



Monthly Information Package Guatemala

Number 212 - May 2021

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.

Violence against women in Guatemala and its perfect ally: Impunity

According to data from the Women's Observatory at the Public Prosecutor's Office (MP), there were a total of 16,835 cases of violence against women for the first quarter of 2021 (4,954 were reported in March alone).¹ According to the prosecutor Edgar Gomez, from the MP's office on the Crime of Femicide, "the cases against the life and integrity of women have been much more violent than in 2020."² Statistics from the National Institute of Forensic Sciences (INACIF) show that in the first quarter of this year there was an increase of 29.3% in the number of femicides. Within this bleak panorama, impunity remains the norm in the country, with 90% of homicides unsolved.³

In the last three years, the MP received 28,958 reports for rape and 109,893 reports of violence against women. That means that more than 10,000 women each year report having been raped in Guatemala. However, only 35% of the cases relating to sexual abuse and rape reach the courts. Of these, only 4 out of 10 are sentenced, and in 30% of the cases the accused was declared innocent. In 840 cases, despite the fact that there was sufficient evidence, or that the accused acknowledged having committed the assault or rape, the judge considered the accusation to be minor and only imposed a fine in lieu of a custodial sentence.⁴

Former member of Civil Defense Patrols remanded in custody for sexual violence against Achi women

Judge Miguel Ángel Gálvez, of the High Risk Court B, deemed there was sufficient evidence to put Gabriel Cuxum Alvarado, former member of the Civil Defense Patrol (PAC), on trial.⁵ Cuxum is accused, along with other former patrol members, of having systematically raped Achi women in the military barracks of Rabinal, Alta Verapaz, between 1981 and 1985.⁶ According to the evidence presented by the Public Prosecutor's Office, the former patrol members systematically committed acts of sexual violence against a group of more than 30 Achi women, who were forcibly taken to the military base in the region.⁷

Arrests in Diario Militar Case

The *Diario Militar* contains the profiles of 183 people who were detained/disappeared by the Guatemalan State between 1983 and 1985. At the end of May, 22 years after this document was unveiled, the National Civil Police (PNC) captured 11 people who, according to the Human Rights Office of the MP, participated in these events. The first testimonial hearing is scheduled for the beginning of June (see press release at the end of this PIM).

¹ Quintanilla, K., [GAM señala repunte de casos de violencia en primer trimestre](#), La Hora, 09.04.2021.

² Valdéz, A., [MP afirma que violencia contra las mujeres va en aumento](#), El Periódico, 03.05.2021.

³ Efe, [Cuánto aumentó la muerte violenta de hombres y mujeres en Guatemala en el primer trimestre de 2021](#), Prensa Libre, 07.04.2021.

⁴ López, K. y Woltke, G., [El 65% de las denuncias por violación en Guatemala nunca llega a un tribunal](#), La Cuerda, 19.05.2021.

⁵ Solórzano, S., [Procesan y envían a prisión preventiva a expatruillero señalado de abusos a mujeres achi](#), La Hora, 26.05.2021.

⁶ Efe, [Detienen a un expatruillero vinculado a caso de violencia sexual en Guatemala](#), Swiss Info, 16.05.2021.

⁷ Arana, L., [Juez Gálvez decidirá si expatruillero señalado por crímenes contra mujeres achi es procesado](#), La Hora, 22.05.2021.

The Molina Theissen family continues to demand compliance from the State three years following the ruling

On May 23, 2018, the Highest Risk Court C found four ex-military members guilty of the kidnapping and disappearance of Marco Antonio Molina Theissen and the rape of his sister, Emma Guadalupe. The Court sentenced Manuel Benedicto Lucas García, (former Chief of the Army General Staff), Manuel Antonio Callejas (former Chief of the second section of the Army General Staff) and Hugo Ramiro Zaldaña (Army General Staff officer) to 58 years in prison for crimes against humanity, aggravated rape and forced disappearance. The Court also sentenced Francisco Luis Gordillo, commander of the military zone General Manuel Lisandro Barillas, to 33 years for aggravated rape and crimes against humanity.⁸

Three years after this sentence, the Molina Theissen family continues to demand compliance with the Guatemalan State's obligations dictated by the Inter-American Court of Human Rights (IACHR) in 2004, in particular the obligation to search for, locate and return the mortal remains of Marco Antonio.⁹ Marco Antonio was 14 years old when he was abducted by the army from his home in Guatemala City on December 6, 1981. Shortly before his disappearance, his sister Emma Guadalupe was arrested and held in illegal custody for nine days. Emma suffered multiple rapes, was interrogated, and tortured until she managed to escape from the Manuel Lisandro Barillas military base (Quetzaltenango). The forced disappearance of Marco Antonio was a reprisal for Emma's escape and for the family's political activity.¹⁰

The sentence from the High Risk Court set an important precedent by bringing the case of a disappeared minor to trial for the first time. Of the 45,000 disappearances documented by the Historical Clarification Commission (CEH), approximately 5,000 were children. In addition, it was also the first case in which the crime of aggravated rape achieved a condemnatory sentence. In other cases, such as that of Sepur Zarco and the Achí Women, and even in the case of genocide, sexual violence was prosecuted as a crime against humanity.¹¹

Way cleared for NGO law

The Constitutional Court (CC) revoked all the injunctions filed last year against the Congress and the President of the Republic relating to the approval of reforms to the Non-Governmental Organizations Law. The Court's decision also revokes the provisional injunction granted in March 2020, which suspended the application of the law.¹² The injunctions had been filed in February 2020 by several organizations, due to the threat the law represents to the exercise of rights such as freedom of expression, association and citizen participation.¹³

The decision was unanimous, the judges argued that the injunction is not an appropriate way for questioning the non-conformities with the constitution alleged by the petitioners and the fact that the President has sanctioned a law does not mean it is an imminent threat.¹⁴ With this resolution, the CC clears the way for the law's entry into force.¹⁵

Among its provisions, the law establishes that if any NGO uses the funds it received from donors for activities which "disturb the public order", the organisation will be immediately cancelled and the directors of the entity will be subject to criminal consequences.¹⁶ The law does not specify what activities are considered a "disturbance to public order." More than 200 social organizations in Guatemala have called for a halt to the reform in a communiqué, saying it grants the Executive "almost absolute power to decide who can and cannot express themselves and organize."¹⁷

⁸ Canda, M., [Caso Molina Theissen y una deuda pendiente en Guatemala](#), Prensa Latina, 23.05.2021.

⁹ Efe, [Familia de niño desaparecido por el Ejército de Guatemala exige sus restos](#), Swiss Info, 25.05.2021.

¹⁰ CEJIL, [Molina Theissen](#), 14.02.2020.

¹¹ Pérez, R., [Tres años de la sentencia del Caso Molina Theissen: encontrar a Marco Antonio es una deuda pendiente](#), Prensa Comunitaria, 20.05.2021.

¹² Boche, E., [La CC da vía libre a la Ley de Oenegés](#), El Periódico, 13.05.2021.

¹³ Pérez, R., [CC da vía libre para que entre en vigencia Ley de ONG que restringe labor de organizaciones](#), Prensa Comunitaria 12.05.2021.

¹⁴ La Hora, [CC revoca amparo que detuvo reformas a Ley de ONG's](#), 12.05.2021.

¹⁵ Boche, E., Op. Cit.

¹⁶ La Hora, 12.05.2021, Op. Cit.

¹⁷ Deutsch Welle, [Guatemala: más de 200 organizaciones exigen detener polémica ley de ONG](#), 14.05.2021.

More than 800 people demand freedom for the SAT's ex-director and ex-CICIG analyst

The Prosecution of Electoral Crimes Office of the MP requested the arrest of 15 people for electoral crimes, including the former head of the Superintendence of Tax Administration (SAT), Juan Francisco Foppa, and a former analyst from the International Commission against Impunity in Guatemala (CICIG), Aníbal Argüello Mayen. Both are accused of ideological fraud, illicit association and conspiracy.¹⁸ According to the head of the Prosecutor's Office against Electoral Crimes, Rafael Curruchiche, the alleged act of forgery was committed on March 1, 2020, with an individual deceased as of 2018 found among the signatories.¹⁹

In a video shared on social networks, Foppa denounced that he was detained by two private vehicles, one of them without license plates.²⁰ The other detainee, Aníbal Mayen, had been responsible for conducting the criminal analysis of the La Línea case that identified former President Otto Pérez Molina and former Vice President Roxana Baldetti as leaders of a criminal structure. Mayen will be a witness in the trial of this case, which will begin in 2022.²¹

In an open letter to the government and the Attorney General's Office of Guatemala, more than 800 academics, activists, students, and individuals from 20 different countries demanded the immediate release of Foppa, Mayen and others they consider political prisoners. The letter also calls for the cessation of "actions of revenge, harassment, intimidation and persecution against human rights defenders and social activists."²²

PDH is in danger for failure to transfer vital funds

The Human Rights Ombudsman (PDH), Jordán Rodas Andrade, published a statement in which he warns that the failure of the Congress of the Republic to transfer the funds approved in the National General Budget will result in the collapse of the institution within the next three months. The Ombudsman accused Congress of systematically hindering the transfer of funds approved since 2019, even disobeying the decisions of the CC, and described the delay in the transfer of funds as "illegal and malicious."²³ He also stressed that the financial asphyxiation of the institution, which has an accumulated deficit of Q40 million, will prevent the fulfillment of its constitutional mandate, since the institution can only cover salaries, basic services and leases until August. For Rodas, the lack of budget is a violation of citizens' rights, which also prevents the expansion of the PDH's presence in parts of the country where there is conflict over land or extractive projects.²⁴ For this reason, Rodas urges the congressmen to transfer the resources corresponding to the 2020 and 2021 periods as soon as possible.²⁵

¹⁸ Solis, N. [Juan Francisco Foppa y exanalista de CICIG fueron arrestados](#), FGER, 19.05.2021.

¹⁹ Pitán, E. y Barrientos, M. [Juan Francisco Solórzano Foppa es aprehendido por investigación en caso Política y Falsedad](#), Prensa Libre, 19.05.2021.

²⁰ Solis, N. Op. Cit.

²¹ Arana, L. [Curruchiche logra su cometido y suspenden audiencia a Solórzano Foppa y Argüello Mayen](#), La Hora, 27.05.2021.

²² Pérez, S. [Guatemala: piden libertad para opositores detenidos](#), Associated Press, 27.05.2021.

²³ Procurador de los Derechos Humanos, [71/21 El Procurador de los Derechos Humanos, Jordán Rodas Andrade, advierte que el incumplimiento del Congreso de la República en el traslado de los recursos aprobados en el Presupuesto General de la Nación hará colapsar a la Institución en los próximos tres meses](#), 06.05.2021.

²⁴ López, K., Jordan Rodas: ["Es indignante mendigar dinero para los derechos humanos"](#), La Cuerda, 11.05.2021.

²⁵ Vásquez, J., [PDH colapsaría el próximo trimestre por demora en transferencias desde el Congreso](#), La Hora, 06.05.2021.

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 defense of territory.²⁶

THE FIGHT AGAINST IMPUNITY

In the context of the judicial process against the criminalized and imprisoned human rights defender, Bernardo Caal Xol, this month we accompanied the lawyers from the **Human Rights Law Firm (BDH)** to the recusal hearing brought against four judges from the Criminal Chamber by the company Netzone, S.A., a contractor of the hydroelectric company OXEC S.A. This recusal was identified as a strategy to delay the process and the Supreme Court of Justice (CSJ) rejected it. The process continues its course towards a sentencing hearing before the Court, where Bernardo's lawyers will argue the reasons why a review of the entire criminal process is justified.



Although we continue to communicate with the **Association of Neighbors of Chicoyogüito, Alta Verapaz (AVEHAV)** and the **Association of Residents Against Corruption in Patzicía (AVCCP)**, there are no new developments to report this month.

THE ISSUE OF ACCESS TO LAND

Concern continues over the increase in threats and defamations against Lesbia Artola and Imelda Tuyul, coordinators of the **Community Council of the Highlands (CCDA) - Las Verapaces Region**. This month, both have experienced surveillance and intimidation, at their homes and office. These events occurred in parallel with the organization's filing of complaints to the Public Prosecutor's Office in Guatemala City regarding the increase in security incidents in the communities of San Lucas Semox and Sepalau (Alta Verapaz). We have been monitoring compliance with the perimeter protection measures which the two coordinators have been assigned.

The criminalized and imprisoned defenders Marcelino Xol Cucul and Jorge Coc, also members of CCDA, have received notification that the CSJ is processing the sentencing appeal filed by their lawyer and defense attorney. The public hearing is scheduled for December 6, 2021.

As part of our accompaniment of the **Union of Peasant Organizations (UVOC)**, we monitored closely followed the security situation in several communities whom the organization accompanies, especially the community of 12 Quej de Mapola, municipality of Tukurú, where armed attacks were perpetrated against people who were working in their cornfields. UVOC shared with us their great concern over the increase in violent attacks in the communities, which they blame on the closure of spaces for the resolution of conflicts related to access and use of land.

We continue to follow up on the multilateral meetings being held by the organization, such as the joint visit of UVOC and the PDH to the Archdiocese of Guatemala. The objective of these meetings is to promote dialogue with various actors involved in resolving the agrarian conflict in Alta and Baja Verapaz.

DEFENSE OF THE TERRITORY

This month we met with members of the **New Day Chorti Campesino Central Coordinator (CCND)** at their headquarters in Camotán. During the visit they shared the situation of the communities with us, and their principal concerns related to the impacts of extractive projects in the region, especially the increase in illegal logging. The situation of threats, intimidation, surveillance, and discrimination towards indigenous authorities has not ceased. The communities highlighted the deterioration of the security situation and an increase in social exclusion as a result of the pandemic.

²⁶ See our website for general information on organizations and individuals we accompany: <https://pbi-guatemala.org/en/groups-and-individuals-currently-accompanied-pbi>

On Friday, May 21, we visited the **Peaceful Resistance, La Puya**, accompanying the symbolic act of protesting the entry of machinery to the Progreso VII Derivada project, belonging to the Exploraciones Mineras de Guatemala EXMINGUA S.A. company. Although this act does not mean the activities of this project have restarted, as the license remains suspended, the resistance expressed its rejection of the excessive presence of PNC and reiterated its position of peaceful defense of the territory, life and natural resources.

Regarding the **Peaceful Resistance, Cahabón**, we were present at the CSJ on May 7, for the recusal hearing against the judges in charge of hearing the sentencing appeal for the criminalized and imprisoned defender Bernardo Caal Xol. The hearing was suspended and rescheduled for May 11 (see information at the beginning of this section on accompaniment to the BDH).

After a series of security incidents and intimidations, we monitored closely the security situation of each member of the **TZ’KAT - Network of Ancestral Healers from Community Feminism**. On May 27, we accompanied them to the intermediate phase of a hearing held in Cobán (Alta Verapaz) of the pastor and human rights defender, Delia Leal. The judge decided to suspend the human rights defender's house arrest and gave the MP two more months to continue the investigation against her.

On May 16 we accompanied **Chinautla Multisector** during the assembly for the election of the Community Councils for Urban and Rural Development (COCODE). We also took advantage of the visit to update ourselves on the main activities of the organization in its work to defend the territory against the presence of sand extraction companies.

Regarding our accompaniment of the **Retalhuleu Community Council (CCR)**, this month it is worth highlighting the visit made by PDH staff during the final week in May to the communities most affected by the lack of drinking water, caused by the agricultural techniques used by the sugar plantations.

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.

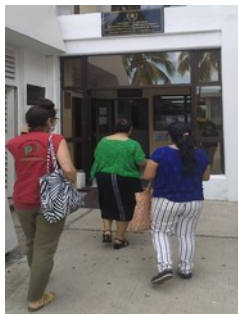
As part of our dialogue with the diplomatic corps we met with:

- Sarahann Yeh, Human Rights Officer from the **U.S. Embassy**.
- Ambassador Vera Cíntia Álvarez and Lourdes Mérida, cooperation specialist from the **Brazilian Embassy**.
- Ambassador Paolo de Nicolo from the **Italian Embassy**.
- Ambassador Hans Magnusson from the **Sweedish Embassy**.
- Carolien Van Emden, second secretary from the **Dutch Embassy in Costa Rica**.
- Mateo Barney and Monica Izaguirre, political officers from the **Canadian Embassy**.
- Léa Vinel, Ministerial Counselor, and Maud Aba'a, Cooperation Attaché from the **French Embassy**.
- Michael Grewe, Head of Cooperation, and Diana Stelzer, Cooperation Advisor from the **German Embassy**.

At the national, departmental, and municipal levels, we met with the following institutions and authorities:

- Constantino Alvarado, commission from the departmental **PNC Departamental Chiquimula**.
- Romeo Rember Umberto Arroyo, sub-inspector from the **PNC of Jocotán, Chiquimula**.
- Patty González, personal assistant to the **Mayor's office, Jocotán, Chiquimula**.
- José Guillermo, deputy of the **PNC station, Camotán, Chiquimula**.
- Joselyn España, director of the Woman's office in the **municipality of Camotán, Chiquimula**.

4. OTHER ACTIVITIES OF PBI GUATEMALA



This month we accompanied **journalist and human rights defender Norma Sancir** to the intermediate phase hearing against three agents and one former PNC commissioner, accused of abuse of authority relating to the illegal detention of Norma on September 18, 2014, while she was covering a mobilization of the Ch'orti' people in Camotán, Chiquimula. The court of First Criminal Instance, Narcoactivity and Crimes against the Environment in Chiquimula, suspended the hearing due to an appeal of recusal against the judge on duty, Juan José Regalado, filed by the journalist's defense. The hearing was rescheduled for June 7.

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.

The European Representative held meetings with:

- Malin Lampio, responsible for the EU Council Working Group on Latin America COLAC, from the **Permanent Representation of Sweden.**
- Rafael Reig, responsible for COLAC and the EU Council Working Group on Human Rights COHOM, from the **Permanent Representation of Spain.**
- Caoimhe Fleming Farrel, responsible for COLAC of the **Permanent Representation of Ireland.**

6. CAPACITY BUILDING

This month we organized the following virtual activities aimed at strengthening the protection and security capacities of human rights defenders:

- The first **two** sessions out of a total of three **advocacy workshops**, facilitated by Juliana Edith Turqui, were held on May 21 and 11. The first workshop addressed theoretical concepts and methodological tools; and the second workshop worked on the application of these concepts and tools through case studies. In addition, the importance of advocacy with a differentiated gender approach which includes the specific challenges faced by women defenders was discussed in depth.
- On May 28, the **second session from a series of six Meetings of Women Human Rights Defenders at Risk**, planned for 2021, was held. These meetings are facilitated by the TZ'KAT - Network of Ancestral Healers from Community Feminism. On this occasion, they addressed the importance of physical and spiritual protection as key strategic elements for the protection of women human rights defenders.

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.



Demandamos a Guatemala justicia y verdad en cumplimiento de la sentencia de la Corte IDH en el caso Diario Militar

La comparecencia de 11 implicados en el caso en audiencia, este 1 de junio, es una oportunidad para avanzar en la justicia para las víctimas y en el esclarecimiento de las estructuras de violencia que operaron desde el Estado durante el conflicto armado.

Ciudad de Guatemala y San José Costa Rica, 28 de mayo de 2021

Hace 22 años fue develado en Guatemala el documento llamado “Diario Militar”, en el que se registran 183 personas detenidas-desaparecidas por el Estado entre 1983 y 1985, durante el gobierno de facto del militar Oscar Humberto Mejía Victores. Durante todo este tiempo, familiares de víctimas señaladas en este documento de inteligencia militar, cuya autenticidad fue reconocida por el propio Estado, han buscado justicia y han trabajado por conocer el paradero de sus seres queridos y la verdad de lo sucedido.

Estos hechos fueron juzgados internacionalmente en 2012, cuando la Corte Interamericana de Derechos Humanos (Corte IDH) emitió Sentencia en el caso Gudiel Álvarez y otros (“Diario Militar”) Vs. Guatemala y condenó al Estado por la desaparición forzada, ejecución extrajudicial y tortura de víctimas incluidas en el también llamado “Dossier de la Muerte”. Como reparación, el máximo tribunal de derechos humanos de la región ordenó a Guatemala investigar, determinar la verdad de lo sucedido, enjuiciar y sancionar a los responsables. Sin embargo, hasta el día de hoy el caso permanece en absoluta impunidad.

El 27 de mayo de 2021, gracias a la persistencia de las familias aunada a las investigaciones de la Unidad de Esclarecimiento Histórico de la Fiscalía de Derechos Humanos del Ministerio Público, lograron con orden judicial la detención de 11 personas implicadas en el caso, entre ellas 10 miembros del Ejército en la época, quienes serán escuchadas por el juez Miguel Ángel Gálvez en una audiencia de primera declaración el martes 1 de junio de este año.

Ante este hecho, las organizaciones, víctimas y familiares que integramos la Mesa de Supervisión de Cumplimiento de Sentencias de la Corte IDH contra Guatemala, nos congratulamos con la ejecución de las órdenes de captura por la Fiscalía de Derechos Humanos al ser consistentes con lo dispuesto en la sentencia en cuestión y nuestros derechos a verdad y la justicia. Llamamos a que, en el marco del debido proceso, se deduzcan las responsabilidades penales correspondientes y se castiguen ejemplarmente tan graves crímenes que constituyen una ofensa a la humanidad entera.

Reafirmamos que con estas acciones se contribuye a la memoria, verdad y justicia de lo sucedido durante el Conflicto Armado Interno y se posibilita garantizar la no repetición de los hechos. Así, solicitamos al Estado de Guatemala velar por que el proceso se desarrolle con todas las garantías constitucionales de acceso a la justicia, la seguridad de las/los familiares de las víctimas y con el más absoluto respeto a la independencia de las personas funcionarias de justicia que participan en él.

A la sociedad guatemalteca y la comunidad internacional les pedimos su atenta observación a los acontecimientos presentes y futuros en el marco de la causa iniciada, así como su acompañamiento solidario a los familiares y sobrevivientes en esta demanda de justicia, ya que con este caso se evidencia nuevamente el funcionamiento de las estructuras del Estado de Guatemala en la época del conflicto armado para operar y consumir las desapariciones forzadas en el país.

Integrantes de la Mesa de Supervisión de Cumplimiento:

Asociación de Familiares de Detenidos y Desaparecidos de Guatemala (FAMDEGUA)

Asociación para el Desarrollo Integral de las Víctimas de la Violencia en la Verapaces Maya Achi (ADIVIMA)

Bufete Jurídico de Derechos Humanos (BJDH)

Centro Para la Acción Legal en Derechos Humanos (CALDH)

Centro por la Justicia y el Derecho Internacional (CEJIL)

Familia Molina Theissen

Fundación Myrna Mack

Instituto de Estudios Comparados en Ciencias Penales de Guatemala (ICCPG)

Pedro Chitay (Caso Chitay Nech)

Unidad de Protección a Defensoras y Defensores de Derechos Humanos - Guatemala (UDEFEUGUA)

Red de la No Violencia contra las Mujeres (REDNOVI)

Representantes en el caso Gudiel Álvarez y otros (Diario Militar)

La Mesa de Supervisión de Cumplimiento de Sentencias de la Corte Interamericana de Derechos Humanos contra el Estado de Guatemala está conformada por personas y organizaciones de la sociedad civil que representan a víctimas de violaciones a derechos humanos ante la Corte IDH, con el objeto de impulsar conjuntamente el cumplimiento de las medidas ordenadas por el tribunal interamericano al Estado de Guatemala.

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**GUATEMALA PROJECT
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