



## Monthly Information Package Guatemala

Number 166 - July 2017

### 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.*

#### Supreme Court suspends San Rafael mining license

On July 5th, the Supreme Court of Justice (CSJ) notified its decision of a temporary suspension of operations of the San Rafael S.A. mining company, subsidiary of Canadian Tahoe Resources Inc. The court's decision was a result of the injunction filed by the Centre for Legal, Environmental and Social Action (CALAS) due to the lack of consultation of the indigenous Xinca population affected by the project<sup>1</sup>. After the decision, the company notified its intention to act before the Constitutional Court (CC) hopes the injunction be revoked. Likewise, mine workers protested outside the court, claiming their right to work<sup>2</sup>.

The San Rafael mine has generated controversy since its beginning in 2013. At that time, a State of Siege was declared in the municipalities of Mataquescuintla, Jalapa, Casillas and San Rafael las Flores due to the high levels of conflict surrounding the installation of the project. This conflict has led to acts of sabotage against mine property<sup>3</sup> and gun shots fired at seven people by company security agents<sup>4</sup>. In June 2017, there were confrontations between protestors and riot police during the eviction of the protest camp outside the mine, which left several people intoxicated by the use of tear gas. The people against the project indicate, amongst other concerns, the mine operations are related to the trembling in the area that has led to cracks in their homes.<sup>5</sup>

For five years, CALAS has denounced these environmental and structural damages and has worked closely with the communities who seek to halt the project. After the CSJ's resolution, CALAS and its lawyer Rafael Maldonado have been the targets of strong criticism in the media due to their support of the resistance. Paid ads and articles in national periodicals have denounced the CSJ's decision and accused CALAS of manipulating communities<sup>6</sup>. These "smear campaigns" have been denounced by Amnesty International in an urgent action which also highlights the numerous intimidations and attacks that CALAS has received in recent months<sup>7</sup>. Also, the implications on judicial independence of these media campaigns have been denounced given the great political influence that businesses and guild organizations have in Guatemala<sup>8</sup>.

These events take place in the context of the government of Guatemala's to regulate consultations in Guatemala. On July 26, President Jimmy Morales handed to Congress the Operational Guide on Indigenous Peoples Consultations within the framework of the International Labour Organization's (ILO) Convention 169. This document was elaborated by the Labor Ministry in collaboration with the Cabinet of Indigenous Peoples and will serve as the base to pass a bill on consultations. Congress has one year to enact a new law. In the meantime, existing projects should use this Guide. Therefore, an advisory unit will be constituted to advise

<sup>1</sup> Cumes, W., *CSJ suspende licencias de operación de minera San Rafael*, Prensa Libre. Guatemala, 07/05/2017.

<sup>2</sup> Herrera, O., *CSJ suspende licencias de explotación minera a empresa Minera San Rafael S.A.*, El Periódico. Guatemala, 07/06/2017.

<sup>3</sup> Juárez, E., *Declaran estado de sitio en cuatro municipios de Jalapa y Santa Rosa*, La Hora. Guatemala, 05/02/2013.

<sup>4</sup> Gamazo, C., *Agredidos en San Rafael Las Flores buscan justicia en Canadá*. Plaza Pública. Guatemala, 20/06/2014.

<sup>5</sup> Patzán, J. y González, E., *Disturbios en Casillas dejan 11 intoxicados y cuatro capturados*, Prensa Libre. Guatemala, 06/22/2017.

<sup>6</sup> Ixchú, A., *Propaganda y Difamación en la prensa contra abogado de CALAS y en favor de empresas mineras*, Prensa Comunitaria. Guatemala, 07/11/2017.

<sup>7</sup> Amnesty International Urgent Action, *Urgent Action: Smear Campaign against Environmental Defenders*. 07/06/2017.

<sup>8</sup> Butler, D., *La Mina San Rafael*, Plaza Pública. Guatemala, 07/21/2017.

different sectors on consultations. This unit will be formed of representatives of the Labor Ministry, Ministry of Energy and Mines, indigenous leaders and representatives of the business sector.

Despite the fact that the Labor Ministry argues this is a consensual document, native peoples in the country affirm the contrary. On July 20 in a press release a coalition of indigenous authorities expressed their rejection of the Guide and stated that *“the guidelines to standardize the right to consultation of indigenous peoples distorts, restricts, diminishes and nullifies the scope and spirit of ILO’s Convention 169 and other international instruments like the United Nations Declaration on the Rights of Indigenous Peoples, the OAS’ American Declaration on the Rights of Indigenous Peoples, and the Universal Declaration on Human Rights”*. In the same press release, they express concern that the State of Guatemala does not understand that for indigenous peoples consent is *“[...] an institution proper to our peoples, so trying to regulate it by external entities [...] is a true violation of our institutions and an aggression to our way of life”*<sup>9</sup>.

### Human Rights Ombudsperson (PDH) appointment process

On July 19 the Guatemalan Congress appointed attorney Augusto Jordán Rodas to head the PDH. He has expertise in Constitutional and Criminal law as well as local public administration. He is a former councilman to the Municipality of Quetzaltenango. Between 2015 and 2017 he was Vice President of the Board of Directors of the Colegio de Abogados, where he supported constitutional reforms put forth by the MP and the CICIG.

After his appointment, Rodas stated he will work on the issues of chronic malnutrition, health, insecurity and conflict. In an interview with Nómada, on the topic of finding a balance between megaproject contracts and the rights of indigenous communities and environment, he stated *“[...] an equilibrium must be found. Private investment is very important to generate wealth and employment, both necessary in Guatemala. Also, it is important to listen to the communities and watch as the impact of these economic projects reflect substantial improvements for the quality of life in communities. It is not possible that there are projects that generate lots of wealth and neighboring communities live in misery... For this reason dialogue among sectors is important. That is where the Ombudsman, without a doubt, can play an important role”*<sup>10</sup>.

## 2. ACCOMPANIMENTS

*PBI accompanies social organizations and individuals who have received threats for their work in the defense 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>11</sup>.

### STRUGGLE AGAINST IMPUNITY

This month we accompanied lawyers of the **Human Rights Law Firm (BDH)** to Congress for the launch of the Verification Commission of the reports of human rights violations in Petén; an initiative of Congressman Leocadio Juracán. The Commission will have three months to develop a report that will be presented to the Congressional Commission on Indigenous Peoples.



We also attended a new hearing in the **CREOMPAZ** case which discussed an injunction put forth by one of the accused. The debate focused on the applicability of the Amnesty Law, in which the MP representative

<sup>9</sup> Rivera, N., *Autoridades ancestrales rechazan la guía y reglamento de las consultas*, Prensa Comunitaria. Guatemala, 07/21/2017

<sup>10</sup> Estrada Tobar, J. y Olmstead, G., *En tres preguntas, qué piensan los tres candidatos a PDH*, Nómada. Guatemala, 06/21/2017

<sup>11</sup> For additional information on organizations and people we accompany, see our website: <http://www.pbi-guatemala.org/field-projects/pbi-guatemala/who-we-accompany/>

and the lawyers of the victims argued that this does not apply to crimes against humanity.

The **BDH** is going to be one of the defenders of the victims of the fire in the Safe House Virgen de la Asunción which took place on March 8 in Guatemala City.

On July 28 we accompanied the **Neighborhood Association of Chicoyogüito (AVECHAV)** in a peaceful march to the Creompaz facilities to keep alive the demands of survivors' of the eviction and dispossession of the Chicoyogüito community committed by the Guatemalan army in 1968.

#### **ACCESS TO LAND**

During the month of July, we continued our work observing the situation of community members of the **Union of Campesino Organizations of Verapaz (UVOC)**. We attended a hearing on the criminalization of inhabitants of the Santa Inés community (Santa Cruz, Alta Verapaz). In this particular case, it was a mid-term closing hearing, where the judge considered there was sufficient merit for the case to go to trial.

#### **NEGATIVE IMPACT OF GLOBALISATION ON HUMAN RIGHTS**

At the beginning of the month we accompanied members of the **Campesino Central Coordinator New Day' Chortí (CCCND)** to a public viewing at the Appeals Court for the restitution of approximately 21,000 acres of communal land stripped by the General Property Registry. Days later, the court ruled in favor of the injunction, ordering to reinstate property rights to the indigenous communities; decision which was appealed in the following days.

In the Guareruche community, we attended a diploma ceremony in which two indigenous authorities received "Indigenous Rights and Women" diplomas. In the same course all of the judges from the Department of Chiquimula participated and during the ceremony it was evident how these diploma courses make way as a next step towards integration and recognition of indigenous communities and their norms on behalf of the Guatemalan State.

At the end of July we accompanied Reverend José Pilar Álvarez Cabrera of the **Ecumenical and Social Coordinator in Defense of Life in Zacapa and Chiquimula (Coordinadora)**, to a workshop organized by UDEFEGUA on security of defenders.



Likewise this month we continued to observe the situation of the **Council of K'iche' Peoples (CPK)**, by attending their general assembly. One topic discussed at length was the high level of defamation CPK defenders face. In several attempts to discredit the organization, the accusation of receiving money from foreign organizations stands out.

We also accompanied CPK members to several hearings, among them, a hearing on sexual violence in the Prosecutor against Femicide in Santa Cruz del Quiché.

At the beginning of July, we observed a protest of the **Peaceful Resistance of La Puya** outside the Constitutional Court. The Defenders from the **Peaceful Resistance of La Laguna** were also present. Both organizations, joined by other movements, protested the Court's decision on the OXEC case.

Similarly, we accompanied a demonstration convoked by the pueblo Xinca and other resistance groups like the **Peaceful Resistance of La Puya** to protest against the Guide for consultations presented by the government and again for the Constitutional Court's decision on the OXEC case. Communities asked that prior consultation be allowed as ILO Convention 169 stipulates and that cultural differences of the Guatemalan peoples be respected.

In July we decided to start a new accompaniment with the **Peaceful Resistance of Cahabón, Alta Verapaz communities** who struggle against OXEC hydroelectric projects (OXEC I and II. This is 190 communities in resistance organized in an Assembly of 150 people. The spokesperson for the resistance is Bernardo Caal, who has been threatened and criminalized. Due to the complex nature of the situation and the important in-

terests at stake, the Cahabon Resistance is viewed as an emblematic resistance in the country and the outcome could create standards on how to handle many similar situations. During the first month of accompaniment, we accompanied several meetings and were present at the community assembly where they decided the next step is going to be a good faith consultation.

### 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 Marco Antonio **Molina Theissen** and his sister Emma Guadalupe **Molina Theissen's** case. We attended a hearing in which an injunction against the March 2, 2017 verdict was presented by one of the accused. The lawyer who presented the injunction argued that the judge violated the principle of due process by explicitly denying the petition of dismissal he presented on behalf of this client. The lawyer of the joint plaintiff, MP prosecutors and the MP prosecutor on Constitutional Affairs refuted that the verdict was adequately argued and that the injunction was a way to transform the injunction trial into a reviewing instance.

We have also accepted a petition to observe elections of the **University Students' Association (AEU)** of the **San Carlos University**. We meet with the Dean's advisor to present PBI's work. The elections will take place in August and will also be observed by the Office of the Human Rights Ombudsman (PDH) and the OHCHR. Legal AEU elections have not taken place since 2011. The Association receives public funds and its mandate is to watch out for the rights of students.

### 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 interlocution work with the diplomatic corps and international organisms in Guatemala this month we met with:

- Rafael Chaves, Human Rights Officer of the **Spanish Embassy**
- Edoardo Pucci, **Italian Ambassador**
- Jennifer Echeverria, Human Rights Officer of the **European Union**
- Rita Grajeda, Human Rights Officer **Embassy of the United Kingdom**
- Rain Bian, Michael Sykes, Amanda Dryer, Human Rights Officers at the **US Embassy**
- Luis Manuel López Moreno, **Mexican Ambassador**
- Jackeline Ruiz, Economic, Social and Cultural Rights Officer at the **OHCHR**
- Ainhoa Barrenechea, Human Rights Officer at the **OHCHR**

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

- Mario Minera, Mediation Director, **PDH**
- Esenia Patricia Sandoval, representative of **PDH Chiquimula**
- Alenka Barreda, Dean's advisor **University of San Carlos of Guatemala**

## 5. OTHER ACTIVITIES IN GUATEMALA



PBI organized a security workshop on the criminalization of defenders of economic, social, cultural and environmental rights on July 12 to 14, in Chiquimula. Thirty-five people, mostly from the eastern regions, participated. Several experiences about the defense of human rights were shared and particularly female defenders addressed how they are subject to defamation, violence and marginalization in their community and/or family by a patriarchal and machista system. The workshop served to raise awareness of the increasingly latent threat of criminalization that defenders face in Latin America and in Guatemala specifically. Other topics discussed were: strategies to prevent these dangers, how to better analyze risks that each defender faces, and how to live with greater security and continue the defense of their rights.

## 6. 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 project's European representative held the following meeting:

- Sylvain Schultze, officer for Guatemala, El Salvador and Honduras, **European External Action Service (EEAS)**, Brussels

## 7. NON-GOVERNMENTAL ORGANISATIONS

*In this section we publish statements (some abbreviated) from human rights organisations in which they express their concerns regarding recent events.*

### ¿QUIÉN PONE LA AGENDA EN EL PAÍS?:

Posicionamiento del Observatorio Indígena sobre la denominada "Guía de Estándares Básicos para la Consulta a Pueblos Indígenas Ciudad de Guatemala, 18 de julio de 2017. El Observatorio Indígena, toma nota de la presentación de la denominada "Guía de Estándares Básicos para la Consulta a Pueblos Indígenas", hecha por el Organismo Ejecutivo, por medio del Ministerio de Trabajo y Previsión Social, MINTRAB. Al respecto, y de cara al debate nacional y futuro sobre el derecho de consulta a los pueblos indígenas, a la opinión pública, nacional e internacional, hacemos saber:

Primero: partimos de una pregunta básica ¿Quién pone la agenda en este país? La lucha contra la corrupción tiene como actores principales a entidades externas como la CICIG e instituciones locales como el Ministerio Público, quienes han marcado agenda en los últimos meses, junto con fallos "controversiales" de la denominada "Corte Celestial"; sin embargo, existen otros actores que, aunque golpeados por el tsunami anticorrupción, siguen adelante impulsando su agenda. La presentación de la denominada "Guía de Estándares Básicos para la Consulta a Pueblos Indígenas", debe leerse como un frente de conflictividad del gobierno y del CACIF contra los pueblos indígenas, es una estrategia de la influencia que ejerce en este gobierno una parte del denominado "sector privado", que tiene en el Ejecutivo a sus "cabezas de playa" para hacer el trabajo de carpintería y que se han movido para avanzar lo que ellos llaman "reglamentación del derecho de consulta".

Segundo: No se puede olvidar el daño que ya han causado proyectos mineros e hidroeléctricos a las comunidades indígenas del país, ante lo cual cabe hacerse la pregunta ¿Quién va a pagar el daño?

quién va a resarcir esa agresión? Evidentemente, a las comunidades indígenas que sufrieron “afectación” por proyectos mineros e hidroeléctricos, les asiste el derecho de demandar al Estado ante cortes nacionales e internacionales para hacer justicia y “resarcir” el daño. Esta Guía de Estándares Básicos para la Consulta a Pueblos Indígenas impulsado por el gobierno de Jimmy Morales y el FCN va a generar conflicto en las comunidades indígenas y viola los derechos de los pueblos. Ante ello, el Observatorio Indígena hace un llamado a las organizaciones, autoridades ancestrales y comunidades a hacer un frente común para emprender demandas de amplio alcance que sienten precedentes históricos contra el Estado racista y patrimonial de Guatemala.

Tercero: Desde hace décadas están paralizada en el Congreso de la República, una serie de iniciativas de leyes para el desarrollo de los pueblos indígenas y que son parte de compromisos asumidos en los Acuerdos de Paz; en tal sentido, antes de emprender la presentación y discusión de una potencial “Ley de Consultas Comunitarias a Pueblos Indígenas”, se debe retomar y avanzar iniciativas de ley más importantes para el desarrollo nacional como la Ley de Desarrollo Rural, La Ley de Lugares Sagrados y la Reforma a la Ley Electoral y de Partidos Políticos.

Cuarto: Más allá de hablar de ley de consultas cabe plantear a la ciudadanía ¿Cuándo los poderes del Estado de Guatemala, van a hablar sobre eliminar la pobreza y pobreza extrema, el hambre y la desnutrición en comunidades indígenas? ¿Cuándo se avanzará en reconocer el sistema de justicia indígena? ¿Cuándo se pondrá en la agenda el cambio de modelo económico que hace de Guatemala una “maquila” de pobreza? Antes que una ley de consulta, hablemos del desarrollo integral de los pueblos indígenas. Hablemos de una reforma económica profunda y la democratización de las tierras.

Quinto: El Observatorio de Pueblos Indígenas rechaza esta iniciativa de la Guía de Estándares Básicos para la Consulta a Pueblos Indígenas impulsado por el gobierno de Jimmy Morales.

¡Por la Defensa de los Derechos de los Pueblos Mayas, Mestizos o Ladinos, Garífuna y Xinka en Guatemala!  
Guatemala, 24 de julio de 2017

**PBI team in Guatemala:** Kateřina Rosochová (Czech Republic), Stephanie Brause (Germany), Cristina Ortega González (Spain), Catriona Rainsford (United Kingdom), Gustavo García Andrade (Colombia), Francisco Vanegas Toro (Colombia), Jan Sabbe (Belgium), Anabel Butler (United Kingdom), Emanuela Lamieri (Italy) and Andreas Lo Grasso (Germany).

*All photos published are from PBI*

---

*PBI GUATEMALA DOES NOT NECESSARILY IDENTIFY WITH THE OPINIONS AND CONTENT OF THE REPRODUCED ARTICLES AND MEDIA RELEASES. THE FIRST PART OF THE CURRENT SITUATION ARE NOT A LITERAL COPY OF THE SOURCES CONSULTED: THE WRITING OF THE ORIGINAL ARTICLES HAS BEEN SIMPLIFIED AND EDITED.*

**GUATEMALA PROJECT  
PEACE BRIGADES INTERNATIONAL**  
Website: [www.pbi-guatemala.org](http://www.pbi-guatemala.org)

**Office of the Team en Guatemala**  
3ª Avenida “A” 3-51, Zona 1  
Ciudad de Guatemala, Guatemala  
Phone/fax: (+502) 2220 1032  
E-mail: [equipo@pbi-guatemala.org](mailto:equipo@pbi-guatemala.org)

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