



## Monthly Information Pack Guatemala

Number 146 - November 2015

### 1. THE CURRENT SITUATION

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

#### **Freedom of expression in Guatemala. The Constitutional Court resolves in favour of Francisca Gómez Grijalba.**

This year on 9th November, the Guatemalan Constitutional Court ruled in favour of Francisca Gómez Grijalba, a journalist of Maya Kaqchikel origin, who until recently had an opinion column in the Guatemalan national newspaper, "Prensa Libre."<sup>1</sup> Francisca Gomez was facing a civil law suit lodged against her in May 2013 by the company Cementos Progreso (CEMPRO). This claim was filed in response to an opinion piece she wrote and published in her column in February, titled: "Water or cement?"<sup>2</sup> In the article she discusses "the damage done by this company to the Maya Kaqchikel people in the communities of San Juan Sacatepequez," and wrote about the 12 communities' claims regarding the company's activities.<sup>3</sup> Members of these 12 communities of San Juan Sacatepequez began a popular resistance movement around 2007 to protest CEMPRO's activities, considering their installation an "expropriation of ancestral community territory."<sup>4</sup> This resistance movement managed at one point to suspend work on the cement plant, but at the cost of a sharp increase of conflictivity in the area.<sup>5</sup>

In the lawsuit filed against the journalist by CEMPRO, the company requested that she sign an affidavit<sup>6</sup> affirming all the accusations leveled against CEMPRO in her article.<sup>7</sup> "The legal action taken by CEMPRO, which has been going on for months, is not representative of any intention to start criminal proceedings. It certainly hasn't been brought in bad faith, and is not being used as some form of intimidation. It is merely a simple request that she swear, before a court, that the accusations she has leveled against CEMPRO, some of which are serious criminal offences, have their basis in fact."<sup>8</sup>

The Special Rapporteur for Freedom of Expression from the Interamerican Commission on Human Rights (IACHR) expressed concern for Francisca Gómez and other independent journalists and social communicators<sup>9</sup> also the subjects of legal action. Edison Lanza, aforementioned rapporteur, stated at the 2014 Central

<sup>1</sup> "Voces indispensables", Press release from a group of columnists against the shutting down of opinion columns in Prensa Libre, 30 november 2015.

<sup>2</sup> Gómez Grijalba, F., Centro de Medios Independientes (CMI), "¿Agua o cemento?", 26 decemebr 2013, <https://cmiguate.org/agua-o-cemento/>

<sup>3</sup> Annual report ..... de La Relatoría especial para la Libertad de expresión de la Comisión Interamericana de Derechos Humanos -CIDH- de la Organización de Estados Americanos, OEA, Volumen II, 2014. pág 187.

<sup>4</sup> CMI, "El Estado guatemalteco encarcela a las madres", 4 de noviembre de 2014, . <https://cmiguate.org/el-estado-guatemalteco-encarcela-a-las-madres/>

<sup>5</sup> Ibídem.

<sup>6</sup> Gómez Grijalba F., Op.Cit.

<sup>7</sup> Rian, L., CMI, "Francisca Gómez contra Cementos Progreso", 11th August 2014, <https://cmiguate.org/francisca-gomez-contra-cementos-progreso/>

<sup>8</sup> News story, "Libertad de expresión y Marco Legal", 1st september 2014, <http://saladeredaccion.com/libertad-de-expresion-y-marco-legal/>

<sup>9</sup> Ibídem.

American Meeting of Human Rights Defenders and Community Journalists and Communicators in Honduras, that “pressing criminal charges with a view to limiting freedom of expression is an infringement of the American Convention on Human Rights.”<sup>10</sup> Between April 2014 and 2015, 38 journalists were threatened in Guatemala.<sup>11</sup> These cases featured as part of the conclusions at the event.

It was stated in the Prensa Libre newspaper in an article published in the 9 January 2015 edition, that the case against Francisca Gómez “represents harassment of the media, resulting in various columnists, journalists and other organisations to sympathise with Francisca.”<sup>12</sup> This show of support could be due to the way in which Francisca was notified of the case against her, and also because of the choice of court where the claim was filed. The tribunal has started processing the claim in June 2013, “but the columnist hadn’t been notified until November that year.”<sup>13</sup> This was because all correspondence from the Court was sent to Prensa Libre offices and not directly to Francisca.<sup>14</sup> Furthermore, CEMPRO filed their claim in the First Instance Civil Tribunal, despite the fact that the appropriate tribunal for this type of claim is the specialised “Press Tribunal,”<sup>15</sup> as per Guatemalan Law.<sup>16</sup> An ordinary civil tribunal should not hear this type of claim, and the judge ought to have excused herself from presiding over the case accordingly.<sup>17</sup> Francisca Gómez’s defence lawyer lodged an “amparo” (a special procedure designed to guarantee constitutional rights) in December 2013 to be heard by the specialised “Press Tribunal.”<sup>18</sup> The amparo was denied<sup>19</sup> and Francisca appealed to the Constitutional Court (“CC”) who awarded Francisca a “provisional amparo” on 23<sup>rd</sup> February 2014.<sup>20</sup>

After being granted the provisional amparo, Francisca lodged a further claim before the CC in the form of an appeal. The CC gave their ruling on 9th November 2014.<sup>21</sup> The last instance court cited in their judgement the American Convention on Human Rights in relation to freedom of expression, ruling that “this right means speech cannot be subject to censorship, due to the important role that media play in a democratic society. The media are instruments of freedom of speech and cannot be used to restrict this right. It is essential to have diverse sources of information and opinions in the press.”<sup>22</sup>

According to some journalists, Francisca Gómez Grijalva had had her “right to freedom of expression and ability to think critically curtailed through an act of censorship and use of the courts by CEMPRO.”<sup>23</sup> Regarding the case, the journalist said that “everything I’ve written, I’ve written responsibly, following ethical standard,

<sup>10</sup> Jiménez Galán, A., Comunicarte, “Relatoría Libertad de expresión de la CIDH esta preocupada por los ataques contra comunicadores y defensores de los DDHH”, 14 October 2014, <http://noticiascomunicarte.blogspot.com/2014/10/relatoria-libertad-de-expresion-de-la.html>

<sup>11</sup> Ibídem.

<sup>12</sup> Rian, L., CMI, “Francisca Gómez contra Cementos Progreso”, 11 de Agosto de 2014, <https://cmiguate.org/francisca-gomez-contra-cementos-progreso/>

<sup>13</sup> Annual Report from the Special Rapporteur on Freedom of Expression from the CIDH of the Organisation of American States, Volume II, 2014. page 187.

<sup>14</sup> Sala de Redacción, Op.Cit.

<sup>15</sup> UDEFEGUA, *Informe sobre situación de Defensoras y Defensores de Derechos Humanos January - December 2014*. page. 54, [http://udfegua.org/wp-content/uploads/2015/08/informe\\_final\\_2014.pdf](http://udfegua.org/wp-content/uploads/2015/08/informe_final_2014.pdf)

<sup>16</sup> National Centre for Judicial Document Analysis, *Ley de Emisión de Pensamiento (freedom of speech legislation)*, decree no. 9, <http://www.oj.gob.gt/es/QueEsOJ/EstructuraOJ/UnidadesAdministrativas/CentroAnalisisDocumentacionJudicial/cds/CDs%20leyes/2006/pdfs/normativa/D009.pdf>

<sup>17</sup> Sala de Redacción, Op.Cit.

<sup>18</sup> Ibídem.

<sup>19</sup> Ibídem.

<sup>20</sup> Rian L., Op.Cit.

<sup>21</sup> Fallo de la Corte de Constitucionalidad, expediente 2053-2014, pág. 14, <http://www.bdh.org.gt/data/uploads/2053-2014-sentencia-cc.pdf>.

<sup>22</sup> Ibídem, pág. 8-9.

<sup>23</sup> Prensa Comunitaria, “Libertad de Expresión, Corte de Constitucionalidad resuelve en favor de Francisca Gómez”, 26 de noviembre de 2015, <https://comunitariapress.wordpress.com/2015/11/26/libertad-de-expresion-la-corte-de-constitucionalidad-resuelve-a-favor-de-francisca-gomez/>

showing commitment to social issues, with a high level of awareness of the right to life and the rights of women, children, youths, and the Maya, Xinca and Garifuna ethnic groups currently fighting against exploitation of natural resources".<sup>24</sup>

Francisca Gomez´s column, along with six other opinion columns, were shut down at Prensa Libre. In reaction to this, the so-called "Circlo de Columnistas" (the circle or community of columnists) gave support, stating that "the loss of their contributions in Prensa Libre, one of the widest circulating newspapers in the country, is a limitation on the right to freedom of expression and diversity, and restricts the sharing of ideas, essential in any democratic society."<sup>25</sup>

## 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<sup>26</sup>.*

Throughout November, we have continued accompanying the **Human Rights Law Firm (BDH** due to its initials in Spanish) and their lawyers. We accompany **Edgar Perez**, the Director of the BDH on his journeys and pay weekly visits to their offices. We have also been present during two of the BDH´s hearings.

We have continued to give regular telephone follow up on the **Cunen Community Council (CCC)** in order to remain up to date on their activities.

We have continued our accompaniment of the **Association of Indigenous Women from Santa María Xalapán (AMISMAXJ** due to its initials in Spanish), through weekly telephone calls with their members and by maintaining contact during their work related trips.

Also this month we were present at the march held to mark International Non-Violence Against Women Day, on November 25 in Guatemala City. This activity concentrated in multiple groups of Guatemalan civil society, which marched through the central streets of the capital, in order to vindicate the rights of women and to make visible to the Guatemalan judicial and state authorities the problems that women face in this country. The march was comprised of various Guatemalan civil society organisations which marched through main city streets in the centre in protest of human rights violations of women in particular, in the hope of raising awareness of these issues to the Guatemalan judiciary and oher state authorities.



*March for International Non-Violence Against Women Day City of Guatemala, 25 November 2015. Photo: PBI*

We have maintained regular contact with the Verapaz **Union of Campesino Organisations (UVOC** due to its initials in Spanish), visiting their offices in Santa Cruz, Alta Verapaz, and also weekly visit to their lawyer´s office, **Jorge Luis Morales**.

During the biannual meeting of the Guatemala Project in late September and early October, PBI decided

<sup>24</sup> Rian L., Op.Cit.

<sup>25</sup> "Voces indispensables", Op.Cit.

<sup>26</sup> 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/>

to change the type of accompaniment we give to the **National Coordination of Widows of Guatemala (CONAVIGUA)** due to its initials in Spanish) from “accompaniment” to “follow up”. CONAVIGUA were informed of this decision in November. During this transitional period, we will continue visiting their offices and provide accompaniment support to the organisation as requested, and maintain regular communication open so if they begin to experience an increase of security incidents, we can reinstate them to “accompaniment” status. As part of our “follow-up”, PBI were present during the VII Continental Meeting of Indigenous Women of the Americas from August 16 until 19.

### VII Continental Meeting of Indigenous Women of the Americas

From November 16 until 19 the **VII Continental Meeting of Indigenous Women of the Americas** took place in Guatemala City

**CONAVIGUA**, together with other organisations, organised this event, in which around 300 participants reaffirmed their compromise with struggle for a life in abundance for women and indigenous peoples, focusing on the protection and defence of Mother Earth and the binomial body-territory.

In the forum, to which authorities of the diplomatic corps and members of other civil society organizations were invited, they urged for international cooperation to create integrated programmes with full participation of indigenous representatives, in a way that strengthens the position of women and indigenous peoples. Also, the women present expressed their wish for the elaboration, implementation and evaluation of public politics and for cooperation in which women and indigenous peoples can participate directly, and are being recognized.



VII Regional Meeting of Indigenous Women of the Americas, 16 - 19 august 2015.  
Photo: PBI

Last May, PBI decided to stop accompanying the **Council of K'iche Peoples (CPK)**, due to its initials in Spanish), due to the Council's decision to nominate one of its members for candidacy in the national elections which took place in 2015. One of PBI's main principles is non-partisanship (in addition to non-violence and non-interference), and CPK's involvement in politics meant that a conflict arose with PBI's mandate. CPK's involvement in politics ended once the election process finalised. On request of the CPK, PBI reinstated CPK's status as an accompanied organisation in November. As part of our accompaniment, on November 28 we observed a CPK meeting in Santa Cruz, Quiche.

We continue to accompany the **New Day 'Chortí campesino organisation (CCCND)** due to its initials in Spanish) in its activities and continue with weekly telephone contact with its members. On November 16th we observed a meeting held between several Ch'ortí communities with the newly elected mayor of Jocotán who takes office in January 2016. During this meeting, different communities conveyed their concerns to local authorities.

We continue to accompany the **Peaceful Resistance at La Puya**. As part of our accompaniment, we continue with our regular visits to the La Puya. On 11th November we accompanied the members of La Puya to a peaceful protest at CC in the capital, which was also attended by other organisations in resistance against megaprojects. These organisations manifested their disagreement with proposed legislation under review by the CC that would facilitate the installation of mega projects in communities. On 19th November

PBI accompanied the Peaceful Resistance at La Puya to a meeting with the Ministry of Energy and Mines (MEM due to its initials in Spanish), the Ministry of Health and the Ministry of Environment and Natural Resources (MARN), which took place in the presidential palace in Guatemala City. The aim of the meeting was to convey to the transitional government the importance of their resistance, in the hope that information would be passed onto the new government once it takes power in January 2016.

We have stayed in contact with inhabitants of the **La Trementina village** who form part of the **Defence of the Maciso del Merendon** in Zacapa. We have also maintained regular contact with the Lutheran reverend, **José Pilar Álvarez Cabrera**, and other community members.

On 17th November PBI was present in Las Flores, Jocotan in the department of Chiquimula, observing a community meeting between members of Las Flores and six other indigenous communities. Issues discussed included how the law treats collective ancestral land rights and other issues relating to the maya Ch'ortí people.



Community meeting in Las Flores, Jocotan, in the department of Chiquimula. 17th November. Photo PBI.

This month we initiated accompaniment of the **Peaceful Resistance of La Laguna**, in the municipality of San Pedro Ayampuc, department of Guatemala. This resistance began with a sit-in in the area on April 4 this year. This sit-in initiated to express disagreement with the installation of an electricity distribution and a high voltage station belonging to the Colombian energy company, Transportadora de Centroamérica S.A. (TRECESA), which aims to provide energy to the 20 mining projects that operate around the town. In late 2014, a community consultation was held regarding the project. The majority rejected the proposed works; around 530,000 people voted against the project. In contrast, only 30 people were in favour. The main concerns of the Resistance are potential environmental and health impacts, such as deforestation, decreasing water supplies, and pollution of the environment with harmful chemicals. The Resistance demands that state and municipal authorities cancel the licence awarded to TRECESA, granted in 2011. As part of our accompaniment, in November we visited the sit-in and maintained regular telephone contact with their members.

### 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.*

Throughout the month we have been focusing on the **San Rafael Las Flores Committee in Defence of Life and Peace** through telephone contact and by following the criminal proceedings against some of its members.

### 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.*

As part of our advocacy work with diplomatic corps and international organisations, in November we met with the following: Jean Hugues Simon Michel, **French Ambassador to Guatemala**; Mathias Sonn, **German Ambassador to Guatemala** and Artur Brunner, **Advisor on Business and Human Rights at the**

**German Embassy in Guatemala;** Domingo Namuncura, **Chilean Ambassador in Guatemala.**

PBI also met with Guatemalan authorities: Three meetings with Mario Minera, **Director of Mediation and Conflict Resolution** from the **Human Rights Ombudsman (PDH)** because of its initials in Spanish).

### **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 visit the offices of the **Unit of Protection of Human Defenders in Guatemala (UDEFEGUA)** due to its initials in Spanish) 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** (an NGO working in environmental protection). We meet to share information and analysis. We have also visited the office of **Women's Sector** (a woman rights NGO).

Also, we maintain constant contact with international non-Governmental organizations in Guatemala such as the **Coordination of International Accompaniment in Guatemala (ACOGUATE)** due to its initial in Spanish), **Guatemala Human Rights Commission (GHRC)** **Protection International (PI)**, the **Forum of International Non-Governmental Organizations (FONGI)** due to its initials in Spanish) and 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.*

On 16th November PBI's European Representative met in Brussels with Sylvain Schultze, **head of Guatemala's desk at the European External Action Service (EEAS).**

## **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.*

### **DECLARACIÓN POLÍTICA EN EL MARCO DE LA CONMEMORACIÓN DEL 25 DE NOVIEMBRE DÍA INTERNACIONAL DE LA NO VIOLENCIA CONTRA LAS MUJERES**

Nosotras mujeres plurales, indígenas, negras, afrodescendientes, mestizas, urbanas, rurales, feministas, lesbianas, niñas y abuelas, hoy nos auto convocamos para conmemorar junto a otras hermanas del mundo, este día. Nuestra conmemoración es política y de denuncia ante los efectos del sistema patriarcal sobre nuestro territorio cuerpo-tierra.

La violencia como efecto del sistema patriarcal, atenta contra nuestros cuerpos en su totalidad, se expresa de muchas maneras, desde el colonialismo, el racismo y capitalismo neoliberal, porque nos acosa, nos viola, nos mata, nos empobrece, saquea nuestros territorios, nos criminaliza, judicializa y ataca con machismo, misoginia y poder en todos los ámbitos.

Pero nosotras nos declaramos en resistencia permanente ante las diversas formas de violencia patriarcal que se manifiestan contra nuestros cuerpos, porque aportamos para la vida en el planeta. Y nos declaramos en

resistencia permanente ante el saqueo y despojo de los bienes naturales en territorios indígenas como es el caso de Salitre en Costa Rica y en todos los territorios de Abya Yala. Denunciamos que las políticas neoliberales de desarrollo en la región, son una amenaza para la vida en las comunidades y son una forma de violencia territorial contra los cuerpos que ahí habitan y contra la tierra.

Nos acuerpamos con las hermanas de Salitre, hermanas mayas, xinkas, y mujeres que en todo el continente están sufriendo persecución, ataques, riesgos, amenazas, criminalización y judicialización en la defensa de su territorio cuerpo y su territorio tierra. Juntas nos hacemos fuerza y nos energetizamos para seguir caminando, porque vale la pena vivir.

Hoy estamos en las calles porque es un territorio en disputa para las mujeres, estamos porque recuperamos el espacio público para la denuncia. Hemos dejado la cocina y las imposiciones domesticas patriarcales, y nos manifestamos ante una sociedad que naturaliza la violencia, el sexismo y mercantiliza los cuerpos de las mujeres.

Invitamos para que otras mujeres nos escuchen y les invitamos a que se organicen, a que se acuerpen con otras mujeres en la comunidad y en lo urbano, para denunciar las formas de violencia que viven y para demandar a las instancias de los Estados, que deben de proteger a las mujeres y para que cumplan con los mandatos establecidos en el marco de las leyes nacionales y convenios internacionales a favor de las mujeres.

**!!Defensa y recuperación de nuestro territorio cuerpo-tierra!!**

Red de Sanadoras Ancestrales del Feminismo Comunitario-Guatemala  
Asociación Grupo integral de Mujeres Sanjuaneras AGIMS-Guatemala  
Mujeres por la verdad y la Justicia MUJEMAYA- Guatemala  
Mujeres en defensa por la Vida y la Naturaleza, San Rafael Las Flores Guatemala  
Departamento Ecuménico de Investigación -DEI- Costa Rica

***San José de Costa Rica, 25 de Noviembre de 2015.***

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