



Guatemala Monthly Bulletin

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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.

Constitutional Reform and Indigenous Law, a long debate

For some time now, constitutional reform of the Guatemalan judicial system has been a subject of much debate. In February, this reform was brought back to the Congress and debated in parliament, in preparation for a definitive vote on the subject. The discussion has been characterised by very different perspectives of diverse sectors of Guatemalan society.

On the one hand, womens', indigenous, campesino and human rights organisations seek the approval of all the proposed constitutional reforms, with special emphasis on the recognition of indigenous justice, through reform of Article 203. As highlighted by Rigoberta Juárez, representative of the Plurinational Q'anjob'al Nation, *we have been living more than 490 years in Guatemala, we are not requesting that the application of indigenous justice is adopted, we only request that it is recognised.* Juárez emphasised the importance of mediation in indigenous justice, pointing out that *the ladino or mestizo population has lived alongside us, we are neighbours, and we have never subjected any of them to our justice systems. We do not have judges, we have mediators who strive to ensure that the community lives in harmony.*¹

Similarly, the International Commission of Jurists (ICJ) expressed support for the approval of the reforms, emphasising the recognition of judicial pluralism. According to Ramón Cadena, representative of the ICJ for Central America, *judicial plurality has existed for over 500 years, and we consider it an obligation to recognise this reality at a constitutional level.* According to Cadena, the extent of the debate on the reforms *has led to totally unnecessary comments*, given that the groups who are opposed to the recognition of such pluralism, are those who traditionally oppose any change in the country.² Similarly, Dr Marta Elena Casaus Arzú points out that *judicial pluralism has always existed (...), there is nothing new or unusual about it and it has existed alongside positive laws. Why refuse to recognise it at a constitutional level? Either it is being used as a pretext to reject the reforms of the judicial system, or it due to racism.*³

The perspective of the majority of civil society, is reflected in the communication *Alliance for the Reforms* signed by more than 30 organisations, in which a call is made for respect of the *spirit of the reforms which were brought about through a full process of dialogue with different social sectors and whose main purpose was to guarantee judicial independence, recognise judicial pluralism and promote gender equality in the justice system.*⁴

On the other hand, there are those from the private sector, who are less supportive of the reforms. In particular CACIF (the Coordinating Committee of Agrarian, Commercial, Industrial and Financial Associations) expresses the uncertainty and concerns of the productive sector it represents and proposes that those aspects which it considers divide the country should be left aside in favour of those that provide unity. On the 24th February, during the debate "Journalism on Trial", sponsored by the on-line media Plaza Pública (Public Forum), the president of CACIF, José González Campo, invited the different sectors to a dialogue to work together to achieve consensus on constitutional reform. In its communique *Independence and judicial certainty, necessary for the development of the country*, CACIF considers that *the obvious doubts and lack of*

¹ Peña, W., "Organisations demand approval of constitutional reforms", El Periódico. Guatemala, 22.02.2017, <http://elperiodico.com.gt/pais/2017/02/22/nota-21/>

² Aguilar, D., "The International Court of Justice support reforms and judicial pluralism", La Hora. Guatemala, 24.02.2017, <http://lahora.gt/la-comisioninternacional-juristas-apoya-reformas-pluralismo-juridico/>

³ Arrazola, C., Plaza Pública, "Marta Elena Casaus Arzú or the Indian as a curse on the oligarchy", 20.02.2017, <https://www.plazapublica.com.gt/content/marta-elena-casaus-arzu-o-el-indio-como-la-maldicion-de-la-oligarquia>

⁴ Press Release: "Alliance for the reforms", 22 February, 2017.

*consensus which make it advisable to modify article 203, together with the jurisdiction of the constitutional reforms, fuel the lack of judicial certainty which is indispensable for the development of the country.*⁵

More than 30 civil society organisations have responded to the concerns of CACIF, inviting the private sector to participate in a serious and responsible manner in the debate and *not to use media campaigns either to distract from the essence of indigenous law or to confuse people*, given that in a democracy the debate must be held guaranteeing equal conditions to all parties and ensuring full respect of all social sectors.⁶

Another aspect which has featured in the debate of recent months is how indigenous justice responds to the standards of international law and human rights. There is an erroneous belief that indigenous justice includes sanctions such as collective lynching or beatings of those who are found guilty, ignoring the realities of such justice and how it has continued to evolve to adapt to modern times. According to Roberto Molina Barreto, ex-President of the Constitutional Court (CC) and one of the participants of the working group to discuss the Constitutional reforms, *there should be no transgression of human rights in any aspect of Indigenous Law. There can be no conflict. We cannot undermine due process, the right to defence, the presumption of innocence, the right to life, to liberty or to commerce.* As laid down in an article of the Plaza Pública (Public Forum), this concern of many of those who oppose the reforms does not take into account the realities when such justice is applied, given that there is *consensus between the official and the indigenous authorities that lynchings are not, nor should not be, part of indigenous justice.* As Carlos Guarquez, President of the Guatemalan Association of Mayors and Indigenous Authorities (AGAAI) points out: *these actions have no place in the Mayan vision of the cosmos.* Irma Gutiérrez, Vice-President of the Executive Council of 48 cantons of Totonicapán, also defends the common law in the department: In Totonicapán there have been no lynchings. Respect, harmony and solidarity are part of our upbringing from childhood. I think we must change our views and leave behind the stereotypes of indigenous people. When we carry a stick, we are seen as rebels or terrorists, but these are stereotypes, those who live together in community are in harmony⁷ and have all of their needs met.

In order that civil society organisations can closely follow the debate, the Constitutional Court issued a protection order on 21st February, which allowed them to be present in the Congress during the debate on the approval of the reforms.⁸

⁵ Communiqué CACIF, 28 February, http://www.cacif.org.gt/index.php?option=com_content&view=article&id=3535&Itemid=464&lang=es
Alliance for the reforms, Op. Cit.

⁶ Fernandez Cervantes, J.M., Plaza Publica, "The inconclusive discussion on the constitutional reforms and indigenous justice", 4.10.2016, <https://www.plazapublica.com.gt/content/la-inconclusa-discusion-sobre-las-reformas-constitucionales-y-la-justicia-indigena>

⁷ Soy 502, "CC guarantees organisations access to information session on reforms", 21.02.2017, <http://www.soy502.com/articulo/cc-garantiza-ingresoorganizaciones-sesion-conocer-reformas-29974>

2. ACCOMPANIMENTS

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.⁹

STRUGGLE AGAINST IMPUNITY

During the month we made weekly visits to the **Human Rights Law Firm** and we accompanied their lawyers to several hearings: the Samayoa case, which relates to the assassination of Patricia Samayoa by an agent of a private security company; the CREOMPAZ case; the case of the massacre of the Two Erres; and the Ixil Genocide case.

We also accompanied the members of the **Neighbourhood Association of Chicoyogüito (AVECHAV)** at their assembly on 26th February, where they continued with work that they began in January, to record the testimonies which will be part of the case put by the legal team of the Centre of Legal Action in Human Rights (CALDH) in the CREOMPAZ case.



ACCESS TO LAND

Throughout February we monitored the security situation of the **Union of Campesino Organisations of Verapaz (UVOC)** which is of concern because, since January, in several campesino communities, members of UVOC have experienced evictions and threats of eviction. We have also been following the criminalization cases taken against several members of UVOC due to their struggle for access to land. We also paid special attention to the death threats received by Carlos Morales, UVOC Coordinator, Jorge Luis Morales, the organisation's lawyer, and Carlos Caal Rax, member of UVOC. At the same time, we accompanied UVOC to working sessions with several state authorities, in an attempt to find a peaceful and long-lasting solution to the agrarian conflict in Alta Verapaz, based on the guarantees of access to land for the communities. Concretely, this month, we have followed closely the conflictive situations experienced by the communities of Nueva Sebox and Nueva Seamay in the municipality of Senahú, and Dolores Guadalupe in the municipality of Cobán, Alta Verapaz.

NEGATIVE IMPACT OF GLOBALISATION ON HUMAN RIGHTS

We continue to accompany the **La Puya Peaceful Resistance**, through regular visits to the protest camp at the entrance to the mine in San José del Golfo municipality and their camp outside the Ministry of Energy and Mines.

In addition, this month we continued to accompany the members of the **Laguna Peaceful Resistance** in the municipality of San Pedro Ayampuc.



On 6th February, two members of the **Council of K'iche' Peoples (CPK)** were illegally stopped in the community of La Cumbre in the municipality of San Andrés. Quiché. These two people were physically harmed and received death threats. The following day we went with them as they filed a complaint at the Office of Public Prosecutions in Chinique.

On 23rd February, we were present at a peaceful demonstration organised by the CPK to publicize the excessive and illegal logging taking place in Quiché. On the 7th and 24th February, we accompanied Florentina Pol Pacheco, from the community of Chinique, whose security situation has deteriorated due to her work to defend the forestry resources.

⁹ Information on our work and the organisations we accompany is available at our website: <http://www.pbi-guatemala.org/field-projects/pbi-guatemala/who-we-accompany/>

We also kept track of the work of CPK in relation to several cases of sexual violence which they are accompanying in the region.

On 3rd February we accompanied several members of the **Campesino Central Coordinator New Day' Chortí (CCCND)** and the **Ecumenical and Social Coordinator in Defense of Life in Zacapa and Chiquimula (Coordinator)** who were attending an assembly in the community of El Rodeo, municipality of Camotán in relation to their work in defence of land and territory. We noted at that meeting, the presence of people who were not from the communities. And again on 28th February, we accompanied 22 members of the CCCND when they were issued a summons by the Office of Public Prosecutions of Chiquimula, in relation to a case of criminalization arising from their opposition to a mining extraction project in Olopa. The organisation made clear that the legal accusation against the 22 people was proceeded by threats, intimidations, and attempts to co-opt the leaders in several communities of Olopa, including actions against Omar Jerónimo, coordinator of CCCND.



We also paid attention to the situation of **Reverend José Pilar Alvarez** of the **Coordinator**, recognising that his situation remains precarious since the removal of protection measures in August 2016. Also, during the month we maintained periodic presence in the Campesina House, Headquarters of the Coordinator, in the hamlet of Trementina, in Zacapa Municipality.

3. INTERNATIONAL OBSERVATION

PBI Guatemala is present in international public events when requested to do so by Guatemalan social organisations, in order to show international attention and interest and in order to report internationally on what we observe.



We continue to observe the **Molina Theissen** case, for which 5 high-ranking ex-military have been charged with crimes against humanity, aggravated sexual assault, and forced disappearance - crimes committed against Emma Guadalupe Molina Theissen and Marco Antonio Molina Theissen. On the 7th, 8th and 9th February we observed the case hearings, and witnessed intimidation, death threats and photographing of the Molina Theissen family, as well as the accompanying national and international organisations (including 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.

In our meetings with the diplomatic corps we met this month with:

- Tania Sagastume, Alberto Ferrero and Vanesa Alvarez, Officials of the High Commissioner for Human Rights of the United Nations (**HCHR**).
- Karolina Guay, Political advisor and head of Human Rights at the **Canadian Embassy**.

At national and regional level we met with the following authorities:

- José Bonilla, Presidential Commission for Human Rights (**COPREDEH**) **en Zacapa**.
- Comissioner Ávila, 24th Precinct, **National Civil Police (PNC), Zacapa**.
- Julio Sánchez, **Mayor of Zacapa**.
- Agent Hernández, **PNC San Pedro Ayampuc**.
- Darwin Fuentes Fuentes, **Commissioner de la Departmental PNC in Quiché**.
- Damián Soc Pérez, **Mayor of Chinique, Quiché**.
- Oscar Soto Gómez, Head de la **PNC Chinique, Quiché**.
- Clemente de León, **Governor of Quiché**.

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.

During the month, we held meetings with: **Unit for the Protection of Human Rights Defenders in Guatemala (UDEFEQUA)**, **Coordination of International Accompaniment in Guatemala (ACOGUATE)**, **the Human Rights Office of the Archbishop of Guatemala (ODHAG)** and **the Ecological Collective Madre Selva**.

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.

As part of our efforts to strengthen our network of support, we held the following meetings during February:

- 1st February in Brussels: we met Jennifer Echeverría, **Human Rights focal point in the EU delegation to Guatemala**, and Sarah Tua, assistant to **the group Socialists and Democrats (S&D) in the European Parliament**.
- 2nd February in Brussels: we met the Assistant to MEP Beatriz Becerra, **Vice-president of the European Parliament Sub-Commission on Human Rights**, and member of the liberal group ALDE; Ernest Urtasun, **MEP from the Green group and member of the European Parliament Delegation for Central America**, as well as Gaby Kueppers, advisor to the Green group on Latin America.

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.

COMUNICADO DE LAS ORGANIZACIONES SOCIALES Y CAMPESINAS DE PETÉN

Ante toda la realidad social en el departamento de Petén, denunciemos lo siguiente:

El retraso de mala fe en el proceso legal por la contaminación del Río La Pasión, que se sigue en contra de la empresa REPSA desde junio de 2015 y hasta el 2017 aún se encuentra sin llegar a establecer grados de responsabilidad.

La sobre posición de intereses de las empresas por encima de los derechos de las comunidades, como las acciones maliciosas de funcionarios y autoridades de gobierno que buscan a toda costa la aprobación de un nuevo contrato "paso de oleoducto" en favor de la compañía PERENCO, recopilando firmas a través del uso de diversos métodos de engaño a la población. La destitución del director del parque Nacional Mirador Río Azul a raíz de una demanda que él interpuso en contra de la directora regional del CONAP.

La criminalidad, corrupción e impunidad, imperante en el municipio de las Cruces, que requiere de acciones concretas por parte del Estado, Ministerio Público y sistema de justicia, para encontrar la VERDAD y esclarecer los actores materiales e intelectuales de los hechos.

La difamación de la que son objeto los promotores de salud del Naranjo Frontera, por la alta jerarquía de la Iglesia Católica de Petén. Nuestra total solidaridad para los promotores del Naranjo, quienes atienden a una población abandonada por el Estado de Guatemala, es inconcebible que aun así sean objeto de difamaciones indiscriminadas.

La criminalización, estigmatización y la poca voluntad política del Estado de Guatemala en dar solución a la conflictividad agraria, de forma integral, a pesar de muchos años de diálogo y propuestas técnicas de las comunidades de Laguna del Tigre, Sierra Lacandón y el Caso de la Comunidad Las Viñas, Flores Petén. **Repudiamos planes de desarrollo** no incluyentes ni participativos, llevados a cabo sin consulta previa, libre e informada a las comunidades, tal como lo promueve la Fundación para el Desarrollo de Guatemala.

Nuestras felicitaciones a las organizaciones de mujeres y la municipalidad de San Benito, del departamento por lograr habilitar el Centro de Atención Integral a Mujeres Sobrevivientes de Violencia, ya que es una prioridad en el departamento.

EXIGIMOS AL ESTADO DE GUATEMALA

Agilizar los procesos legales que se siguen en contra de empresas por el ecocidio y contaminación, para garantizar un medio ambiente sano en bien de la población petenera. Dar seguridad jurídica de la tierra y permanencia perpetua a las comunidades de Laguna del Tigre, Sierra Lacandón y la Comunidad Las Viñas. Con la finalidad de alcanzar el bien común y la paz social.

Promover, fortalecer y respaldar a las organizaciones de mujeres y brindar los fondos suficientes para el buen funcionamiento del CAIMUS, como una obligación primaria de las Municipalidades de Petén.

Fortalecer la seguridad de las personas en el departamento, especialmente en el Municipio de Las Cruces, Petén, ante la difícil situación de inseguridad que se vive en ese municipio.

Respetar todos los derechos humanos de las organizaciones y líderes de comunidades que defienden sus propios territorios.

Al pueblo Petenero, les pedimos mantenerse con una actitud de vigilancia ciudadana, auditoría y denuncia, así como unificar esfuerzos en la lucha por los derechos ambientales, los derechos humanos y por la defensa del Territorio.

Al congreso de la República y a los diputados de Petén, promover y aprobar las reformas constitucionales para garantizar un Estado más incluyente y participativo.

MOVIMIENTO DE ORGANIZACIONES SOCIALES Y CAMPESINAS DE
PETÉN

Asociación de Mujeres de Petén Ixqik

Asociación de Comunidades Campesinas para el Desarrollo Integral de La Libertad Petén ACCODIL
Asociación de Servicios Comunitarios de Salud -ASECSA-
Asociación de comunidades de la ruta la Técnica -ASCORTE-
Comité Central de Laguna del Tigre, San Andrés, Petén
Frente Petenero Contra las Represas -FPCR-
Comité Mujeres Activas de Las Cruces
Comité de mujeres Dejando Huella Las Cruces
Comité de Desarrollo Campesino CODECA, Las Cruces
La Otra Cooperativa
Asociación Nacional de Mujeres Guatemaltecas Ixmucané
Comisión para la Defensa de la Vida y la Naturaleza
Acción Para Una Vida Saludable
Comisión de los 15

San Benito, Petén 15 de febrero de 2017

PBI team in Guatemala: Alicia Gutiérrez Esturillo (Spanish State), Roberto Meloni (Italy), Katerina Rosochova (Czech Republic), Stephanie Brause (Germany), Cristina Ortega González (Spanish State), Catriona Rainsford (UK), Gustavo García Andrade (Colombia) y Francisco Vanegas Toro (Colombia).

The following people voluntarily contributed in translating this publication into English: Valerie Roche and Karen Jeffares.

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GUATEMALA PROJECT
PEACE BRIGADES INTERNATIONAL

Website: www.pbi-guatemala.org

Office of the team in Guatemala

3ª Avenida "A" 3-51, Zona 1
Ciudad de Guatemala, Guatemala
Phone/ Fax: (+502) 2220 1032
E-mail: equipo@pbi-guatemala.org

Office of the project Coordination

Avenida Entrevías 76, 4º B
28053 Madrid, Estado Español
Telephone: (+34) 918 543 150
Email: coordinacion@pbi-guatemala.org