cases, the CC has what it has always had in its hands, the case of communities that express themselves against a project and the only thing they ask for is to be heard and that their opinion be validated.

In 2009 a change in the CC's jurisprudence was presented affirming that *indigenous peoples' right to consent operates as an extension or as first line of defense to other fundamental rights, like the right to property, culture, health and freedom of religion, etc.*⁶. Magistrates of the high court added that the absence of internal regulation cannot be considered an impassable obstacle to fulfill that task⁷.



Consultation in Sibinal, San Marcos in October 2007.

Regulating consent: How and to whose benefit?

Just as Julio González indicates, during the Colom government there was an attempt to present a proposal for regulation that was rejected by all sectors. Moreover, an injunction was filed against the President for proposing this regulation.

The current government has retaken this endeavor and is carrying out again a process to regulate the consent contemplated in Convention 169. However, there is strong mistrust on behalf of different social sectors. This is the case of one member of the Peaceful Resistance of La Puya who states how the Government is carrying out a kind of consultation that is not a consultation. They only go to communities where there

is a certain amount of resistance. They look to us to see if we could mediate and appease things so the company could enter. We have had several meetings with the Ministry of Energy and Mines (MEM) who is following up on this topic. But the MEM has already defined the methodology they are going to use for consulting communities. They are not saying this openly, but that is how it is. On the other hand there is the topic of how to reconcile with companies, what communities need and what the company can provide. Far from asking people if they are in agreement or not, what they are trying to do is convince them. This is something we have seen in meetings. For this reason we have decided to pull out. At the end of the day what the MEM is doing is opening doors for companies.

4 Constitutional Court: Guatemala, May 8, 2007 Dossier 1179-2005.

5 Fundación para el Debido Proceso, *Derecho a la consulta y al consentimiento previo, libre e informado en América Latina. Avances y desafíos para su implementación en Bolivia, Brasil, Chile, Colombia, Guatemala y Perú*. Washington D.C., 2015.

6 Constitutional Court: Guatemala, December 21, 2009. Dossier: 3878-207.

7 Constitutional Court: Guatemala, March 26, 2009. Dossier 3778-2007.

The lack of clarity of what interests are behind these attempts to regulate consent generate concern in diverse sectors of civil society. Gustavo Illescas asks: *To what development model and to what state planning agenda does this follow? What is in the public's interest?*⁸. Helmer Velásquez is concerned about the ILO's discourse: *the person who came to Guatemala started saying that consultations is not "like you all understand it – a way to halt investment". This is the same as the CACIF's*⁹ *discourse. They told us that consent is, as understood by the ILO, "to inform them that X thing is going to happen and you all have time to negotiate with companies so they offer scholarships or other products". This is the same discourse of companies. We understand that the ILO is working with the Labor Minister on the proposal for regulation and if it is on that path then it is only going to consolidate business proposals. This position is surprising: they inform you and "you get benefits". The problem is that this furthers the division in communities and opens space for predator investment. We believe this is going to complicate things more*¹⁰.

Rigoberto Juárez places emphasis on the importance of carrying out a complete process that fully complies with prior consent. But this has not happened, for this reason he views current attempts to regulate consultations as absurd when the damage has already happened: *If we base ourselves in Convention 169 which speaks of prior, free and informed consent. What does saying*

*prior and informed imply? That before any process to install a project in indigenous territories, communities must be consulted and informed about the implications that it has. Before... today. What sense does a consultation have when the projects are already authorized?, when there are three projects who have harmed our pueblo, when there have already been human rights violations, displaced families, and harm to mother earth. Then, what significance does a consultation have?*¹¹

Omar Jerónimo, shares these doubts and criticism on the current process: *we did not want to participate because we feel we cannot endorse, without permission from communities, a process that will regulate the ways of community life. We think that the method is not that way. He also mentions that there have been irregular maneuvers, with the aim for achieving consent to the consultation process: last year – in November, there was an event on food security and indigenous peoples convoked by a governmental office. They wanted the participating organizations to sign that they were in agreement with the protocol on regulating consultations. This type of manipulation has been going on and for that reason we prefer not to participate. We have not been consulted if we want or do not want a regulation for our consultations. The first step should be that, and if not then it will continue to be a protocol or regulation not consulted with communities. This is the step they do not want to take because this would*

*implicate a wide level of participation and recognition of indigenous peoples, something they do not want to do*¹².

Ultimately as Julio González points out the process to regulate consultations itself poses the same contradictions and nonsense: *the formalization of a guide to carry out consultations based on Convention 169 started at the beginning of April, it is not only illegal, but immoral – since it is trying to regulate consultations without consulting anyone. They are working out of their own interests, which is excluding indigenous territoriality. These are just some of the incongruences. In the same line, lawyer Sergio Vives asks what type of consultation is being proposed, because if it is no longer possible to have prior, free and informed consent, then it will be a *after, persecuted, and informed consent? That is to say (..) when the projects are operating and the population suffers political persecution and subjected to intimidation and persecution strategies*¹³.*

How do indigenous peoples conceive consent? An ignored debate

Consultations are not new for indigenous peoples in Guatemala, to the contrary it is an ancestral practice and each peoples have their traditional way of practicing consent. It is essential to know and respect these procedures to be in harmony with different cultures and ways of proceeding. Rigoberto Juárez explains it in an educational manner: *for our*

8 Interview with Gustavo Illescas, analyst and collaborator with the Center for Independent Media (CMI), May 11, 2017.

9 Coordinating Committee of Agriculture, Commercial, Industrial and Financial Associations.

10 Interview with Helmer Velásquez, Director of the NGO and Cooperatives Coordinator (CONGCOOP), March 20, 2017.

11 Interview with Rigoberto Juárez, Coordinator of Plurinational Government, May 26, 2017.

12 Interview with Omar Jerónimo, Campesino Central Coordinator New Day' Ch'orti', March 17, 2017.

13 Andres Cabanas, *Cierra Filas, cierra espacios*, <https://pensamientosguatemala.org>, May 28, 2017.

peoples, consultations are not due to Convention 169, this is an ancestral practice for making decisions. If the people say no after being consulted, then the answer is no. This juggling that the Guatemalan State is trying to do, is of course in response to economic interests which is absurd. They are only responding to the interests of capital. The interests of those who want to use natural resources to their benefit. They are not looking out for the interest of the people – the people of Guatemala. For this reason, I say that it is absurd. In Q'anjob'al territory there are three nations. Each nation has their own way of consulting its people. In Huehuetenango there are nine indigenous nationalities and each one has their own practices. So, how are we going to take into consideration all of these practices? This is unacceptable. If we speak about 22 Mayan nationalities plus Garifuna and Xinca, there should be 24 ways of carrying out consultations. The only thing the State needs to do is respect their ways and make indigenous peoples' decisions binding to have harmony in the relations among them.

None the less, to date this complexity is ignored. As Gustavo Illescas explains, it is major that social organizations have not pronounced on the regulation of consultations. This is symptomatic and important as this would be an opportunity to effectively articulate all struggles. We should oppose the regulation of consultations because it is obeying State planning and is incoherent with the environmental and cultural balance of the population. At the heart of this debate, there



Protest against the regulation of the consultation in February 2011.

is a lack of understanding of what consultations mean for the indigenous peoples, this difficulty is identified by Omar Jerónimo: *It is believed that the consultation is an electoral practice, where yes or no wins. For indigenous peoples this is not a consultation. It is a constant process of dialogue in communities. It is a process to reach a level of collective consensus in a community. The main principle of indigenous peoples is to find equilibrium and this is not found when there are 40 people in disagreement and when someone decides that "x" or "y" can be done, because those who lost the process are affected. This is not a community consultation, for them a consultation is a process of constant dialogue. It is to seek actions that truly serve the entire community and not just one group or a majority. For indigenous peoples dialogue is never-*

ending, it is constant and circular. It does not have a beginning or an end.

It is essential to uncover and have present history and the memory of indigenous peoples in Guatemala to understand the processes that are currently taking place. To this point Rigoberto Juárez points out: *not only did they steal large extensions of the most productive lands in the country where they amassed wealth by enslaving our ancestors. Now that fundamental rights have been recognized for our peoples, those embodied in legal instruments, the State which remains at the service of these power groups by using falsehoods, has the nerve to violate those legal instruments to continue taking away our territories where we have protected, cared for and reproduced the greatest biological and cultural diversity in the country. In short, we have recreated life.*

Now there is nowhere to plant. Life after eviction.

On January 5th when they carried out the eviction – it affected us. The people who really have nothing were put out on the streets and those who have some means took over the land. They accuse us of usurpation and other crimes against the environment – because we picked limes and oranges and cut cypress trees¹.

During the first four months of 2017 approximately 51 families in Alta Verapaz have been evicted. The evictions in this department have been a reoccurring institutional response for more than a decade in a territory that according to the Secretariat on Agrarian Affairs (SAA) has 1,418 land conflicts that involved 997,460.80 hectares of land². In most of the cases the evictions have had a similar pattern: destruction of homes, assets and harvest, disproportionate use of force on behalf of the authorities, lack of prior or timely notification for communities, lack of knowledge of agreements achieved in roundtable dialogues and incompliance with international legal standards on evictions formulated by the United Nations (UN).

Behind the stats, we ask: What happened to the men, women, children and elderly people that suffer these evictions or the threat of eviction? The consequences are devastating and affect different spheres of their lives – psychosocial, economic, political and organizational, etc. which tend

to be invisible. Community members from Santa Inés, in the Santa Cruz municipality, and La Primavera, in the San Cristóbal municipality, both located in Alta Verapaz have shared with us their experiences on these difficult situations. In the case of Santa Inés, the terrible impacts generated by the evictions are reflected while the testimony from the Primavera community allows us to understand the negative extent that mere threats of eviction have on a community.

Santa Inés

On January 5, 2017 a judicial order to evict 20 poqomchi' families, members of the Union of Campesino Organizations of Verapaz (UVOC), from the Finca Santa Inés was carried out. This was the first eviction of 2017, but the fifth in a series against this community³.

According to UVOC, despite the fact that the majority of these 20 families have property titles, *they have the right to live there since November 20, 1880 when President Justo Rufino Barrios*

signed a government accord which distributed lands among neighbors. As they inhabited those areas they have the right to be protected by the State⁴.

During Guatemala's internal armed conflict between 1960 and 1996, the families of Santa Inés were forced to migrate to other municipalities and departments to survive. They returned in 2000 to the community that they considered their territory. However, when they returned they were officially landless and therefore unable to subsist. Since then they have occupied the lands while community representatives and UVOC participated in a dialogue process with representatives of the local and national government to seek a sustainable and dignified solution⁵. For nearly 17 years they have been participating in this dialogue process without a solution to the problem.

Some of the members of these families call themselves "historical occupants," stripped of the land during the armed conflict, after decades of wandering they returned looking for productive

1 Interview with Crisanto Tul Cojoc from the Santa Inés community (evicted January 5, 2017), April 25, 2017.

2 SAA, *Informe de monitoreo de la política y conflictividad agraria*. Guatemala, 2017.

3 Morales, R., *Santa Inés: El primer desalojo del 2017 en Alta Verapaz*. Prensa Comunitaria. July 1, 2017.

4 Morales, R., *Santa Inés: familias poqomchi buscan recobrar su tierra después de 136 años*. Prensa Comunitaria, May 21, 2016.

5 Morales, July 1, 2017, Op. Cit.

Conflict behind occupations

The InterAmerican Commission on Human Rights' (IACHR) 2016 Annual Report states that the current panorama of collective land rights in Guatemala is characterized by *legal insecurity as a consequence of the lack of a full process of granting land titles, boundaries and land limits, the lack of an effective process to resolve long-term land claims (...) and evictions and displacement caused by extractive or development projects*⁶.

According to Julio González, of Environmental Collective MadreSelva, *the problem with land evictions lies precisely in the fact that land changes hands and when owners change they do not recognize labor benefits of the people who lived on the land for more than 5 generations, who are expelled mercilessly without payment for services rendered. Without payment for labor benefits or without being given a piece of land to continue living in Alta Verapaz*⁷.

lands where they could respectably live. As Crisanto Tul states, *the legitimate right to the lands belongs to our grandparents, our ancestors, because the municipality donated it to them. The problem here and what had happened in Guatemala is that our families had to abandon the land during the armed conflict. Everything we are doing is by legal means, but these men want ownership of the lands and that I believe is not fair. Meanwhile the judge does not investigate the facts, he carries out the eviction, detaining us and sending us to jail. I believe this is injustice.* Other families are *mosos* colonos who claim ancestral ties to the land as well as their labor rights that were never recognized and a piece of land to cultivate.

Life after the eviction

Frequently evictions involve the destruction or deterioration of homes and material goods, loss of land as a means of subsistence and economic

precariousness. As Crisanto Tul Cojoc explains, *the eviction affected us a lot, we lost everything, harvest, belongings, houses and were unjustly imprisoned. One woman's home was completely destroyed, they stole her roof and the boards of her home – everything she had. Now we do not have land to plant for our daily subsistence. What we are asking for is to improve our lives, to be able to cultivate, to have something because there are no job opportunities. And until we figure it out – we borrow and borrow more.*

Likewise, Cristóbal Mó Ti, also of Santa Inés, explains his situation after the eviction: *my brother is who is helping me, I live in his house. He helps me to eat. Because today it is not easy to find work because many do not know us in town. We were sustaining ourselves and making a living in our community Santa Inés, but it has disappeared, so it can't be*⁸.

After the eviction, the families of Santa Inés have been waiting to be

relocated. This measure was arranged by the SAA through the UVOC. On this Crisanto Tul Cojoc states the lack of progress: *After four months there has been no material support, and no support to relocate people. We were never usurpers, the only thing we are doing is asking the authorities to investigate these lands to see who the owner is. We lost our harvest, belongings, and houses. Now some people are living with family, others are waiting to see how they can be helped with food, material goods, and where they can live. One comrade went to ask for lodging as all of the shacks (homes) we had perished. For one comrade we gathered bits of metal roofing and wood and there she is living in a dwelling like a chicken coop... There she is waiting for a piece of land during the emergency. She sleeps there – nothing else. For her subsistence there is no one to help her – she has to figure out how to work and provide for her children.*

As times goes by without a solution to the problem it is evident how the social fabric of the community is affected due to the eviction. Family and community ties are fragmented and the organizing established around the defense of land and territory is affected. For Crisanto Tul this is a great loss: *before we saw each other every day, now we are separated, not like we were before.* The economic precariousness of families, which is exacerbated by evictions, also impacts the lives of children. As Crisanto Tul points out, *there are school-aged girls who do not attend school due to lack of resources.*

6 IACHR, Annual Report 2016, Chapter V, Follow-up on IACHR recommendations made in report on the situation of human rights defenders in Guatemala: Diversity, Inequality and Exclusion, paragraph 138

7 Interview with Julio González del Colectivo Ecologista MadreSelva, March 5, 2017.

8 Interview with Cristóbal Mó Ti from the Santa Inés community (evicted on January 5, 2017), April 25, 2017.

The threat of eviction also changes lives. La Primavera Community

The effects of eviction on families are felt even before the eviction takes place. Living under the constant threat of eviction generates a strong feeling of uncertainty and insecurity along with other psychosocial impacts. As Justino Xollim Tilom from La Primavera community explains, *the strategy of threatening arrest warrants, divides communities as do threats of eviction. They never say a date. They only hint. We don't have anywhere to go if they kick us out. I don't feel tranquil in my body, maybe due to nerves. I have not received my plot of land yet – where can I plant? I am no longer bored because we don't know what life has in store for us*⁹.

Criminalization

The Santa Inés eviction had a characteristic that occurs frequently in this type of situations: men and women of the community are criminalized. During the eviction several people were detained: Albina Chocooj Col, who was eight months pregnant at the time, Romelia Veliz Caal, Crisanto Tul Cojoc and Cristóbal Mó Ti. They are accused of aggravated usurpation.

According to the *Recovery of Historical Memory Report (REHMI), Guatemala: Never Again*, the second department after Quiché with the most massacres during the internal armed conflict in the 1980s was Alta Verapaz. A total of 63 massacres took place. Some of the survivors



First of the evictions in the Valle del Polochic in the community of Miralvalle, March 2011.

of this terror are currently being criminalized after the Santa Inés eviction. This is the case of Cristóbal Mó Ti. His father was a native of Alta Verapaz and was stripped of his land and disappeared during the war. In 2012 Cristóbal Mó Ti found his father's remains among the 588 skeletons exhumed in the 85 clandestine graves located in the Zona 21 Military Base, currently called CREOMPAZ (Regional Command of Training Operations for the Maintenance of Peace)¹⁰. At present Cristóbal is complying with house arrest in the context of a judicial process for aggravated usurpation.

Different voices point out that the criminalization of leaders and other community members aims to discourage social organization and collective action in defense of human rights. According to Quimy De León *one form of repression (...)*

*is criminalization and judicialization. This is to say that those people considered harmful to life are stigmatized, accused, pursued criminally and imprisoned for simply defending their rights. Many times such criminalization is against social leaders and other times not. The message in both cases is the same "that no one dares to continue organizing, thinking, giving opinions and defending their own"*¹¹.

At present the four people who have been criminalized continue to be linked to the legal process and are under precautionary measures. To avoid prison they have paid Q2,000 (250 Euros) in bail which is a lot of money for a person who has just lost their land, their main source of subsistence. The legal process against them continues.

As Crisanto Tul Cojoc states, *they accuse me of being a usurper but I don't have any land in my hands. We are upset, we still are not free – every*

9 Interview with Justino Xollim Tilom from the Primavera community, April 25, 2017.

10 Morales, July 1, 2012, Op. Cit.

11 De León, Q., *Formas de Represión social: La criminalización*. Prensa Comunitaria, March 16, 2014.

month or every 15 days we must go sign a book as we are under house arrest. We do not have the liberty to go out to travel to another department – we are tied down. They even took a pregnant woman into custody. It is an injustice. She is not a woman who has usurped land.

The economic precariousness of people criminalized after evictions, restricts their ability to defend themselves in court. Cristobal Mó Ti states: *now our problem is that with these cases we have to spend money and I am not sure how we are going to cover these expenses. We are trying to figure out what to do because we do not have resources to pay a lawyer. We are unsuccessful. I am not sure how we are going to overcome this. We are in a sticky situation.*

Similarly Crisanto Tul Cojoc explains his financial situation after being released from jail: *I work for the state in road construction, but when I got out of jail they did not pay me. Banrural bank froze my account where I got paid for four months. I got by borrowing money, hoping the bank would resolve my problem – I am running in circles. Now they are in the process of paying me. For four months I have been without money to survive on. They punished me with this also. I borrowed and borrowed to get by.*



Visit to the families of the community Centro 1 that were violently evicted June 16, 2009 and have not been relocated yet (November 2014).

Interest for the land. Extraction and resistance to dispossession

As Julio González explains, *at the beginning of the 90s, the fall in coffee prices signified a decline on the agro-export model and an incursion of a new economic model consolidated in 2000. The necessary laws were passed to start this new extraction model. These were reforms to the Mining Law, reforms to the National Electricity Law, and permissiveness so that sugar cane and African palm crops could expand.*

With the emergency of this new economic model and new period of conflict emerged around land in Alta Verapaz. Fresh water reserves and productive lands make the Verapaces a strategic territory for energy production as well as for increasing sugar and African palm production. At the same time, the families who were victims of reoccurring dispossession returned seeking land that would allow them to subsist. Anthropologist Marta Gutierrez states that from the year 2000 the Verapaces are the scene of much of the land claims and occupation which took place in Guatemala. Sixty-three of 96 land occupations that by then claimed the right to land took place in this department¹².

12 Gutierrez M., *Comunidades libres. Anotaciones de trabajo de campo en Las Verapaces*. Enfoque, Año 7, N.º 37, August 25, 2015, p. 11.

Struggle against violence towards women: Institutional obstacles and alternatives of self-management

Violence against women and girls is a dramatic and undeniable reality in Guatemala. The femicide rate in the country is one of the highest in Latin America, with more than 5,000 women and girls murders between 2008 and 2015¹. In fact, violence against women is the crime most reported to the Office of Public Prosecutions (MP) with 54,795 complaints filed in 2015 and 56,174 in 2016². This high instance of complaints filed by women can be considered progress as Heydi Estrada, Deputy Director of the Public Legal Defense Institute (IDPP): *they are more empowered to go to the Police and justice system. Before they remained quiet and did not denounce (violence)*³. However, there is still a long road to achieve true equality between women and men and justice for female survivors of machista violence. According to the International Commission Against Impunity in Guatemala (CICIG), 98% of cases of violence against women are left in impunity⁴. A worrisome aspect that increases victims' vulnerability and the defenders who accompany them, is the difficult access to justice and the obstacles to circumvent the

struggle against impunity. Thus, women encounter multiple risks before, during and after filing a complaint: they are stigmatized, intimidated and threatened in their closest environment – family and community – with the aim to persuade them not to file a report. Not only women suffer these risks and threats, defenders who accompany them are also affected. In addition according to the experience of these defenders, this complex linkage of judicial, administrative and police agencies often also become a big obstacle that re-victimizes, blames and questions those who they should help and protect – the victims and survivors of gender-based violence. The **Women's Network for Integral Vision of the Department of Sololá (REDMUSOVI)** works in municipalities in the department of Sololá. They offer counseling and psycho-social accompaniment to women survivors of gender-based violence. One member of this Network shares her experience as an accompanier to a femicide case and the risk that she and her colleagues were exposed to: *when they saw us, they started taking photos and*

recording videos, we were threatened by the man's family and by other third parties. In this case we filed a report with the Office of the Human Rights Ombudsman (PDH) and with the National Civil Police (PNC), but to date the man is still free and has started another family.

It is of great concern that the police administration and justice institutions do not have professionals on staff with special gender training. This lack of expertise hinders these processes. Nor are there guarantees that the report will be translated when the native language of many women who go to file complaints is not Spanish, rather a Mayan language. **REDMUSOVI** explains that, *many people who we accompany do not know how to speak Spanish well, there are some courts who have interpreters but they do not speak the same language. Also interpreters do not translate all of what the woman is saying due to the technical terms used and this favors men and denies justice to Mayan women.* The lack of adequate interpretation is a reoccurring problem that survivors of violence face during the entire process, which can last 3 to 5 years: from the start at local

1 JASS, Guatemala, <https://justassociates.org/es/guatemala>

2 Muñoz Palala, G., *Violencia económica es la más común contra mujeres*, Prensa Libre, April 20, 2017.

3 Muñoz Palala, G., *Mujeres se animan más a denunciar la violencia*, Prensa Libre, June 15, 2016.

4 ONU Mujeres, Consultoría para la elaboración del estudio *Violencia contra las mujeres e impunidad*, February 2014.



March against violence towards women, November 25, 2016.

police and justice of the peace, until a court hands down a decision. This obstacle infringes on women's rights to receive necessary information and guarantee their right to due process as victims of a crime⁵. Coupled with the fact that in many cases women who do file reports have a precarious economic situation. **REDMUSOVI** explains that *there are cases in which women cannot file a complaint because they have to leave their town. They have to leave and go for example to San Marcos La Laguna or to Santiago Atitlán. And in Santiago they cannot denounce the violence and they are sent to the prosecutor's office of Women in Sololá. And to travel to Sololá they need at least 75 Quetzals because they have to cross the lake both ways. The*

other obstacle is that not all agencies are centrally located and women have to pay a tuc-tuc to get there and back – this added to the cost of food – money goes fast, so many women cannot denounce crimes because of these obstacles they encounter.

To be a female human rights defender in Guatemala involves continuous risk. The Unit for the Protection of Human Rights Defenders in Guatemala (UDEFEQUA) registered 89 aggressions against female defenders and four murders in 2016⁶. These figures include female defenders who work in different areas, as there is no specific statistic for defenders who accompany female victims of machista violence. In addition to the

risks, defenders face other difficulties like the lack of recognition for their work, lack of economic and logistical support and the emotional impact of their work, both for them and their families. **Isabel Soch**, defender in the department of Huehuetenango, works in seven municipalities and accompanies women who cannot leave their communities due to arrest warrants for their resistance to hydroelectric projects in Barillas and Santa Eulalia. **Soch** mentions several challenges for human rights defenders in her region: *primarily women involved have economic difficulties. There is also a security risk because if they go to a demonstration they can be photographed. If one speaks out on a microphone, she will be*

5 Inter-American Court of Human Rights, *Fernández Ortega and Others Vs. Mexico* case, Sentence August 30, 2010.

6 UDEFEQUA, *Informes sobre situación de Defensoras y Defensores de Derechos Humanos. Enero a Diciembre 2016*. Guatemala, January 2017.



on the list. They also lose their family, their children stay away, some do not like their mothers to do those things because of their religion or because people say “look, your mother is acting wrong”⁷. The high levels of stress have great impact on their health which has led to a worrisome increase in different diseases⁸.

Due to the lack of protection and lack of attention on behalf of State institutions towards women in general and women defenders in particular, autonomous initiatives have emerged carried out by women. Groups, organizations and support networks for mutual care have

been created. These networks are a constant in the history of feminism whose goal is to create safe spaces for women in the face of different types of violence they encounter⁹. Since 2010 the **Mesoamerican Initiative for Women Human Rights Defenders (IM-Defensoras)** has focused its work on training and promoting protection networks for women who defend human rights in El Salvador, Guatemala, Honduras, Mexico and Nicaragua¹⁰.

The **Network of Ancestral Healers** is another example of these networks. It was started two years ago and brings together women who work

in defense of territory body-land and that have suffered the effects of political violence for defending the right to life, for demanding justice in cases of violence against women and girls and for publically denouncing land dispossession of ancestral lands. The Network is primarily formed by indigenous women from different territories who intensely struggle against what they call “patriarchal forces” (be it colonial, ancestral and/or racist). Their aim is collective healing for the women who make up the network. **Lolita Chavez**, member of Council of K’iche’ Peoples (CPK) and the Network of Ancestral Healers, explains the importance of

7 Interview with Isabel Soch, March 30, 2017.

8 Interchange between defenders during Defenders Meeting organized by PBI in November 2016.

9 Iniciativa Mesoamericana de Mujeres Defensoras de Derechos Humanos (IM-Defensoras), *Agresiones contra defensoras de derechos humanos en mesoamérica Informe 2012-2014*, 2014, p. 60

10 Ibid.

the Network as a healing space: *we have suffered violence multiple times that mark our lives and materialize as trauma. We open intimate spaces to recognize our history as a part of our lives and part of the network of life. The system has tried to mark us and healing is a way to rid ourselves of these scars. Without this space, collective energy is not generated to open and unload the pain and well-kept stories, due to fear of social stigma, blame, moral judgement and social labels*¹¹.

Lorena Cabnal, community feminist, founder and member of the Network of Ancestral Healers explains how these spaces strengthen their participants who in their majority are defenders in situations of political risk for their defense of territory, helps them to continue working: *after*

the healing processes more vitality, common hope and the desire to live is generated. It gives us profound love for life and the potential to regain self-love and collective love among women, in a process that awakens their healing conscience with the wisdom of our grandmothers, ancestors and with nature. Changes materialize or a renewal of habits in women after the healing and they start to retake forms of nourishing ourselves, rediscovering collective baths, habits of having contact with water, mountains or the forest, they establish other types of healing love with their daughters... many women and comrades of other organizations and other territories have woven healing elements that are transmitted among themselves and future generations of young women

*and girls, by healing the emancipating political proposal and from its original cosmogony. Articulating I heal, you heal and healing you, heals me, it is a cycle that generates healing reciprocity between women*¹².

This practices shows that these women's networks create strong links that transcend institutionally and are indispensable for the healing processes of women who day-to-day survive structural violence that surrounds them, strengthening them both on a personal level as well as their struggles to defend human rights. However, this does not absolve state authorities from their obligation to guarantee their right to defend human rights and a life free from violence for women which is an indispensable responsibility.



11 Interview with Lolita Chavez, May 30, 2017.

12 Interview with Lorena Cabnal, May 30, 2017.

Taking back the AEU: for a renewal of the student movement

Taking back our space, without violence and with hope to make real changes in our university. Enough of being quiet, enough stepping on our rights for academic improvements.

Communique of six USAC student organizations that repudiate the AEU, September 2016

The year 2015 was a milestone in the history of Guatemala. The International Commission Against Impunity in Guatemala (CICIG) and the Office of Public Prosecutions' (MP) revelations on government corruption, and the consequent mass demonstrations against the Otto Pérez Molina administration, started a public audit of state institutions.

However, an institution that until now was able to dodge this process was ironically the one who historically defined itself as the home to resistance: the San Carlos University (USAC), the only public university in the country. During the internal armed conflict the USAC's Association of University Students (AEU) was an autonomous space for free and critical thinking in face of military governments. For that it had to pay a high price, suffering a wave of repression from the late 70s until the 80s which was characterized by continuous murders of student leaders. The most known case is that of twenty-three year old Oliverio Castañeda de León who was brutally murdered on October 20, 1978.

However, the AEU of that time has little to do with the present day association as it has stopped being a critical voice of Guatemalan society.

According to the Constitution the purpose of the USAC is to ensure that social conflicts of the Guatemalan people are resolved. Therefore, the moment in which the AEU is coopted by clash groups the student movement practically disappeared. There are no longer students who take to the streets to protest¹.

The co-opting of the AEU started at the end of the 90s as a result of the confluence of interests of conservative State elements who wanted to control the student movement and the interest of certain student groups who wanted to profit from the dues students pay the association. Since the 2000 elections – where opposition groups abstained from participation in protest to multiple irregularities and intimidations observed in the process – the AEU's General Secretary has been occupied by a power structure formed by veteran students linked to mainstream political parties and very powerful. In subsequent

elections intimidations, threats, lack of turnout and bussing in voters from regional centers were denounced. All electoral processes since 2012 have been blocked².

In September 2016, six USAC student associations from political science, agronomy, engineering, anthropology, medicine and architecture schools have ignored the legitimacy of the AEU's General Secretary and have spearheaded a movement to retake democratic control of the institution. The Electoral Council made of representatives of these six associations have convoked elections for August 19 to 21, 2017. Due to hostility from the AEU in this process, several people from the Electoral Council approached PBI to request observation of the security situation during elections.

They are a very strong clash group. They are very powerful people, they are not students. We believe they have the means to burn ballot boxes and damage the process. And we do not have resources to hold another election. For this reason we need observers.

¹ Interview with members of the Electoral Council, May 3, 2017 (all of the textual quotations that you read are from this interview).

² Centro de Medios Independientes (CMI), *De Oliverio a Isla de Gilligan. Cómo fue cooptada la AEU*, September 23, 2015.

Students consider taking back the AEU a fundamental step to re-articulate the space of resistance previously represented by the student movement.

Since the end of the XIX century, every year, the AEU has organized the Huelga de los Dolores so that students could show their dissatisfaction with the conservative course of the country. During the Huelga frustrations and the peoples' demands are heard. After the 1954 coup d'état, participants starting wearing hoods to cover their faces out of fear of state repression. However, today this practice is undermined according to the Electoral Council members, the use of hoods has been converted into a tool for impunity to hide the identity of those who carryout extortion and intimidate others. The Huelga has transformed into an opportunity to profit for those who control the AEU as well as for clash groups who charge a mandatory fee known as "talacha"

to students and vendors at the main campus.

How is it possible that they say "let's celebrate the Huelga"? Are we going to celebrate that there is suffering in Guatemala? This is not a celebration, it is an act of protest against the government! But they see it as an event to profit from.

In the process to take back the AEU, the month of the Huelga has been identified as the time of greatest risk for students in resistance. Some of these people have denounced death threats received by telephone or written on the walls of the main campus.

We have all felt fear at some time when we joined this initiative. Some have been greatly affected. They don't like to be alone – they are accompanied or they don't like to go to certain areas where they feel vulnerable.

Tension has been so high and the impunity that the hood permits is worrisome to the point that

the Electoral Council decided to suspend most of its public activities advertising the elections during the Huelga celebration.

We had an event in which I was going to go on stage and talk about the process to democratize the AEU... [Clash groups] came to our school and I had to leave accompanied by an eight person police escort who took me home. This did not happen during the Huelga. During the Huelga they would not have waited, they would have attacked directly.

Now that the 2017 Huelga has passed, the Electoral Council and six student associations in resistance have retaken their activities in preparation of upcoming elections. PBI will be present during the process to observe and perform advocacy with authorities, all in accordance with our mandate and with the objective of opening spaces for those who seek to exercise their rights of free association and expression in a peaceful manner.



Photo: archive of the Electoral Council of the USAC, 2017.



PEACE BRIGADES INTERNATIONAL GUATEMALA PROJECT

PBI is an international non-governmental organization (NGO) which provides international accompaniment and observation at the request of threatened social organizations. The presence of international volunteers backed by a support network helps to deter violence.

PBI in Guatemala

PBI maintained a team of volunteers in Guatemala from 1983 to 1999. During those years, it carried out accompaniment work with human rights organizations, unions, indigenous and campesino organizations, refugees and churches. In 1999, after an evaluation process, it was decided to close the project since the country had greatly advanced in the opening of space for the work of human rights organizations. Nevertheless, **PBI** continued attentive to the happenings in Guatemala through a follow-up committee.

From the middle of 2000, **PBI** began receiving a number of requests for international accompaniment. Due to these requests, **PBI** carried out an investigation in the field that made evident a turn in the direction and a losing of space for human rights defenders. In April of 2002, **PBI** decided to reopen the Guatemala Project in order to carry out international accompaniment and observation in coordination with other international

accompaniment and observation in coordination with other international accompaniment NGOs. In April 2003, the new **PBI** office was opened in Guatemala.

Mandate and Principles

Contribute to improve the human rights situation in Guatemala, and hereby strengthen the social and political processes that promote the enhancement of democracy and participation in the country and the region. Therefore **PBI** employs an international presence to create and maintain open political space for human rights defenders, lawyers, union members, campesino and indigenous organizations, and civil society groups that are suffering repression due to their work supporting human rights.

PBI follows the principles of non-violence, non-partisanship and non-interference.

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