



Monthly Information Pack Guatemala

Number 149 - February 2016

1. THE CURRENT SITUATION

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

“It is no lie what we have suffered” - Historic sentence in the Sepur Zarco case

On February 26, 2016, after 20 days of discussion, hearing from some 20 witnesses and interventions of various experts and complainants, the trial of the case Sepur Zarco ended with the conviction of Lt. Esteelmer Reyes Girón and, ex-commissioned soldier, Heriberto Valdez Asij.¹ The first was sentenced to 120 years in prison for triple murder and crimes against humanity through violence and sexual slavery, while Valdez Asij will serve a sentence of 240 years for the forced disappearance of seven people and rape, also considered to be a crime against humanity.² "The Court noted that the offenses were committed under a strategy to eliminate the men who sought to claim their collective rights to indigenous lands, and force their widows to serve the military, including sexually. The victims were subjected to sexual violence, sexual slavery, slave labor and cruel, inhumane and degrading treatment. The Court also recognized the impact on the entire community of these abuses against women".³

The case began in September 2011, when 15 Q'eqchi women filed a criminal complaint for acts of sexual violence and domestic and sexual slavery committed by members of the Army of Guatemala in 1982 and 1983 in the military detachment Sepur Zarco. These women have had to wait more than three decades for justice to be delivered, because although their testimony was offered years ago, reporting what had happened to other people (torture, massacres, disappearances), violence and slavery sexual and labor suffered by them, it had remained hidden.⁴ During the trial, the women of Sepur Zarco repeated that it was not a lie what they had suffered, and that the judgment has made it clear and demonstrated their suffering.⁵ There is no doubt that this is a landmark judgment, not only for Guatemala but for the whole world, because it is the first case nationally, "which addresses centrally, and recognizes as a crime against humanity, sexual violence against indigenous women in the context of the internal armed conflict."⁶ It is essential to recognize the courage of these women, because, as experts from the United Nations said, with its value and the crucial role played in this process of seeking justice, it has established an important precedent for all women victims of violence, not only in the past but also the present. Without their unwavering commitment, this judicial process, which represents a historic step towards truth and justice, would not have been possible.⁷

¹ Soy502, "Sepur Zarco: Condenas por 240 y 120 años de cárcel a los responsables", February 26, 2016, <http://www.soy502.com/articulo/tribunal-dicta-sentencia-historica-juicio-sepur-zarco>

² Hernández, O., Plaza Pública, "La justicia de los perrajes", February 27, 2016, <https://www.plazapublica.com.gt/content/la-justicia-de-los-perrajes>

³ United Nations High Commissioner for Human Rights, "Guatemala: Expertos de la ONU saludan sentencia a dos exmilitares por crímenes de lesa humanidad", March 1, 2016, http://www.oacnudh.org.gt/documentos/comunicados/20160301_ExpertosONU_SaludanSentencia.pdf

⁴ Hernández, O., Plaza Pública, "La justicia de los perrajes", February 27, 2016, <https://www.plazapublica.com.gt/content/la-justicia-de-los-perrajes>

⁵ Juárez, T., El Periódico, "Condenan a un total 120 años prisión a coronel y 240 a excomisionado militar por caso Sepur Zarco", February 26, 2016, <http://elperiodico.com.gt/2016/02/26/pais/las-mujeres-en-sepur-zarco-fueron-violadas-y-tratadas-como-animales>

⁶ United Nations High Commissioner for Human Rights, Op. Cit.

⁷ Ibid.

Defection amongst the political parties: transparency under consideration

'Defector' refers to a person who leaves the political group to which he was elected and joins another. Ligia Ixmucané Blanco, a political scientist, explains the motivation of a defector as follows: "In non-election time for personal interests, a desire to excel, spaces which give more opportunities and benefits are sought. In pre-election or election time, the main motivation is to ensure re-election, and when the party they were elected with does not offer possibilities or give the expected opportunities, then they look for something else".⁸

In September 2015 Guatemala held elections for nearly 4,000 civil servants for the period 2016-2020, including the President, Vice President and 158 deputies. As of January 14, 2016, with the inauguration, the official bench FCN-Nation (Front for National Convergence), went from 11 elected deputies to about 30.⁹ This means that 63% of the deputies of the party (19 of 30) have defected. Jimmy Morales, in his election campaign, made the dynamics of defection clear, saying that he would not accept members from other parties because he "did not want to be part of the old politics." But now, he states that these are party decisions over which he has no influence.¹⁰ During the first two months of 2016, the Legislative Address recorded the resignation of nearly 60 deputies from the parties to which they were elected.¹¹ This means that almost 1 in 3 deputies switched parties and joined a new group. With the movements of recent months, FCN-Nation and UNE (National Unity of Hope) have the same number of votes in this plenary session.¹²

To prevent elected parliamentarians changing party during its legislative period, the Congress of the Republic approved the February 4, 2016 changes to the Organic Law of the Legislative Branch. This law includes restrictions and penalties for defecting.¹³ Should a deputy resign from his party, he will be declared an independent.¹⁴ However, until the new law comes into force on 26 March 2016, it will still be possible to defect without restrictions or penalties.

⁸ Blanco, L., Plaza Púbilca, "El transfuguismo, una práctica adversa a la democracia", April 4, 2014, <https://www.plazapublica.com.gt/content/el-transfuguismo-una-practica-adversa-la-democracia>

⁹ La Razón, "La OEA plantea para Guatemala una reforma electoral que frene el transfuguismo", February 25, 2016, http://www.la-razon.com/mundo/OEA-reforma-electoral-Guatemala-transfuguismo_0_2442955745.html

¹⁰ Alvarado, C., Siglo 21, "Morales se aparta de FCN en tema de transfuguismo", February 25, 2016, <http://www.s21.com.gt/nacionales/2016/02/07/morales-se-aparta-fcn-tema-transfuguismo>

¹¹ Gramajo, J., Prensa Libre, "Cuatro tráfugas más llegan a la Alianza Ciudadana", February 29, 2016, <http://www.prensalibre.com/guatemala/politica/cuatro-transfugas-mas-llegan-a-la-alianza-ciudadana>

¹² Ramos, S., La Hora, "Congreso: FCN alcanza a UNE con 30 diputados", February 19, 2016, <http://lahora.gt/congreso-fcn-alcanza-a-une-con-30-diputados/>

¹³ Gramajo, J., Prensa Libre, "Congreso aprueba cambios en su Ley Orgánica", February 6, 2016, <http://www.prensalibre.com/guatemala/politica/congreso-aprueba-reformas-a-su-ley-organica>

¹⁴ Quintela, C., El Periódico, "Aprueban reformas de Ley Orgánica del Legislativo", February 5, 2016, <http://elperiodico.com.gt/2016/02/05/pais/aprueban-reformas-a-ley-organica-del-legislativo/>

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.¹⁵

In February, we maintained presence at the headquarters of the **Verapaz Union of Campesino Organizations** (UVOC) and kept in telephone contact with its members. We continued with weekly visits to **Jorge Luis Morales'** (UVOC lawyer) office and accompanied the organization to several legal hearings. In addition, we had telephone follow-ups during their field-work in the region.

We continued our accompaniment of the **Peaceful Resistance at La Puya**. This month we observed several hearings of some of its members who are going through criminal proceedings. We maintained our presence in the camp and continued with weekly telephone contact. We also went to the Resistance press conference to hear the order issued by the Supreme Court, on February 22, which ordered the immediate suspension of the Mining Project Progress Derivative VII operating license. This order continues the process begun with the protection which ordered the temporary cancellation of the building permit, which the Constitutional Court (CC) awarded to the Resistance in July 2015.

We have also kept up our accompaniment of **Peaceful Resistance of La Laguna**, by our presence in the camp and through weekly telephone contact with its members.

Observation of the logging of trees in the Mountain of Macizo del Merendón. February 2016. Photo: PBI



In our accompaniment of the process of the **Defense of Macizo del Merendón**, this month we accompanied Rev. **José Pilar Álvarez Cabrera** and other members of the **Ecumenical Coordination for the Defense of Life in Zacapa and Chiquimula**, to an activity to verify the logging of the forest in Macizo del Merendón within the municipality La Unión, in the department of Zacapa.

In our work with the **Council of Communities of Cunén (CCC)**, this month we observed the meetings they had with various authorities and accompanied them to one of their meetings. We also had a meeting with one of the council's members during one of our visits to the region and maintained regular telephone contact to keep up-to-date with their activities.

This month we were in contact with the **Council of Peoples K'iche' (CPK)** through weekly phone call updates as requested. We also accompanied several members of the organization to meetings with Guatemalan institutions.

In our accompaniment with the **'New Day' Chortí Campesino Central Coordinator (CCCND)**, this month we were present at their headquarters and observed the hearing of one of the cases in which the organization works. As with the other organizations accompanied, we followed up on its activities with weekly calls.

¹⁵ Further information on accompaniments and the organisations and people we accompany on our website: <http://www.pbi-guatemala.org/field-projects/pbi-guatemala/who-we-accompany/>

We continue supporting the **Human Rights Law Firm** and its lawyers. We accompanied the lawyer **Edgar Pérez Archila** to his various appointments and made weekly visits to his office. We also observed a hearing in the Barillas case, which the Law Firm is working on.

We continued with our regular monthly visit to the headquarters of the **National Coordination of Widows of Guatemala (CONAVIGUA)** and on 1 February accompanied them to the first hearing of the Sepur Zarco case.

Finally, we have maintained weekly calls to the **Association of Indigenous Women of Santa María Xalapán (AMISMAXAJ)**. We also accompanied them to an hearing at Japala and had telephone follow-up specifically during their trips.

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.

This month we paid special attention to the **Sepur Zarco** case and attended several of the hearings, which were held in Guatemala City.

February 25th is the **day when the Dignity of Victims of the Internal Armed Conflict in Guatemala** is celebrated. This day is dedicated to honoring the memory of the more than two hundred thousand victims and to honoring the survivors of the conflict. As part of this commemoration, different activities took place in various regions of the country. In the capital, we observed the ceremony organized by family members, survivors and several delegations from the 22 departments of Guatemala. This event was held in front of the Supreme Court. Following this activity, the group held a peaceful walk through the historic center ending up at the Congress, where a proposal to ensure compensation for victims was presented, to the president of the legislature, Mario Taracén



Ceremony commemorating the Dignity of Victims of the Internal Armed Conflict in Guatemala. February 25, 2016. Photo: PBI.

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 the interaction with the diplomatic corps and international organizations, we met Carmen Diaz Moreiro Heloise, **Consul of Spain in Guatemala** and Rita Grajeda, **Human Rights Officer of the Embassy of the United Kingdom**. Also, we were present at a meeting organized by a delegation of the **Human Rights Subcommittee of the European Parliament**, who visited Guatemala.

With regard to dialogue with Guatemalan authorities, we met with the **Human Rights Ombudsman (PDH)**, the meeting was attended by Mario Minera, **National Director of Mediation and Conflict Resolution**. At the departmental level, we met with Yesenia Sandoval, **Assistant Department of Chiquimula PDH**. And at the local level, we met with the Deputy Commissioner Hernan Gomez Hernandez Uri of the **substation of the National Civil Police in San Jose Gulf**, department of Guatemala

Meetings with civil society

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

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

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

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

5. ACTIVITIES OF PBI GUATEMALA OUTSIDE OF GUATEMALA

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

On 4 February, PBI's European representative had a meeting in Brussels with Jennifer Echeverria, **focal point of Human Rights at the Delegation of The European Union in Guatemala**.

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.

RED DE APOYO AL LITIGIO ESTRATÉGICO

Elementos multidisciplinarios para comprender la trascendencia del Juicio Sepur Zarco, en su tercera semana de audiencias.

Elementos multidisciplinarios para comprender la trascendencia del Juicio Sepur Zarco, en su tercera semana de audiencias. Durante cuatro décadas han permanecido ocultos, por un entramado de impunidad oficial, los crímenes de lesa humanidad que sufrieron innumerables comunidades indígenas y campesinas en Guatemala. En el caso Sepur Zarco, 15 mujeres ejemplares tuvieron el valor de emprender un tortuoso camino en la búsqueda de justicia dentro del mismo Estado que, en 1982 y 1983, a través del Ejército de Guatemala, las consideró enemigas de la seguridad interna del país y, con ese pretexto, secuestró, asesinó y desapareció a sus compañeros de vida, las sometió a esclavitud sexual y doméstica y otras formas de violencia que configuran los delitos contra los deberes de humanidad, como lo establece el artículo 378 del Código Penal.¹

En el Litigio Estratégico, los peritajes constituyen piezas fundamentales en el mecanismo probatorio, especialmente en casos de Justicia Transicional. La identificación, selección, articulación y aplicación requieren de una experimentada destreza en el proceso penal, ya que aportan conocimientos e información especializados en diversas materias científicas, y contribuyen a explicar al Tribunal la interrelación del contexto y las circunstancias en que se produjeron los actos delictivos.

El Juicio Sepur Zarco ha permitido apreciar su aplicación, contribuyendo al desarrollo cualitativo del proceso penal en Guatemala. Las y los peritos han evidenciado que el eje de la represión y el terror militar fue el control del territorio, en sus dos dimensiones: el agrario y el humano. En el ámbito agrario, los finqueros recurrieron al fraude de ley para apoderarse de vastas extensiones de tierra, mientras el ejército secuestró y desapareció a los líderes indígenas que habían iniciado el trámite de regularización de las tierras que ocupaban inmemorialmente. El cuerpo de sus madres, esposas e hijas fue el territorio humano-femenino que los militares arrasaron, mediante las violaciones y la esclavitud.

En esta tercera semana del debate oral y público, el Tribunal recibió las conclusiones de siete peritajes especializados que, por una parte corroboran la verdad contenida en los testimonios de las y los sobrevivientes y, por otra, permiten comprender la lógica militar y estructuras de mando que formaban parte cada una de las acciones cometidas en contra de la población de Sepur Zarco, especialmente con énfasis en la integridad física, psicológica y sexual de las niñas, jóvenes y adultas, por su misma condición de mujeres indígenas.

Algunos extractos² de los informes periciales presentados en el juicio nos permiten comprender que: *"La violencia se dirige explícitamente a la sexualidad de las mujeres indígenas, ya que son las reproductoras de la próxima generación". [...]* *"Sepur Zarco es parte de una lógica más amplia de control militar y violencia sistemática, dirigida a individuos según su género... [...]* *y en actos perpetrados que fueron particularmente despiadados contra las mujeres"*, sostuvo la experta Elis Gabriela Mendoza Mejía. En otro peritaje, se argumenta que *"La violación y violencia sexual constituyen genocidio"*; [...]"*La violación es un crimen de guerra"* y se fundamenta por qué *"El Estado guatemalteco tiene la obligación de investigar, juzgar y castigar crímenes de género"*, según Paloma Soria, en su peritaje de género.

En su peritaje antropológico sobre la violencia sexual, la Dra. Rita Laura Segato sostuvo que *"El caso Sepur Zarco es un crimen de género de lesa humanidad"* [...]"*Al profanar el cuerpo de las mujeres se desgranó al pueblo"*: [...]"*El cuerpo de la mujer alegoriza el cuerpo social, y la dominación sobre el mismo simboliza poder jurisdiccional sobre un territorio"*; [...]"*Las mujeres, además de ser seres humanas, son figuras de intenso poder enunciativo y símbolos de futuro de sus comunidades y pueblos"*. [...]"*La violencia sexual, esclavitud sexual y doméstica fueron objetivos estratégicos de la guerra."* [...]"*Las violaciones no fueron espontáneas o mero impulso de la tropa, no son daño colateral de la guerra,... se dieron en un pacto de masculinidad de la tropa mediante el abuso de las mujeres de forma mancomunada"*.

En el peritaje cultural se postuló que *"El silencio de las mujeres q'eqchís era un silencio cultural de protección"*, [...] *"Se buscó la destrucción humana y cultural, por eso se ejerció una desquiciada y malévol violencia sexual contra mujeres q'eqchís"* [...] *"Al perderse la posibilidad de transmisión de cultura, se perdieron conocimientos culturales para el país"*, [...] *"Los cuerpos mayas no han sido vistos ni asumidos con dignidad y respeto a lo largo de la historia del país"*, sostuvo la Dra. Velásquez Nimatuj.

Los peritajes o estudios especializados presentados fueron:

- a) Análisis de estándares internacionales de Derechos Humanos sobre credibilidad de casos de violaciones sexuales. Por el abogado español Arsenio García Cores.
- b) Peritaje Cultural. Por la doctora en antropología Irma Alicia Velásquez Nimatuj.
- c) Peritaje Militar, presentado por el militar español retirado Prudencio García.
- d) Peritaje Antropológico de la Violencia Sexual, por la antropóloga feminista Rita Laura Segato.
- e) Peritaje de Género, presentado por la abogada Paloma Soria Montañez.
- f) Peritaje de Arquitectura Forense, presentado por la arquitecta mexicana Elis Gabriela Mendoza Mejía.
- g) Peritaje Fotográfico, por el perito del Ministerio Público

La información que proporcionan el conjunto de los peritajes presentados, permite la comprensión del núcleo de un plan militar dirigido a destruir el tejido social de las comunidades q'eqchi, entre las que se ubica Sepur Zarco, desde una estrategia contrainsurgente en la que la población civil fue considerada como enemigo interno, que debía dominarse mediante la prácticas de tortura, terror e incluso exterminio físico, moral y cultural, particularmente centrado en las mujeres indígenas.

Los aportes que los peritajes han dado en el Juicio constituyen, además, un valioso instrumento que nos permite acercarnos al drama humano que vivieron, y aún hoy sufren, las heroicas mujeres sobrevivientes de Sepur Zarco, con quienes debemos solidarizarnos por medio de nuestro acompañamiento y presencia en la Sala de Vistas de la Corte Suprema de Justicia.

Guatemala, 19 de febrero de 2016.

¹ "Quien violare o infringiere deberes humanitarios, leyes o convenios con respecto a ... acto inhumano contra población civil, ..."

² Tomados de las publicaciones de Mujeres Transformando el Mundo, en sus cuentas de Facebook y Twitter.

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