



Monthly Information Pack Guatemala

Number 135 - December 2014

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.

18 years since the signing of The Peace Accords. Guatemalan society evaluates its successes and limits

On the 29th of December 2014, Guatemala celebrated its 18th anniversary of the signing of the Peace Accords, which put an end to 30 years of internal armed conflict. The negotiation process between the government and the *Unidad Revolucionaria Nacional Guatemalteca (URNG)* took a long time, starting in 1987 to be concluded 9 years later with the public event of the signing of the Agreement on a Firm and Lasting Peace on the 29th of December 1996¹.

"The agreement consists of 17 points, mainly declarations of political will. The adherence to the principles aims to guarantee and protect full observance and compliance of the human rights; the commitment to investigate the human rights violations that unfolded within the context of the internal conflict in order to contribute to the national conciliation process as well as the country's democratization; recognition of the identity and rights of indigenous peoples as a basis for the building of a multi-ethnic, pluri-cultural and multilingual nation. It expresses the need for participatory socio-economic development to serve the public good forms part of the catalogue of political objectives. In order to obtain a fairer social situation, it relates to the necessity of more equal and efficient tax system. Priority tasks for development considered in the agreement are eradicating poverty and unemployment and improving health, education, and training and social security services. Another point raised is the reform of the State and the Military"².

During the event celebrating the signing of The Peace Accords, Julio Balconi, former Minister of Defense, who formed part of the Reconciliation Commission as well as the Negotiation Commission, considered that "the so-called Operational Arrangements have been rapidly achieved, as has been established; as opposed to the Substantive Agreements, aimed to transform the country"³. Within this framework, some of the pending advances are related to education, seeing that in spite of the **education** reform the illiteracy rate remains very high⁴. The **insecurity** of the country is another outstanding issue, the "new" National Civil Police (PNC), which will replace the discredited *Policía Nacional (PN)*, did not meet expectations"⁵. According to Álvaro Ramazzini, bishop of Huehuetenango, there has been little progress in the initiatives proposed by The Peace Agreements, especially when it comes to **socio-economical** and **agrarian matters**. He expressed that "the economic growth and the Rural Development Law have not been complied with and (using a local saying,) 'have been sleeping the sleep of the just'. The agreement acknowledged the ILO Convention No. 169 and the lack of compliance resulting in social unrest. Therefore, entrepreneurs have to take into account that the situation will not improve by attracting major investors before a tax reform has been realised"⁶. The opinions

¹ Prensa Comunitaria, *Acuerdos de Paz: 18 años después y la ilusión de la paz que nunca fue*. 29.12. 2014 <https://comunitariapress.wordpress.com/2014/12/29/acuerdos-de-paz-18-anos-despues-y-la-ilusion-de-la-paz-que-nunca-fue/>

² ONU, *Acuerdos de Paz* <http://www.onu.org.gt/contenido.php?ctg=1393-1341-acuerdos-de-paz>

³ El Periódico, *Luces y sombras de los Acuerdos de paz*, 30.12.14 <http://www.elperiodico.com.gt/es/20141230/pais/6682/Luces-y-sombras-de-los-Acuerdos-de-Paz.htm>

⁴ *Ibíd*

⁵ *Ibíd*

⁶ *Ibíd*

about **democratization** vary; according to Balconi “as Guatemalans we have participated in several general elections without any signs of fraud and now anyone can present their ideas without risk”⁷; Nevertheless, Rigoberto Quemé, of the *Observatorio de los Pueblos Indígenas y Alianza por la Vida*, states that “we are seeing a regression of democracy in which authoritarianism from the power structures prevails, and the return of militarization illustrates the failure of the implementation of the agreements”⁸. The President of the Republic of Guatemala himself, Otto Pérez Molina, said that the Peace Agenda has made little progress, “we recognize this and we will have to work in order to construct peace and reconciliation”⁹.

Genocide Trial and amnesty resolution for ex-head of de facto state Efraín Ríos Montt

This December, the Guatemalan Court of Constitutionality (CC) confirmed the reopening of the trial relating to genocide and crimes of lesser humanity against the Maya Ixil people, committed between the years 1982 and 1983, by the ex-head of state, General José Efraín Ríos Montt, and the then head of military intelligence, José Mauricio Rodríguez Sánchez. The trial will initiate on January 5, 2015.

Separate from the trial's reopening, on December 23, 2014 the First Chamber of the Criminal, Drug and Environmental Sentencing Court of Appeal was composed, which has the task to resolve the petition for amnesty requested by Ríos Montt's lawyers on February 17 of 2012, based on the Decree-law No 8-86, according to which he could not be judged for crimes committed between March 23, 1982 and January 14, 1986.

In the context of the Peace Accords celebration, Otto Pérez Molina, President of the Republic of Guatemala commented that “key elements to achieve peace are: recognition of historical truth, redress and reparations of the victims, adoption of measures to prevent recurrence and the granting of amnesty”¹⁰. Nevertheless, a media release signed by various organisations urged to remember that “under article 8 of the Law of National Reconciliation (which replaced the Decree-law No 8-86) - extinction of criminal responsibility will not apply to the crimes of genocide, torture, enforced disappearance, or to any other offenses that are not subject to statutory limitations or discharge from criminal liability in accordance with domestic law and the international treaties ratified by Guatemala-. Therefore, the Appeals Chamber cannot implement a law that is not in force and is contrary to national guidelines”¹¹.

The Myrna Mack Foundation expressed in similar lines, that “even if the Guatemalan legislation contemplates the concept of amnesty in the Political Constitution (...) it will be impossible to fit the case of Efraín Ríos Montt within some of its criteria. It is the very Law of National Reconciliation, that states that offenses that do not discharge from criminal liability in accordance with domestic law and the international treaties ratified by the State, should comply with Guatemalan penal procedure, as is the case with the crime of genocide, according to the Convention on the Prevention and Punishment of the Crime of Genocide”¹².

Though the case is awaiting its opening, it should not be forgotten that on the 10 th of May, 2013 José Efraín Ríos Montt was condemned to 80 years of prison, 50 of which for genocide and another 30 for war crimes.

⁷ Ibídem

⁸ Prensa Libre, *Claroscuros en nuevo aniversario de la firma de la Paz*. 20.12.14 [http://www.prensalibre.com/noticias/politica/Conmemoracion de los 18 anos de la firma de la paz-Acuerdos de Paz_0_1275472545.html](http://www.prensalibre.com/noticias/politica/Conmemoracion_de_los_18_anos_de_la_firma_de_la_paz-Acuerdos_de_Paz_0_1275472545.html)

⁹ El Periódico, Op. Cit.

¹⁰ Siglo XXI. *Amnistía es parte de los Acuerdos de Paz*. 30.12.14 http://digital.s21.com.gt/archivo/Siglo21_20141230.pdf, pág. 6

¹¹ Comunicado: *Derecho guatemalteco e internacional prohíben la aplicación de amnistía a los crímenes contra la humanidad y a genocidio* <http://cejil.org/comunicados/derecho-guatemalteco-e-internacional-prohiben-la-aplicacion-de-amnistia-a-los-crimenes-c>

¹² Prensa Comunitaria, *La paz no significa impunidad*, 29.12.14 <https://comunitariapress.wordpress.com/2014/12/29/la-paz-no-significa-impunidad/>

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 rights¹³

In December we continued our accompaniment work to the **Verapaz Union of Campesino Organisations (UVOC)**. At the beginning of the month we accompanied lawyer of the organisation, Jorge Luis Morales, on his trips to Cobán, Santa Cruz and San Cristóbal (Alta Verapaz), where he works with the community of the Finca La Primavera (community accompanied by the UVOC). On three occasions we accompanied members of the UVOC and inhabitants of the Finca La Primavera to their meetings with the Secretariat of Agrarian Affairs (SAA). In one of these meetings representatives of the companies Eco-tierras and Maderas Filitz were present (see below). On a weekly basis, we visited lawyer Jorge Luis Morales' office and maintained telephone communication with members of the organisation, especially when they had to travel and during some of their organizational activities.

The case of the Finca La Primavera



According to Jorge Luis Morales, lawyer of the UVOC, "the case of the Finca La Primavera is an emblematic example of land related problems in Guatemala; it's a situation that we have experienced time and time again, in which for workers and their families, the right to remain on a property results as a product of a legitimate working relationship. Yet this right is violated at the time the property changes owners" .

The Finca La Primavera extends over 43 caballerías (1935 hectares), and is home to at least 400 mayan poqomchi' families. Its soil is extremely fertile and therefore much sought after by companies specialized in mono-culture plantations. The companies claiming the shared ownership of the Primavera since 2011 are Maderas Filitz Díaz, S.A. and Eco-Tierra.

International accompaniment of UVOC' s lawyer, Jorge Luis Morales in San Cristóbal, Alta Verapaz. Foto: PBI 2014

The last month of the year, in the midst of negotiations between the companies and the inhabitants of the Primavera at the Secretariat of Agrarian Affairs (SAA), Cobán's Judicial Body in Alta Verapaz, issued an eviction order for the Finca La Primavera, as well as 48 arrest warrants for its inhabitants for the crime of landgrabbing. Until now the eviction order has not been executed and the negotiations mediated by the SAA continue.

All throughout this month we have continued accompanying the **Association of Indigenous Women of Santa María Xalapán, Jalapa (AMISMAXAJ)**. We provided physical presence at their headquarters in Jalapa and observed the act of acknowledgement in which they received the "Jalapa's heroes 2014" award from the Human Rights Ombudsman's Office (PDH) of Jalapa. Additionally, we have been keeping regular telephone contact with various of the organization's members. We furthermore visited the head office of the **National Coordination of Widows of Guatemala (CONAVIGUA)** on a weekly basis and maintained frequent telephone contact with its members.

Continuing our work with the **the Human Rights Law Office**, we accompanied lawyer **Edgar Pérez Archila** on several occasions and continued our weekly visits to the office. We also accompanied the office's other lawyers and observed various judicial hearings: three hearings related to the burning of the Spanish Embassy in 1980, one on the case of the murder of social activist Patricia Samayoa, and one on alternative measures for Efraín Ríos Montt related to the Genocide Case (this case will reopen on the 5th of January 2015).

¹³ 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/>

This month we have kept regular telephone contact with members of the resistance of the **12 Kakchiqueles communities of San Juan Sacatepéquez**. Moreover, we have been attentively following the developments of the due process related to the detention and court case of Barbara Díaz Surín de Pirir, member of the resistance and COCODE of the Cruz Blanca community. Her next hearing is scheduled for January 2015.

We continue to accompany the **Peaceful Resistance of La Puya**. This month we visited the permanent protest camp situated in front of the entrance to the mine's installations in La Puya. We also maintained contact by telephone on a regular basis and did a specific telephone follow-up of members of the resistance on Sunday December 22 because of the elections of COCODES in the community El Carrizal.

We maintained international presence in the headquarters of the **'New Day' Chortí Campesino Central Coordinator (CCCCND)** on two occasions: observing the organization's last assembly of the year, and related to the resistance against the hydro-electric dam "El Oregano", we observed a community assembly in the community Le lá Obraje. Throughout the entire month we kept in contact by telephone with members of the organization.

Last but not least, we have been present in Cunén, Quiché, where we accompany the **Council of Communities of Cunén (CCC)**, and have been maintaining telephone contact with the members of the organization. We have also been physically present in Santa Cruz, Quiché, accompanying the **Council of the K'iche Peoples (CPK)**, which with its members we maintained close contact by telephone.

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.

Visit of Petén



In December we have undertaken our second annual visit to the Petén region, as a follow up of the first visit in June 2014. In order to stay updated about their situation, we held meetings with civil society organisations and members of displaced communities from the Sierra de Lacandón y Laguna del Tigre National Parks. One of these communities, **Centro 1**, has its population spread out over various local communities, especially El Retalteco y La Libertad. In the La Libertad camp, where refugees from Centro 1 reside five years after the forced eviction, we observe a shortage of basic services in the provisional dwellings constructed from recycled wood and plastic.

International Observation in El Triunfo de la Esperanza, Flores, Petén. Foto: PBI 2014.

The social organisations with whom we met, expressed various concerns, under which: the planning of touristic projects and hydro-electric dams in the region, without taking into account the communities' opinions nor respecting the right to information or prior consultation; the serious violations of women's rights; the increasing influence of African palm mono-culture corporations; the militarization of the region and the situation in the Protected Areas where evictions, agrarian conflicts and illegal detentions are feared. Especially, in the community El Reloj, situated in the north of Peten, there is fear for a possible eviction in February 2015.

With the aim to inform local and departmental authorities about our work and our visit to the region, as well as to express our concerns related to the human rights situation affecting social organizations and communities, we held meetings with several public institutions such as: Fondo de Tierras (FONTIERRAS), the Consejo Nacional de Áreas Protegidas (CONAP), the Comisión Presidencial de Derechos Humanos (COPREDEH), the Procuraduría de Derechos Humanos (PDH) of Santa Elena and El Naranjo, and the municipal mayor and the Policía Nacional Civil (PNC) of Flores.

In December we maintained regular telephone contact with the Lutheran reverend **José Pilar Álvarez Cabrera** and members of **La Trementina hamlet in Zacapa**. We also followed up on his conservation work and defence of water sources in the forests of the Macizo del Merendón.

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 December we met with various representatives of the diplomatic corps. At the beginning of the month we met with Catalina Lleras, Human Rights Officer for the **UN Office of the High Commissioner for Human Rights (OACNUDH)**. We also met with Roberta de Beltranena, **Assistant for the Defence of Interests** of the **Embassy of Switzerland** and Evelyn Hoen, **First Secretary of the Norwegian Embassy**.

We have held meetings with Guatemalan public institutions and authorities both in the capital and in the regions. Most notably we have met with the **National Civil Police (PNC)**: Héctor Torres, **sub-commissioner of the PNC** in Cobán, Alta Verapaz; Edwin Palma y Palma, **Inspector of PNC Camotán, Chiquimula**; Marwin Pacheco, **sub-commissioner of San Cristóbal, Alta Verapaz**; Jorge Arauz Ovalle, **Chief of the Sub-Station Sacapulas, Quiché** and Angel Barrios Gramajo, **Chief of police office 71 in Quiché**. From the **Presidential Commission for Human Rights (COPREDEH)** we met with Hugo Martínez, **Director of Investigations and Reports** and with Edgar Tum, **Coordinator of the COPREDEH in Alta Verapaz**. We also met with Flori Yat, Official for the **Human Rights Ombudsman's Office (PDH) of Alta Verapaz** and on the 16 of December we held a meeting with Miguel Angel Balcárcel, **Director of the National System for Dialogue (SND)**.

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 (UDEFEGUA)** to discuss concerns regarding the work of human rights defenders; we visited their headquarters frequently, as well as the offices of the **Madre Selva Collective** and **Women's Sector**.

We also had meetings with international organisations with representation in Guatemala. Throughout the month we maintained contact with the **Coordination of International Accompaniment in Guatemala (ACOGUATE)**, with the **Guatemala Human Rights Commission (GHRC)**, with **Protection International (PI)**, with the **Forum of International Non-governmental Organisations (FONGI)** and with the **International Platform against Impunity**.

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.

The 3rd of December 2012, the European representative of the project held a meeting with Ernest Urtasun **MEP** in Brussels along with other members of the **Central American delegation in the European Parliament**.

On the 4th and 5th of the same month, she attended the **EU NGO Forum for Human Rights**, a forum organised by the European External Action Service (EEAS) and the European Commission.

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.

DERECHO GUATEMALTECO E INTERNACIONAL PROHIBEN LA APLICACIÓN DE AMNISTÍA A LOS CRIMENES CONTRA LA HUMANIDAD Y A GENOCIDIO

Ciudad de Guatemala, 24 de diciembre de 2014. Ante la reciente decisión de la Corte de Constitucionalidad que confirmó que el proceso por los delitos de genocidio y delitos contra la humanidad seguido en contra de los generales en retiro Efraín Ríos Montt y Mauricio Rodríguez Sánchez iniciará el próximo 5 de enero, así como considerando la constitución de la Sala de Apelaciones que deberá justificar la improcedencia de la amnistía solicitada por Ríos Montt, las organizaciones internacionales abajo firmantes manifestamos:

Primero: Que es obligación del Estado de Guatemala investigar, sancionar y juzgar a todos los responsables de las graves violaciones de derechos humanos que ocurrieron en perjuicio del pueblo Ixil.

Segundo: Que, según lo estableció la Corte de Constitucionalidad, la Sala de Apelaciones sólo debe justificar porque no procede aplicar una amnistía (Ley 8-86) a favor de Ríos Montt, es decir, no cabe duda que la amnistía es improcedente y así debe confirmarlo la Sala de Apelaciones.

Tercero: Que el Decreto 8-86 no es ley vigente, ya que fue derogada por el Congreso de la República en 1997. De esta manera, recordamos que la Ley de Reconciliación Nacional (que reemplazó el Decreto 8-86) en su artículo 8 establece que “la extinción de la responsabilidad penal no será aplicable a los delitos de genocidio, tortura y desaparición forzada, así como aquellos delitos que sean imprescriptibles o que no admitan la extinción de responsabilidad penal, de conformidad con el derecho interno o los tratados internacionales ratificados por Guatemala”. De esta manera, la Sala de Apelaciones no puede aplicar una ley que no está vigente y que es contraria a otras normas nacionales.

Cuarto: Que además de las leyes guatemaltecas, en diversas sentencias de la Corte Interamericana de Derechos Humanos, algunas de ellas dictadas contra Guatemala, dicho Tribunal ha señalado “... son inadmisibles las disposiciones de amnistía, las disposiciones de prescripción y el establecimiento de excluyentes de responsabilidad que pretendan impedir la investigación y sanción de los responsables de las violaciones graves de los derechos humanos tales como la tortura, las ejecuciones sumarias, extralegales o arbitrarias y las desapariciones forzadas, todas ellas prohibidas por contravenir derechos inderogables reconocidos por el Derecho Internacional de los Derechos Humanos...”. Por tanto: cualquier intento de aplicar una amnistía constituye un desacato de las sentencias de la Corte Interamericana y un flagrante incumplimiento de las obligaciones internacionales.

En conclusión, el Estado de Guatemala debe juzgar a todos los responsables de las graves violaciones de derechos humanos y garantizar los derechos de las víctimas, de no hacerlo se estaría violentando la jurisprudencia nacional e internacional. Las víctimas, sus familias y la sociedad guatemalteca tienen derecho a la verdad y a la justicia. Solo así, se podrá garantizar la reconciliación, la no repetición de este tipo de hechos y la construcción de un verdadero Estado democrático.

Oficina en Washington sobre Asuntos Latinoamericanos (WOLA)
Centro por la Justicia y el Derecho Internacional (CEJIL)
Fundación para el Debido Proceso Legal (DPLF)
Guatemala Human Rights Commission (GHRC)

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) y Anja Nielsen (Norway)

The following people voluntarily contributed in translating this publication into English: Danilo Guerrero Diaz and Sanne de Swart.

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**GUATEMALA PROJECT
PEACE BRIGADES INTERNATIONAL**

Office of the PBI team in Guatemala
3ª Avenida "A" 3-51, Zona 1
Ciudad de Guatemala, Guatemala
Telephone/fax: (+502) 2220 1032
E-mail: equipo@pbi-guatemala.org
Website: www.pbi-guatemala.org

Office of the Project coordination
Avenida Entrevías 76, 4º B
28053 Madrid, Estado Español
Telephone: (+34) 918 543 150
E-mail: coordinacion@pbi-guatemala.org