

Monthly Information Package Guatemala

Number 251 - August 2024

1. THE CURRENT SITUATION

Monthly update 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 defense of territory.

Continued criminalization of indigenous human rights defenders and ancestral authorities Rigoberto Juárez and Ermitaño López.

The northern region of Huehuetenango is home to many abundant rivers which are coveted by transnational companies seeking to install hydroelectric megaprojects in the region. As a result, the territory has been in dispute for more than a decade between these companies and the indigenous peoples that inhabit the area led by the Plurinational Mayan Chuj, Q'anjob'al, Akateko and Mestizo governments. Since the arrival of the Spanish company Econer-Hidralia in 2009, which began development of the Cambalam I and II projects along the Cambalam river in Santa Cruz Barillas, and the Promoción y Desarrollos Hidrícos, S.A. (PDHSA) company, which began construction of the Pojom I and II hydroelectric plants in San Mateo Ixtatán, the indigenous territories have been subjected to all kinds of conflict and violence. At least 11 murders and 30 criminalizations of leaders have been recorded since 2012, in addition to the displacement of dozens of people to Mexico and the United States. 1 Both projects eventually had to cancel their work due to local opposition and the withdrawal of international funding leaving a trail of death and suffering in their wake.2

Rigoberto Juárez and Ermitaño López, along with five other human rights defenders from the Q'anjob'al, Chuj, Akateko, Popti' and mestizo territory of Huehuetenango, were criminalized in 2016 for their leadership in representing the popular outcry against the foreign hydroelectric plants that sought to operate in the area. The seven leaders were sent to prison, Ermitaño for 14 months and Rigoberto for 15 months. During the subsequent public trial the defense attorneys demonstrated their innocence, and the High Risk Court A acquitted them all on June 22, 2016. Nevertheless, the Court's vocal judges concluded that Bernardo Ermitaño López was responsible for the crime of obstruction of justice, while Rigoberto Juárez was convicted of the crime of coercion, but they decided that the time they had spent in pretrial detention were equivalent to the sentence.3

However, the Public Prosecutor's Office (MP) appealed to the Appeals Chamber of the High Risk Criminal Court, which reversed the acquittal and added the original crime of illegal detention against both. Rigoberto's sentence was increased to seven years in prison and Ermitaño received a sentence of 23 years. Although they filed an appeal at the Supreme Court of Justice (CSJ), the Criminal Chamber did not accept the arguments of the defense team and denied the appeal. They then filed an appeal before the Constitutional Court (CC), which was their last chance to defend themselves from criminal prosecution.⁴

After filing the injunction, the lawyers for the defendants, Cristian Otzin, of the Association of Mayan Lawyers of Guatemala, and Santiago Choc, of the Human Rights Law Firm, gave a press conference at the doors of the CC. According to Choc, the resolution of the Appeals Chamber, which was later backed by the Criminal Chamber, is illegal: "it is not within its functions to define the incidents, or define them as a crime when this is not the case, it's not legal." Otzin declared that this was an arbitrary action by the Chamber and the

Pérez, R., Rigoberto Juárez, autoridad ancestral, acude a la CC para evitar una sentencia injusta, Prensa Comunitaria, 22.08.24; Villatoro Garcia, D., La espera de los líderes comunitarios en prisión: ¿criminalización o justicia?, Plaza Pública, 11.06.2016; Cuevas Molina, R., Guatemala: sublevación en Santa Cruz Barillas contra la empresa española Econer-Hidralia, questiondigital.com, 05.05.2012.

Rivira, N., Huehuetenango: a doce años de la resistencia contra las hidroeléctricas en Barillas, Prensa Comunitaria, 04.01.2021 y Pablo, E., Huehuetenango: verifican situación de comunidades tras el retiro de fondos a hidroeléctricas, Prensa Comunitaria, 02.06.2023.

Medinilla, A., Cuatro conclusiones de la sentencia de los líderes de Huehutenango, Plaza Pública, 11.08.2016.

Pérez, R., Op. Cit.

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Criminal Chamber, and sends a clear message to Rigoberto Juárez not to continue opposing hydroelectric projects.⁵

This whole process is taking place within the framework of a justice system that, as Rigoberto Juárez points out, is permeated by corruption. The indigenous authorities who accompanied the two criminalized defenders to file the injunction, demanded that the Nominating Commission act in a transparent manner in the process of re-electing the courts so that the most suitable and honorable magistrates are appointed to these positions.⁶

Persons accused in the case Hogar "Seguro" awarded conditional release

On March 7, 2017, a group of minors tried to escape from the Virgen de la Asunción "Safe" Home denouncing mistreatment and violence by the staff of this institution who were supposed to take care of them. The authorities responded by locking 56 girls and adolescents in an overcrowded room. On the morning of March 8, in protest against their continued confinement, the girls set fire to a mattress. The fire spread throughout the room and, in the absence of help, 19 minors died on the spot and 22 others in health care centers. Fifteen survived with severe burns to their bodies.⁷

Seven years and five months after these events, following a long and tortuous judicial process, on August 14, 2024 the Second Court of Appeals ordered the conditional release of Lucinda Marroquín, former sub-inspector of the National Civil Police (PNC), as a substitute measure. She is accused of manslaughter, injury and mistreatment of minors. Since 2017 Marroquín has been in preventive detention and has subsequently been accused of having had the keys to the padlock to the room where the girls who were victims of the massacre had been locked in. Several agents under her command testified to her superior's refusal to open the door during the criminal proceedings.⁸ Marroquín had requested the substitute measures on more than 15 occasions, but it had been denied because the judges considered that she could interfere with the investigation and obstruct the judicial process. PNC sub-commissioner Luis Armando Pérez Borja has also been granted conditional release. Marroquín and Pérez Borja were the last two people charged in this case who remained in pre-trial detention. The alternative measures granted to both of them are: prohibition to leave the country without judicial authorization, prohibition to communicate with other parties to the proceedings, witnesses, defendants or experts and the obligation to place their fingerprint in the biometric system of the Public Prosecutor's Office every month.⁹

These rulings represent another blow to the demand for justice, truth and reparation by the surviving victims and their families. 10

Negative impacts of palm plantations on communities in northern Guatemala.

By 2023, Guatemala was the sixth largest palm oil producer in the world. Alta Verapaz, Petén and northern Quiché account for 57.78% of total production in the country. 11

According to the recently published report "In the Shadow of the Oil Palm. Report on palm oil 2024", elaborated by the Cristiana Romero Initiative (CIR) -a German organization dedicated to the promotion of human rights- more than 25 companies are dedicated to the cultivation of oil palm in Guatemala. Many of these companies have been accused of polluting river water and causing environmental degradation, as well as irregular land acquisition and violation of labor rights. "The demand for palm oil has grown worldwide in the last 15 years and, currently, around 80 million tons are produced annually, according to the study. It is

Ramón, S. A. <u>Huehuetenango: dos autoridades comunitarias podrían regresar a prisión por delitos que no cometieron</u>, Prensa Comunitaria, 21.08.24.

⁶ Pérez, R., Op. Cit.

Vargas, E. y Pérez Marroquín, C., <u>Sala de Apelaciones ordena libertad inmediata de procesada por caso Hogar Seguro</u>, Prensa Libre, 14.08.24.

⁸ Quan, N., Si<u>ete años de impunidad: todos los implicados en el caso Hogar Seguro Virgen de la Asunción, en libertad,</u> Prensa Comunitaria, 15.08.24.

Vargas, E. y Pérez Marroquín, C., Sala revoca prisión preventiva para señalado en Caso Hogar Seguro y dicta medidas sustitutivas, Prensa Libre, 17.07.24 y Osegueda, S. Caso Hogar Seguro: Sala otorga medida sustitutiva a la última detenida, Lucinda Marroquín, La Hora.gt, 15.08.24.

¹⁰ Quan, N., Op. Cit.

Paz Cardona, A.J., <u>Ríos contaminados y acaparamiento de agua: las huellas de la palma de aceite en América Latina</u>, Nodal, 19.08.2024 y Figueroa, K., <u>Contaminación y acaparamiento de agua: la palma en el norte de Guatemala</u>, Agencia Ocote, 14.08.2024.

mainly used in food production, however, in countries such as China, India, Germany, and others in the European Union, it is used in the energy sector. Palm oil is also used in the production of animal feed and in the cosmetics, soaps and detergents industries."¹²

Since 2015, the Office of the Human Rights Ombudsman (PDH) has warned that palm oil companies operate in circumstances that undermine the economic, socio-environmental and cultural rights of communities, since "the presence of these crops limits the use and enjoyment of the communities' natural assets, including water." It also places communities in a situation of social and political exclusion, due to the rupture of the social fabric, as the presence of the palm oil plantations generates conflicts related to land tenure and use. 13

In Alta Verapaz, palm oil production is equivalent to 5.86% of Gross Domestic Product (GDP), but it has a negative impact on family agriculture and, therefore, on food sovereignty in the region. In Fray Bartolomé de las Casas, one of the department's palm oil-producing municipalities, palm oil production is closely linked to the Naturaceites company, which owns up to 7,897 hectares in the municipalities of Fray Bartolomé de las Casas, Raxruhá and Chahal, according to 2011 data from the Ministry of Agriculture, Livestock and Food (MAGA). Since the arrival of Naturaceites in Alta Verapaz in the early 2000s, many villages have complained about water contamination and that the sources of this vital liquid are drying up, making life in the municipality unsustainable. Technical reports on water quality have identified the presence of bacteria that can cause "gastrointestinal diseases, which mainly affect the most vulnerable populations such as children and older adults," due to the use of chemical fertilizers and pesticides. Other studies have documented the effects of palm production on "forest loss, fragmentation and deterioration of natural ecosystems and loss of biodiversity." Many of these processes are characterized by the absence of denouncements, due to the villagers' fear of being identified and of reprisals from the company. 14

Recently, families in the municipality of Panzós, Alta Verapaz, have suffered the impacts of palm oil activity in their territories through the flooding of their homes and crops due to the overflowing of the Polochic River. This was not caused by the rains, but because dikes, built by the Naturaceites company, which prevented the natural expansion of the river water. The dikes were built without consulting the community authorities and without taking into account the possible damages to the population due to the accumulation of water on their land and crops. The only objective of this construction was to protect the palm crops during the rainy season, at the expense of the local population.¹⁵

Violence in Chiapas generates massive displacement to Guatemala and insecurity on migration routes

N unusual satiation is occurring along the border region between Chiapas and Guatemala, which is usually in the news for the high flow of Latin American migrants crossing the border on their way to the United States. Since July, there has been a massive displacement of people from Chiapas to the municipality of Cuilco, in Huehuetenango. The cause of this migration is the unprecedented increase in violence in Chiapas, provoked by the struggles between criminal groups to maintain control of transnational routes for the trafficking of drugs, arms and migrants. According to official data, more than 500 Mexicans have crossed the border seeking refuge in Guatemala. Their objective is to save their lives and avoid recruitment by criminal groups. ¹⁶ According to the director of the Center for Human Dignification (CDH) there are thousands of displaced people. ¹⁷ Faced with this situation, the authorities of the municipality of Cuilco, with the support of the Human Rights Ombudsman's Office (PDH) and the collaboration of the Executive, have set up a shelter to receive more than 600 people. ¹⁸

In the dispute for territory between the main drug trafficking cartels in Mexico, particularly the Sinaloa and Jalisco New Generation cartels, Guatemalan gangs such as Los Pochos, Los Huistas and Los Kaibiles¹⁹ have

- Mongabay, Estudio expone degradación ambiental y conflictos laborales alrededor de cultivos de palma aceitera en Guatemala y Honduras, Plaza Pública, 10.05.2024.
- ¹³ Figueroa, K., Op. Cit.
- ¹⁴ Ibídem.
- Bautista Xol, J., <u>Barrera de Natur Aceites en el río Polochic inunda cultivos y viviendas en Panzós</u>, Prensa Comunitaria, 17.08.2024.
- Loarca Oliva, H., ¿De qué huyen las familias mexicanas que se refugian en Cuilco, Huehuetenango?, La Hora, 25.07.2024.
- EFE, <u>"Miles de desplazados": La frontera sur de México es cada vez más insegura por disputas del narcotráfico</u>, Prensa Libre, 03.08.2024.
- 18 Canal Antigua, ¿Por qué la violencia en Chiapas y el masivo desplazamiento a Guatemala?, 26.07.2024.
- ¹⁹ Ibídem.

become involved. In view of these events, 84.7% of the residents of Tapachula, the main city on Mexico's southern border, report a perception of insecurity, placing it among the five most insecure municipalities in the country. This situation is exacerbated in a context of increased migration to Mexico; 1.4 million irregular migrants were intercepted in the municipality of Tapachula alone between January and May 2024. The lack of action by local authorities and increased violence between criminal groups has contributed to increased insecurity and risks for migrants.20

2. ACCOMPANIMENTS²¹

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 defense of territory.22

THE FIGHT AGAINST IMPUNITY

This month we continued accompanying the Association for Justice and Reconciliation (AJR) to the hearings of the "Ixil Genocide" case against Manuel Benedicto Lucas García, former Chief of Staff of the Guatemalan Army and brother of former de facto president Fernando Romeo Lucas García (1978-1982). We observed six hearings at the public trial. On July 31, the court heard testimony from the photojournalist Robert Nickelsberg connecting from the Guatemalan Consulate General in New York. He testified about several photographs he took in 1982 at the Santa Cruz de Quiché military base and in nearby Ixil villages, which evidence the presence and leadership of Lucas García in the attacks on the civilian population. The hearings observed on the 5th and 8th included expert testimony from the Guatemalan Forensic Anthropology Foundation (FAFG) and the Center



for Forensic Analysis and Applied Sciences (CAFCA). On the 19th, 20th and 21st the testimonies of survivors of massacres perpetrated in the communities of the municipality of Chajul were heard.

We accompanied the **Human Rights Law Firm (BDH)** to the following hearings and activities:

- Hogar Seguro: four oral and public hearings on the 1st, 14th, 26th and 29th, in which different testimonies were heard, including those of two firefighters who participated in the rescue and extinguishing of the fire.
- Samococh: an appeal hearing in which only the BDH participated orally.
- Semuc Champey: a conciliation meeting at the MP office in Languín related to an aggression against one of the people criminalized in this case. This was successfully resolved with a commitment of nonaggression and cordiality between the parties.
- Creompaz: a review hearing where the court ratified the preventive detention of the defendant Carlos Augusto Garavito Morales.
- Presentation of an injunction before the Constitutional Court (CC) against the criminalization of the indigenous authorities of Huehuetenango, Rigoberto Juárez and Ermitaño López.
- Chinautla Public Prosecutor's Office: the BDH went to this institution together with the Peaceful Resistance of the Pogomam people of Chinautla to try to follow up on the case opened for the murder and attempted murder of the children of an indigenous authority of the Resistance.
- Festival of Recovery of Historical Memory and Identity held on July 31, to raise awareness of the impact of mining in La Puya and strengthen the identity of the indigenous peoples who inhabit the territory.

EFE, Op. Cit.

We maintained regular contact with accompanied organizations who are not specifically mentioned in this section, but there are no activities to

See our website for general information on organizations and individuals we accompany: https://pbi-quatemala.org/en/aroups-andindividuals-currently-accompanied-pbi

Regarding the Luz Leticia Case, we accompanied the family to the Appeals Chamber of Court of Justice to follow up on the case in relation to the resolution of the appeal filed by Cifuentes Cano's defense team.



THE ISSUE OF ACCESS TO LAND

In the Department of Chiquimula, we accompanied the Maya Ch'orti' Indigenous Council of Olopa to the community of Titugue, who are experiencing various problems related to water exploitation by the contractor. The indigenous council and the communities, together with the municipality and the contractor company, did not show up for the meeting that was to be held.



We also went to the headquarters of the indigenous community of San Francisco Quezaltepeque, where we met with its members. They updated us on the problems in the region relating to their struggle for the recovery of their ancestral lands and shared their concerns regarding the various threats and criminalization processes they face. In the context of their struggle for ancestral titles to their lands, we accompanied them during the celebration of the International Day of Indigenous Peoples, at the Cruz de la Ermita, where several organizations were invited to present their projects and addressed the issue of the divisions that the Trifinio Plan is generating within the communities. We also accompanied a member of the community to a conciliatory meeting at the Peace Court of Quezaltepeque.

In the department of Guatemala we attended the commemoration of the International Day of Indigenous Peoples, held in the Constitutional Square, where we accompanied the Peaceful Resistance of the Pogomam People of Chinautla. Indigenous authorities from different regions of the country participated in this event, they held a ceremony and, subsequently made a joint statement emphasizing the importance of the law of ancestral places, the protection of biodiversity and the urgency of carrying out the judicial election process. In the days prior to this event we were present at the sit-in that they maintain in Chinautla for the weekly meeting of women of the Resistance. We discussed some of the security incidents they have been suffering, the visit of the IACHR and updates on the dredging of the river. We also met with other ancestral authorities who shared with us their upcoming activities and we had an exchange regarding the Motagua River cleanup project.

This month we visited the South Coast region, where we met with several members of the Community Council of Retalhuleu (CCR) to update us on the situation in the region. We also accompanied them to the Forum on the Water Law initiative in Guatemala City, where they attended along with other social organizations and representatives from different regions.

DEFENSE OF THE TERRITORY

With respect to our accompaniment of the Union of Peasant Organizations Las Verpces (UVOC), we maintained our regular meetings with the general coordinator, Carlos Morales, to follow up with and update us on the security situation and the work in defense of access to land that they carry out. We also accompanied them during a meeting of women from different regions of the country, where they exchanged experiences with the objective of strengthening alliances among the member organizations of the International Indigenous Women's Forum.

As for the Community Council of the Highlands (CCDA) - Las Verapaces Region, this month we accompanied them to a meeting orga-



nized by the Ministry of the Interior in the Departmental Police Station No. 51 of Cobán, to follow up on compliance with the protection measures granted to the Chirrix Tzul community, which was evicted in April of this year.

3. 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 dialogue with the diplomatic corps and international organizations present in Guatemala, this month we met with:

- Sabine Eismann, Counselor and Deputy Chief Counselor, and Ines Mussig, Economic Cooperation Advisor, at the **German Embassy**
- Ravinder Kumar, Second Secretary and Astrid Guzman, Secretary and Interpreter, at the Indian **Embassy**

With respect to our dialogue with Guatemalan authorities, this month we met with:

- Milton Napoleón Duarte, Mayor of the Municipality of Quezaltepeque.
- Elder Gómez, Officer and head of the PNC Sub-station in Quetzaltepeque.
- Mark Christopher Gardiner Bennett, Assistant at the PDH in Baja Verapaz.
- Rosa Estrada and Edgar Aquino, PNC officers in Nueva Chinautla.
- Claudia Matías, Municipal Secretary of the Municipality of Chinautla.
- Beltrán Zúñiga, Secretary of the General Sub-Directorate of Crime Prevention; Alexis Solares, Officer in charge of the Human Rights Office; José Elías, head of the Community Intervention Division; Luís Monroy, Officer of the Community Intervention Division, **PNC National**.
- Rebeca Constanza, Deputy Mayor of the Municipality of Champerico.
- Milton Napoleón Duarte, Alcalde de la Municipality de Quezaltepeque.

4. 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.

On August 28, we attended the **meeting** of the **Office for the Analysis of Attacks on the Right of Individuals, Organizations, Communities and Authorities of Indigenous Peoples to Defend Human Rights**. This office brings together State institutions, human rights organizations, indigenous peoples' authorities, and representatives of national and international NGOs. Its purpose is to analyze the patterns of attacks against human rights defenders and communities, especially those relating to indigenous peoples.

5. OTHER ACTIVITIES OF PBI GUATEMALA



In August we published our new **Bulletin no. 51** containing the following articles:

- Peoples demand urgent action to protect water;
- The defense of the rights of the Ch'orti' People in Quezaltepeque: "we fight to protect what our grandfathers and grandmothers achieved";
- The Alaska Summit trial: A massacre in "peacetime";
- News from our Work: Accompanying Norma Sancir.

You can access this publication through our website: https://pbi-guatemala.org/en/multimedia/bulletin

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 met this month with:

- Raquel de Vicente, Santiago Mondragón, Elena Franceschinis, Ewa Mahr, from the **Secretariat of the Subcommittee on Human Rights of the European Parliament** (in the framework of a meeting with the Human Rights and Democracy Network).
- Eugenia Millaray Tapia, head of Latin America and the Caribbean at the Norwegian Ministry of Foreign Affairs, and Anneli Norderhaug, an official from the same department.

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.



CAFCA - CALDH - CIDH - ODHAG - UDEFEGUA - ECAP - ICCPG - SEDEM - UNAMG

LA CONVERGENCIA POR LOS DERECHOS HUMANOS RESPALDA LA CREACIÓN DE LA INSTANCIA DE ANALISIS PARA LA PROTECCIÓN DE PERSONAS DEFENSORAS DE LOS DERECHOS HUMANOS

El 29 de agosto, fue publicado en el diario oficial el acuerdo ministerial 214-2024 que establece la creación de la Instancia de análisis de ataques contra el derecho de personas, organizaciones, comunidades y autoridades de los pueblos originarios, a defender derechos humanos.

Ante ello:

- Saludamos las acciones impulsadas por las autoridades del Ministerio de Gobernación que hacen posible reactivar y dar seguimiento a la Instancia de análisis de ataques, y con ello dar cumplimiento a las recomendaciones referidas en la sentencia de la Corte Interamericana de Derechos Humanos en el caso "Defensor de Derechos Humanos y otros vs. Guatemala", emitida el 28 de agosto del 2014, que establece la obligación del Estado de Guatemala de diseñar una política pública de protección para defensores y defensoras de derechos humanos, del cual forma parte fundamental el análisis de patrones de ataques en contra de personas, comunidades y organizaciones defensoras.
- · Reiteramos que la instancia hace posible la participación y la confluencia entre instituciones de Estado y diversos sectores, comunidades, organizaciones y autoridades ancestrales de los pueblos originarios que defienden derechos humanos, lo que permite sumar esfuerzos para brindar garantias al derecho a defender derechos humanos.
- · Llamamos a las y los diputados del Congreso de Guatemala, comprometidos con la defensa de los derechos humanos, a apoyar el acuerdo ministerial 214-2024 que permite brindar garantías al derecho a defender derechos.
- Denunciamos las acciones y los discursos provenientes de personas señaladas de actos de corrupción, que ven en las personas defensoras de derechos humanos una amenaza a sus intereses espurios, por ello buscan derogar el acuerdo ministerial 214-2024 utilizando argumentos falaces que minimizan y estigmatizan la defensa de los derechos humanos.

¡Por el derecho a defender derechos!

Guatemala, 3 de septiembre de 2024



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The team of volunteers in PBI Guatemala is currently composed of Amparo Terrón Salvador (Spain), Carlos Fernández Arrúe (Spain), Marina García Alacreu (Spain), Elisa de Oliveira Ribeiro (Brazil), Gisela Farell Reviejo (Spain), Leonie Malin Höher (Germany), Anna Morales Mateu (Spain), Ana Gabriela Ascarrunz Ponce (Bolivia), Sebastián Aguirre Orozco (Colombia) y David Félix Azemar (Spain).

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