



PEACE BRIGADES INTERNATIONAL  
GUATEMALA PROJECT

**making space for peace**



Bulletin No.

**45**

# The closure of the peace institutions

# Concerns about

the close of Peace Accords Institutions

Arising from Guatemala's Internal Armed Conflict (IAC) several institutions were created with the aim of "overcoming the causes of the armed confrontation and laying the foundations for a new development." This arose from the process of drafting the Peace Accords, following their signing and as a result of the indispensable work of civil society, and were meant to constitute "a historic and unrenounceable commitment (...) for present and future generations.

" Nevertheless, more than 20 years later, the government of Alejandro Giammattei repealed the governmental agreements which had created the Secretariat for Peace (SEPAZ), the

National Reparations Program (PNR), the Secretariat for Agrarian Affairs (SAA) and the Presidential Commission for the Coordination of the Executive's Human Rights Policy (COPREDEH)

on July 30, 2020. According to the current government, the functions of these institutions will be assumed by the recently created Presidential Commission for Peace and Human Rights (COPADEH), with the purpose of "unifying and promoting peace and respect for human rights."<sup>1</sup> Reactions were not long in coming. Several civil society organizations and the Human Rights Ombudsman (PDH) filed appeals of unconstitutionality before the Constitutional Court (CC), which were admitted and are still pending resolution.

The process of shutting down these institutions has had an impact on many



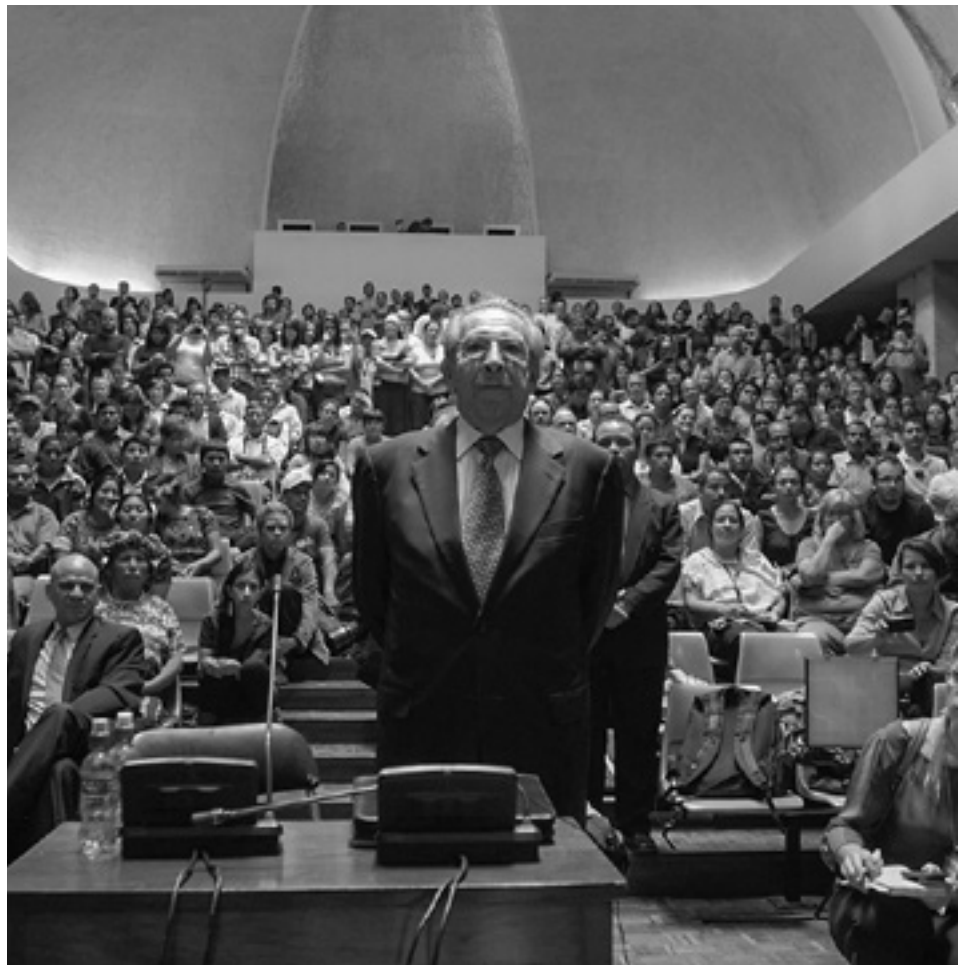
All photos – unless otherwise stated – were taken during the March for the Dignification of the Victims of the IAC, Guatemala, 25 de febrero 2021.

<sup>1</sup> Gonzalez, L., *Gobierno crea la Comisión de Paz y Derechos Humanos*, República.gt, 30.07.2020. In October, Hugo Casasola Roldán was appointed Director of COPADEH. He is a former militant of the ultra right party Movimiento de Liberación Nacional (MLN) and identified as close to military groups and with no experiences in human rights. Together with other military veterans, he was one of the founders of the former president Jimmy Morales political party, FCN-Nación, and sub-secretary of peace in his government. (En: Montepéque, F., *El cuestionado historial del Comisionado por la Paz de Giammattei*, el Periódico, 29.12.2020)

survivors organizations from the IAC, the indigenous and campesino populations, human rights organizations, etc. These institutions were meant to serve as tools for confronting and overcoming the structural causes which have kept the vast majority of the indigenous population in poverty for centuries and without access to basic rights such as health, education and work. At the root of this situation are historical causes of the IAC: racism, inequality and exclusion.<sup>2</sup> The United Nations Development Program (UNDP), in its 2015/16 report, highlight that this situation remains the reality for many:

“By the deadline for meeting the Millennium Development Goals in 2015, most of the targets were not met. Guatemala is the only country in Latin America which failed to reduce income poverty during that period. Poverty and inequality particularly impact rural populations, indigenous peoples and women, who survive with high rates of multidimensional poverty, without access to basic sanitation services, education, productive resources or sources of decent employment. In some of the baseline indicators, deprivation in rural populations and indigenous peoples reached 90% of the population, who are unable to meet their basic economic needs, including more than 40% of the adult population who are without schooling.”<sup>3</sup>

Another objective of the peace institutions was to facilitate the path to justice for the crimes against humanity committed during the IAC<sup>4</sup> by the Guatemalan State against the civilian population, the vast majority of whom were indigenous. Great steps have been taken in this direction. The most significant example is the fact that in 2013 and 2018, two different courts



Ex-president Ríos Montt accused of Genocidio and other crimes against humanity for the violence executed against the Ixil people during his government 1982-82. May 10th of 2013, the High Risk Tribunal A declared Ríos Montt guilty; 10 days later, the sentence were suspended by the Constitutional Court. Photo courtesy of Sandra Sebastián/Plaza Pública

concluded that the State committed genocide against the Ixil population during the military government of Efraín Ríos Montt (1982/83). This is an unprecedented historical milestone which makes Guatemala the only country in the world where a national court has emitted a ruling on genocide. Nevertheless, considering the magnitude of the extreme violence suffered by the population during the IAC,<sup>5</sup> this is an unfinished process. The court cases filed and the sentences achieved have

only made a small part of all the horror experienced visible.

None of these achievements, both in terms of transitional justice and in the recovery of indigenous territories, would have been possible without the hard work, patience and persistence of the survivors and victims, who are mostly indigenous and campesinos, and who have not ceased the pursuit of their right to truth, justice, reparation and non-repetition. However, the Inter-American

2 Comisión para el Esclarecimiento Histórico (CEH), *Guatemala, Memoria del Silencio, Tomo V, Conclusiones y Recomendaciones*. Guatemala, junio de 1999. p. 81.

3 PNUD, *Más allá del conflicto, luchas por el bienestar: Informe Nacional de Desarrollo Humano 2015/2016*. Resumen Ejecutivo, 2016.

4 According to the CEH report, 83% of the victims of human rights violations during the IAC were Mayan and 93% of the crimes committed against the population were perpetrated by state and paramilitary forces.

5 According to the CEH report: 200,000 people were killed; 45,000, including 5,000 children, were disappeared; state forces committed 626 massacres. The report estimates that between 1981 and 1983 alone, between 500,000 and one and a half million people were internally and externally displaced.





Court of Human Rights (IACHR), through several judgments as well as the supervision they have carried out to ensure compliance, has highlighted the failure of the State of Guatemala to comply with its resolutions regarding justice and reparations for the victims.<sup>6</sup>

Peace Brigades International have engaged with COPREDEH and SEPAZ as frequent interlocutors since we reopened our office in Guatemala in 2003. We have spent many hours waiting outside the departmental offices of the SAA, while the organizations we accompany attended

meetings, demonstrating our presence, and by extension the interest of the international community in accompanying these processes and ensuring the security of those we accompany.

The closure of the Peace institutions has taken place amidst a political context where the channels for dialogue between state institutions<sup>7</sup> and civil society are practically broken and where organizations deeply distrust state institutions due to previous negative experiences.<sup>8</sup> The decision to close these institutions was taken without consulting civil society or interested organizations. Victims' and survivors' organizations are especially concerned about the lack of transparency with which the documents pertaining these institutions are being handled. The processes relating to access to land which campesino organizations were engaged in with the SAA have been stalled and there is no information on how they will continue.

PBI shares this deep concern over the impact which the closure of these institutions is having on the Guatemalan State's commitment to the Peace Accords. As such, we have decided to produce this thematic bulletin focused on the closure of COPREDEH, SEPAZ, PNR and SAA. Throughout the bulletin we will delve deeper into the subject, including assessments from individuals and organizations we accompany, human rights activists and analysts. We will review the evolution of these institutions and evaluate their performance and their closure, as well as the creation of COPADEH. With this publication we hope to contribute to further reflection what the decisions by Giammattei government's might mean and the implications for the political and social future of the country.

<sup>6</sup> See the IACHR ruling *Supervisión de cumplimiento de 12 Casos Guatemaltecos* (24.11.2015), en la cual the Court argues several shortcomings in the execution of the judgments of the 12 cases (p. 15).

<sup>7</sup> With the exception of the PDH.

<sup>8</sup> For example, there has been an increase in the identification and detention of community leaders at roundtables for dialogue with state entities whose supposed objective is to resolve agrarian conflicts. This has led resistances, organizations and other collectives to decide not to participate in these roundtables, as they have become high-risk spaces. On too many occasions they have been used to identify community leaders and from there initiate criminalization processes against them. See: UDEFEGUA, *Informe sobre situación de personas, comunidades y organizaciones defensoras de derechos humanos* 2018, Guatemala, junio 2019, p.17.

# The process for dignifying victims and survivors at risk:

the close of SEPAZ and transfer of PNR

“Justice, so one day our fields will flower once more.”<sup>1</sup>

The Secretariat for Peace (SEPAZ) was created in 1997, with the objective of ensuring that government agencies and projects were in line with the fulfillment of its commitments outlined in the Peace Accords which had been signed a few months previously.<sup>2</sup> Of its four related agencies,<sup>3</sup> this article will focus particularly on the National Reparations Program (PNR).

The National Reconciliation Law stipulated that SEPAZ would comply with the “humanitarian duty to assist the victims of human rights violations from the internal armed conflict”

through institutional programs of a civil and socio-economic nature. These reparations would prioritize the most vulnerable survivors and relatives of victims.<sup>4</sup> This legislation dictated that SEPAZ should base its reparations programs on the recommendations made by the Commission for Historical Clarification (CEH) under the principles of truth, justice and reparation.<sup>5</sup>

## Cronicle of a death foretold: The disappearance of SEPAZ

As Azarías Perencén, Secretary General of the former SEPAZ Workers Union

(SITRASEPAZ) explains, “the themes set out by the Peace Accords are profound. We were working with the Follow-up and Monitoring Commission at the time and we had to spend years studying the Accords to understand their essence and develop our work. When personnel were hired through clientelist practices, however, that was no longer the case.”<sup>6</sup> This union filed one of the first preventive injunctions against the termination of SEPAZ and the PNR on April 28, 2020. The principal grievance was the change in their working conditions with 260 dismissals during the Covid-19 pandemic. It is about “the right to work but also about institutionality. Many of us are not just workers, we come from the student movement, from the defense of human rights,” explains Perencén. The organizations of victims and survivors of the Internal Armed Conflict (IAC), have denounced that these actions are part of a strategy initiated by the governments of Otto Pérez Molina (2012-2015) and Jimmy Morales (2016-2020) to weaken these institutions and thus justify their subsequent closure under the current government of Alejandro Giammattei in July 2020.

The closure of SEPAZ has in turn meant the closure and dismantling of its four constituent bodies, with the closure of the PNR causing particular concern among organizations of family members, survivors and human rights defenders. According to Jordán Rodas, Human Rights Ombudsman (PDH), “the dismantling of the institutional framework



Rosalina Tuyuc, Feliciano Macario (both CONAVIGUA) and Jordán Rodas (PDH)

<sup>1</sup> Words spoken by Rosalina Tuyuc during the march for the National Day for the Dignification of the Victims of the IAC, Guatemala, 25.02.2021.

<sup>2</sup> Article 2 of the SEPAZ Law (1997).

<sup>3</sup> In addition to the PNR, the other agencies are: the National Council for the Fulfillment of the Peace Agreements (CNAP), the National Women's Forum (FNM) and the Commission for the Definition of Sacred Sites (COLUSAG).

<sup>4</sup> Article 9 of the National Reconciliation Law, Guatemala, 1996.

<sup>5</sup> Comisión para el Esclarecimiento Histórico (CEH), *Guatemala Memoria del Silencio*, Guatemala 1999.

<sup>6</sup> Interview with Azarías Perencén, Guatemala, 25.02.2021.

for peace impacts reparations, which is why the victims' struggle must continue," since this closure means not only "trampling on the memory of the victims' lives, but also trampling on the dignity of the survivors."<sup>7</sup>

### The decline of the PNR: Dignifying victims and survivors at risk

The government announced on July 31, 2020, that the PNR, responsible for repairing the damages caused to the victims of the human rights violations during the IAC, would be administered by the Ministry of Social Development (MIDES).<sup>8</sup> According to the victims' collectives, this distorts the concept of the reparations which inspired the Peace Accords and their focus redress for a firm and lasting peace.<sup>9</sup> "The character and spirit of this program is the dignification of the victims," says Feliciano Macario, member of the Board of Directors and in charge of the Justice in Transition program of the National Coordinator of Widows of Guatemala (CONAVIGUA),<sup>10</sup> which is part of the National Platform of IAC Victims' Organizations. According to the PDH, the weakening of the institution, which had already begun within the PNR, added to the fragility of its legal basis, and is largely what allowed for this transfer, since "the main problem of independence at the PNR lies in the fact that the legal basis of the Program is a governmental agreement, which places it within the purview of governmental actions rather than State actions."<sup>11</sup> This transfer "is the icing on



the cake", says Azarías Perencén, since it implies a complete dissociation "from the restorative and dignifying spirit of the Program."

Of particular concern is the preservation of the PNR's archives. Personnel from the PNR's regional offices stopped receiving their salaries and their contracts were subsequently canceled during the pandemic. More than 85,000 files on cases of torture, forced displacement,

kidnapping and extrajudicial execution were transferred.<sup>12</sup> For Feliciano Macario, "the files are not just any old documents, they contain the emotions of the relatives and victims. Their testimonies are sacred and we are concerned that they could be lost."

In this sense, CONAVIGUA believes the fact that there is "no guarantee that the victims will be taken care of in 2021" to be very serious. Of particular concern are the women survivors of sexual violence perpetrated during the IAC, because in these cases, as Macario points out, it was very difficult for the women to speak out: "they took risks, when they spoke about their cases some had to separate from their husbands, others lost their families," which once again implies the re-victimization of the survivors and the abandonment of responsibilities on the part of the institutions. In this sense, Rosalina Tuyuc, founder of CONAVIGUA and president of the National Reparations Commission between 2004 and 2008, highlights how, throughout her life she has felt that women are always asked to forgive what happened, even the genocide; they have been repeatedly told that the justice process depends on them, on them accepting amnesty "for those who inflicted death on our families." However, Tuyuc affirms that they will continue to search for their dead and demand the truth, "the word forgiveness continues to be very far from our reality."<sup>13</sup>

7 Words spoken publicly by Jordán Rodas during the march for the National Day for the Dignification of the Victims of the CAI in Guatemala. Guatemala, 25.02.2021.

8 Rivera, N., *¿En dónde están los expedientes de miles de víctimas de la guerra?*, Prensa Comunitaria, 03.12.2020.

9 'Global Agreement on Human Rights' section VIII, paragraph 1 (1994).

10 Interview with Feliciano Macario, 25.02.2021.

11 PDH, *Informe del Procurador de Derechos Humanos: Aspectos Sustantivos de la política de reparaciones ejecutada por el Programa Nacional de Resarcimiento en Guatemala*, (2006).

12 Solano, F., *Borrar la historia: el gobierno traslada archivos de la PNR de forma secreta*, La Cuerda, 17.12.2020.

13 UN interview with Rosalina Tuyuc, *Desde mi perspectiva: "El perdón continúa estando muy lejos de nuestra realidad"*, 19.10.2020.



# Huge Challenges

on the Road Towards Peace



Photo courtesy of Sandra Sebastián/Plaza Pública

Those who signed the Peace Accords committed to the three basic pillars which sustain them: truth, justice and reparation for the damages caused to the population during the Internal Armed Conflict (IAC); and thus guaranteeing the non-repetition. Throughout this article we will take a look at some of the major challenges on the road to achieving peace.

Victims' organizations and survivors of the IAC have denounced the lack of recognition of the violence which occurred during the conflict and the failure to widely disseminate the report from Commission for Historical Clarification (CEH), Guatemala Memory of Silence, which was presented in 1999. Impunity Watch highlights how successive Guatemalan governments

have not promoted the dissemination of the report, which contradicts the principles which inspired the creation of the Commission, and laid out in the framework text of the Peace Accords. The report should have been used as a fundamental historical and social tool "to preserve the memory of the country's tragic past. It is important that the victims, the new generations and

the population in general know the truth of the events which occurred during the armed confrontation as a means of dignifying the victims and ensuring that these terrible events are not repeated."<sup>1</sup>

Human rights organizations have repeatedly questioned the State's unwillingness to recognize and address the structural causes of the IAC, calling on the state to assume these responsibilities as well as responsibility for the crimes committed during this violent period in the country's history. Raúl Nájera shares the following collective reflection from H.I.J.O.S. Guatemala (Sons and Daughters for Identity and Justice against Oblivion and

1 Impunity Watch, *Reconociendo el pasado: desafíos para combatir la impunidad en Guatemala*, 2008.

Another necessity for achieving peace and for the recovery of historical memory is the creation of and opening of access to historical archives. The government of Álvaro Colom (2008-12) was the only government, to date, which initiated a process in this regard through the creation of the **Directorate of Peace Archives (DAP)**<sup>a</sup> within the Secretariat for Peace (SEPAZ). This was responsible for receiving, analyzing, compiling and digitizing the contents of military archives related to human rights violations. However, the Ministry of Defense prevented access to these archives, denying their existence and access based on arguments of national security.

During its four years of existence, the DAP collaborated with several civil society organizations to produce a series of reports with the purpose of creating sources of information which would contribute to clarifying and reconstructing memory:

“La autenticidad del Diario Militar a la Luz del Archivo Histórico de la Policía Nacional” (The Authenticity of

the Death Squad Dossier in the Light of the Discovery of the Historical Archive of the National Police).

“Las adopciones y los derechos humanos de la niñez guatemalteca, 1977-1989” (Adoptions and the Human Rights of Guatemalan Children, 1977-1989).

“El Plan de Operaciones Sofía, aplicación del Plan de Campaña Victoria 82. Informe Preliminar” (“Operation Plan Sofia,” and the application of “The Victory Campaign Plan 82”, Preliminary Report)

“Niñez Desaparecida en Guatemala, como parte de la estrategia de la guerra. Búsqueda, casos y efectos” (Disappeared children in Guatemala, as a strategy of war. Searches, cases and effects)

“El Diario Militar, a la luz de los documentos históricos de la Policía Nacional. Segunda edición” (The Death Squad Dossier, in the light of the Historical Archive of the National Police. Second edition).

“Dignidad a pesar de lo vivido” (Dignity in spite of the suffering)

“El Estado Mayor Presidencial en Guatemala: una aproximación” (The Presidential General Staff in Guatemala: an approach).

“El movimiento sindical lucha, represión y reactivación. 1974-1983” (The union movement struggle, repression and reactivation. 1974-1983)

DAP personnel contributed to the search for justice by serving as expert witnesses in several legal cases against personnel from the armed forces accused of serious human rights violations.

The government which succeeded Alvaro Colom, led by the retired General Otto Pérez Molina (2012-15), closed the DAP within five months. Antonio Arenales Forno, Secretary for Peace and Director of the Presidential Commission for the Coordination of Executive Policy on Human Rights (COPREDEH) at the time, justified the closure as follows: “Today the decision was made to eliminate the Directorate, canceling contracts for which I can find no justification and the function of a directorate whose existence makes no sense. (...) The function of digitizing and analyzing military archives to establish human rights violations (...) corresponds to the human rights community, and the investigation of crimes corresponds to the Public Prosecutor’s Office.”<sup>b</sup>



a For more information about DAP and its closure see: Fundación Myrna Mack, *Informe al relator de la ONU sobre la Dirección de los Archivos de Paz a la Luz de la Justicia Transicional*, 27.06.2012

b Díaz Zeceña, L., *Cierran Archivo de la Paz*, Prensa Libre, 31.05.2012





Exhumation organized by CONAVIGUA and carried out by FAFG in Chiché, Quiché, 25.09.2019

Silence): “since the signing of the Peace Accords, successive governments have responded in a similar way to the commitments made in the Accords, proposing mostly economic and material measures, but without a comprehensive approach to reparation [...]. What the PNR did was to focus on massive economic reparation measures, but with the passage of time these measures may have caused further detriment to the communities because rather than supporting their needs, they have often contributed to processes of division within the communities themselves and, as such, causing new problems.”<sup>2</sup>

Another obstacle on the road to truth, justice and reparations has been the State’s inaction in searching for the disappeared. In order to carry out this task, it is necessary to create a unified registry of data on disappearances, inform the relatives of all the progress

made and carry out exhumations of clandestine graves, which would allow for the location, identification and the return of the human remains to their relatives, so that they can close the cycle of mourning which has been open for decades: “the search for disappeared persons is a fundamental humanitarian measure to close the wounds of the victims’ relatives and clarify the past.”<sup>3</sup> Bill 3590, which would allow for the creation of the Commission to Search for Victims of Forced Disappearance and Other Forms of Disappearance, has been stalled in Congress since its presentation in January 2007.<sup>4</sup>

Exhumations began to be carried out in Guatemala in the early 1990s. The vast majority of these have been carried out by specialized civil society organizations, such as the Guatemalan Forensic Anthropology Foundation (FAFG), which has carried out some 1,700 exhumations,

and the Center for Forensic Analysis and Applied Sciences (CAFCA), which has carried out some 200 exhumations.<sup>5</sup> Since it was founded in 2006, the National Institute of Forensic Sciences of Guatemala (INACIF), has conducted 26 exhumations of victims from the IAC. These were carried out between September 2010 and May 2014.<sup>6</sup>

Exhumation processes imply a deep emotional and spiritual burden for survivors of violence and relatives of the disappeared. They reaffirm the historical memory of the survivors and represent the closure of a cycle of mourning that has been open for decades, as they are able to bury the remains of their loved ones and carry out the necessary family and community ceremonies. They also open the possibility of initiating legal proceedings against those who planned and perpetrated these acts of extreme violence.

<sup>2</sup> Interview with Raúl Nájera, 25.03.2021.

<sup>3</sup> Impunity Watch, Op. Cit.

<sup>4</sup> Quino, H., *Exigen ley para buscar a desaparecidos del Conflicto Armado Interno*, La Hora, 30.08.2018.

<sup>5</sup> See [www.fafg.gt](http://www.fafg.gt) y [www.cafca.gt](http://www.cafca.gt)

<sup>6</sup> Information provided by INACIF upon request for public information, 07.05.2021.

The incidents over the last few years at the Historical Archive of the National Police (AHPN) have also represented a hard blow to the right of access to information for the general public, the families of victims and human rights organizations. The existence of AHPN came to light in 2005, when personnel from the Human Rights Ombudsman's Office (PDH) discovered the papers at a National Civil Police (PNC) facility. The Archive is one of the largest of its kind in the world, containing more than 85 million documents dating from 1882 to 1997, which could be key evidence in multiple cases of human rights violations. Thanks to the work of human rights activists in safeguarding and caring for the archives, it was possible to set up police facilities and carry out professional archival work to recover the information and facilitate public access to these documents. During the time that the AHPN was in full operation, the team digitized documents from 1975 to 1985, the most bloody decade of the IAC. The recovered documents have provided fundamental evidence in several judicial processes that led to convictions for war crimes and crimes against humanity. The process to finish archiving and digitizing everything contained in the AHPN was interrupted during the administration of former President Jimmy Morales: the project staff were gradually dismissed, leaving only administrative staff since 2018. In May 2019,<sup>c</sup> it transpired that the rental contract for the PNC facilities – a dependency of the Ministry of the Interior (Mingob) – where the Archive was located, was terminated. The Human Rights



Installations of the AHPN in 2012

Ombudsman, Jordán Rodas, filed an injunction before the Supreme Court of Justice (CSJ) to protect and guarantee its operation. The Court granted the final injunction in March 2020, ordering the government to preserve, protect, guard, investigate and provide access to the Archive's documents, as well as to continue the archival intervention. Six months later

the Ministry of Culture and Sports published Ministerial Agreement 934-2020, which declared the AHPN Cultural Heritage of the Nation, arguing that it is a documentary heritage of high moral value for the historical memory of Guatemalan society.<sup>d</sup> The AHPN is considered to be of unique historical importance in Latin America.

c For more information see: PBI Guatemala, *Organizaciones expresan preocupación por el Archivo Histórico de la Policía Nacional*, [www.pbi-guatemala.org](http://www.pbi-guatemala.org), 31.05.2019

d Quiñonez, E., *Guatemala declara Patrimonio Cultural al archivo histórico de la Policía*, [Republica.gt](http://Republica.gt), 15.10.2020

# Close of COPREDEH

and strong concerns over the creation of COPADEH

The Presidential Commission for the Coordination of Executive Policy on Human Rights (COPREDEH) was created in 1991 within the context of the signing<sup>1</sup> of the first of the 12 Peace Accords drafted by the Government of the Republic of Guatemala and the Guatemalan National Revolutionary Unity (URNG).

The principal objective of COPREDEH was “to coordinate the actions of the Ministries and Institutions of the Executive Branch, to provide for the effective enforcement and protection of human rights and to guarantee the communication and cooperation of the President of the Republic with the Judicial Branch (OJ) and the Human Rights Ombudsman’s Office (PDH), in what corresponds to such rights.” It was composed of “a personal representative of the President of the Republic, the Ministers from Foreign Affairs, Interior, National Defense and the Attorney General of the Nation.” In addition to the main objective already mentioned, other functions included: centralizing information on complaints of human rights violations, promoting their investigation through the Ministry of the Interior (MinGob) and the Public Prosecutor’s Office (MP); “establishing a mechanism for the constant monitoring of investigations on human rights violations and the resulting judicial processes, in order to be able to provide information through the Ministry of Foreign Affairs, to the national community and international organizations as required”; proposing



bills or initiatives on human rights to the President aimed at improving respect for human rights; to establish, through the Ministry of Foreign Affairs, collaboration, information sharing and assistance with international organizations concerned with the protection of human rights.<sup>2</sup>

## Implementation

The life of COPREDEH was marked by varied levels of implementation and results, diverse attacks against the institution and significant operational challenges. According to Iduvina Hernández, political analyst, activist and human rights defender, COPREDEH enjoyed periods in which it was indeed “an institution which operated as part of the human rights framework and exercised its functions” but it also went

through moments in which “it moved away from this purpose and served the purpose of protecting the practices and interests of impunity.” These functional ups and downs can be attributed to its weak institutional basis as it was not “protected by a norm of legislative rank”, and as such was subject to the criteria of the government of the day, which also prevented it from developing an institutional and organizational culture. This was reflected in the fact that, for example, the implementation of precautionary measures issued by the Inter-American Human Rights System (IAHRS) were limited to policing only and, therefore, lacked the necessary development of a “comprehensive approach to the protection of human rights defenders.”<sup>3</sup>

1 The Framework Agreement on Democratization for the Search for Peace through Political Means (Querétaro Agreement) was signed on July 25, 1991.

2 Presidencia de la República, *COPREDEH, Acuerdo de creación y su modificaciones. Acuerdo Gubernativo 486-91*. Palacio Nacional: Guatemala, 12 de julio de 1991. Biblioteca Digital para la Administración Financiera.

3 Interview with Iduvina Hernández, 19.03.21. All quotes from I. Hernández that appear throughout this article were taken from this interview.





## Closure and decision to create COPADEH

On July 30, 2020, in the midst of the Covid-19 pandemic, and without any consultation with relevant civil society organizations, the administration of President Giammattei signed the governmental agreement declaring the closure of COPREDEH. This agreement

alleges that the regulations that created COPREDEH “do not currently comply with the vision for which it was created nor are they adapted to the needs of the Guatemalan population in terms of the promotion, respect for and advancement of human rights.”<sup>4</sup>

The Presidential Commission for Peace and Human Rights (COPADEH) was

created on the same day under the justification that “it is necessary for strengthening governmental institutions related to peace, human rights, dialogue and conflict resolution, since it is well known that its [COPREDEH] structure and functions no longer respond to the dynamics of the social reality, nor to the current policy of the Government of the Republic of Guatemala.”<sup>5</sup>

In the opinion of Sandino Asturias, General Coordinator of the Center for Guatemalan Studies (CEG), the government created COPADEH in an attempt to justify the closure of the Secretariat for Peace (SEPAZ), COPREDEH and the Secretariat for Agrarian Affairs (SAA), and thus “justify its actions to the international community.”<sup>6</sup> It is assumed that COPADEH will take over most of the functions of these three institutions, as stated in the Governing Agreement for its creation (100-2020). However, the little information available so far and the scant engagement with civil society, one year following its creation, has generated deep suspicion that this new institution will not assume all the responsibilities of those that were closed.<sup>7</sup> This inaction represents a threat to the fulfillment of many human rights commitments.

In response to the closure of these institutions, the Peoples Law Firm Association and residents from the village of Chichupac, as well as other neighboring communities from the municipality of Rabinal (Baja Verapaz), have denounced the failures to comply with the judgment from the Inter-American Court of Human Rights (IACHR), issued in 2016 in their favor.<sup>8</sup> They expressed their fatigue and frustration for the 38 years they have been denied justice and reparations for the atrocious human rights violations they were victims of, the impacts of which, both individual

4 Presidencia de la Republica, *Acuerdo Gubernativo No. 99-2020*, 30.07.2020.

5 Presidencia de la Republica, *Acuerdo Gubernativo 100-2020*, 30.07.2020.

6 Interview with Sandino Asturias, 05.03.2021.

7 Morales, S., *Así funciona la Comisión Presidencial por la Paz y los Derechos Humanos*, Prensa Libre, 29.04.2021

8 La Asociación Bufete Jurídico Popular y los Miembros de la aldea Chichupac y comunidades vecinas del municipio de Rabinal del Departamento de Baja Verapaz por el cierre de la COPREDEH, septiembre 2020.



Photos of the Memory March, 30.06.2021

and collective, persist to this day. There is further concern that COPADEH's functions do not include respect for the international human rights systems and compliance with the judgments of the Inter-American Court of Human Rights. Human rights organizations are hoping that this Commission will assume existing commitments, such as the Public Policy for the Protection of Human Rights Defenders, the Public Policy for reparations to the communities affected by the construction of the Chixoy hydroelectric dam, and compliance with the judgments of the Inter-American Court of Human Rights.

One of the challenges faced by COPREDEH during its existence was the lack of continuity in its work, which, since its creation, was subordinated to the will of the governments in power. The



creation of COPADEH has not corrected this structural obstacle, so that instability and inconsistencies “with the aim of maintaining peace, guaranteeing human rights and addressing social conflict” persist under the new institution.<sup>9</sup> In a

political context beset by breakdowns in the channels of dialogue between civil society and the State, the uncertainty over an institution which, since the signing of the Peace Accords, has been a State organ for dialogue with social organizations,

could have serious consequences on the State’s capacity to establish and maintain spaces for meeting and exchange with the population – a function inherent to a democracy – which could reduce discontent and social conflict.

## State Obligations still pending

### Public Policy for reparations to the communities affected by the construction of the Chixoy hydroelectric dam

The Chixoy hydroelectric dam on the Río Negro (Chixoy River) was a project promoted by the Government of Guatemala through the National Electrification Institute (INDE) between 1975 and 1985, and financed by the World Bank and the Inter-American Development Bank (IDB). Its construction had profound human, socioeconomic, cultural and ecological impacts on 33 communities from municipalities across the departments of Quiché, Alta and Baja Verapaz. The Guatemalan Army and the Civil Self-Defense Patrols (PAC) perpetrated five massacres against the population of the Río Negro communities between 1980 and 1982, which were directly related to the construction of the hydroelectric plant.<sup>10</sup>

In 1993, Jesús Tecú Osorio and Francisco Chen Osorio, survivors of the Pacoxom (Río Negro) massacre, denounced these events in a court in Salamá, Baja Verapaz. The massacre took place on March 13, 1982, when PAC members killed 70 women and 107 children. In April 2000, a final sentence was handed down against three of these ex-patrollers and investigations were initiated against others,

and five more were sentenced in 2008. In 2003 a warrant was issued for the arrest of former Colonel José Antonio Solares González as the “intellectual author of the murder,” but to date the warrant has not been executed. The Maya Achi Association for the Integral Development of the Victims of Violence in the Verapaces (ADIVIMA), denounced the Guatemalan State before the Inter-American Human Rights System in 2005 on behalf of victims and survivors, due to the lack of progress in the pending investigations.

On September 4, 2012, in the Río Negro Massacres v. Guatemala case, the Inter-American Court declared the State of Guatemala responsible for the human rights violations committed against the communities and ordered a series of reparations, including: the obligation to investigate the incidents, identify, judge and eventually punish those responsible, comprehensive reparation measures and compensation for material and non-material damages.<sup>11</sup>

It was not, however, the judgment of the Inter-American Court of Human Rights

which prompted the government of Otto Pérez Molina to establish the Public Policy of Reparation for the Communities affected by the construction of the Chixoy Hydroelectric Plant, but a condition imposed by the United States. In 2014 the USA approved the Consolidated Appropriations Law which would deny votes in favor of World Bank and IDB loans for Guatemala, if it did not show “progress in the processes of adoptions and compensation for the families affected by the construction of the hydroelectric plant.”<sup>12</sup> The government committed to making the first payment in 2015. COPREDEH was charged with coordinating compliance with the policy.

According to the International Commission of Jurists (ICJ), as of 2019, more than 10 years following the approval of the Plan and the respective Public Policy for the reparation of victims, the proper implementation by the government authorities remained unfulfilled, in a clear violation of the rights of victims to collective reparation.<sup>13</sup>

9 Impunity Watch, *La Paz en riesgo: Análisis del cierre de las instituciones de la Paz en Guatemala*, Noviembre 2020.

10 GHRC, Río Negro Massacres, en: [www.ghrc-usa.org/our-work/important-cases/rio-negro/](http://www.ghrc-usa.org/our-work/important-cases/rio-negro/)

11 CortelIDH, *Caso Masacres de Río Negro VS. Guatemala*, Sentencia de 4 de septiembre de 2012.

12 Prensa Libre, *Gobierno promulga política de reparación de daños por Chixoy*, 06.11.2014

13 <https://www.icj.org/es/hidroelectrica-chixoy-el-estado-de-guatemala-se-resiste-a-dialogar-con-las-comunidades-afectadas/>



## Public Policy for the Protection of Human Rights Defenders in Guatemala

On August 28, 2014, in the case of Human Rights Defender and Others versus Guatemala, the Inter-American Court issued a resolution stating that Florentín Gudiel was murdered for being a human rights defender and determined that the State of Guatemala did not comply with its obligation to protect his life despite reports of threats. The Inter-American Court established “the implementation, within a reasonable period of time, of public policies of a legislative, institutional and judicial nature for the protection of human rights defenders”<sup>14</sup> which should “become the route to guaranteeing the

protection of human rights defenders”, as one of the reparation measures.<sup>15</sup>

Because of this international obligation, and the repeated recommendations from the Universal Periodic Review (UPR) process, the State of Guatemala committed to developing a Public Policy for the Protection of Human Rights Defenders. Between mid-2017 and mid-2019, social, popular, indigenous, women’s and other organizations involved in the defense of HRDs began organizing, together with Guatemalan State institutions, with the aim of formulating the text of this policy, which should have been subsequently shared

and consulted with HRDs in the country’s 22 departments. This process has been stalled and, with the decision of President Alejandro Giammattei to close COPREDEH, which was the institution in charge of compliance with the sentence, a great vacuum has been created.<sup>16</sup>

The 1,034 aggression against human rights defenders, registered for 2020 by the Unit for the Protection of Human Rights Defenders of Guatemala (UDEFEUGUA) – representing the highest figure since this organization began registering cases in 2000 – demonstrates the urgency for the implementation of this Policy.

## The 12 Guatemalan Cases

In the judgments issued by the Inter-American Court in the cases of Blake (1999), Panel Blanca (2001), Street Children (2001), Bámaca Velásquez (2002), Myrna Mack Chang (2003), Maritza Urrutia (2003), Molina Theissen (2004), Plan de Sánchez Massacre (2004), Carpio Nicolle et al (2004), Tiu Sojin (2008), the Dos Erres Massacre (2009), and Chitay Nech et al. (2010), collectively referred to as “the 12 cases”, it was determined that the State of Guatemala, as a measure of reparation, should investigate, prosecute, and punish those responsible for the grave human rights violations referred to in those judgments. However, in its regular reviews, the IACHR has found, on repeated occasions, a lack of compliance with the sentences, for which it has repeatedly had to call the State of Guatemala to attention.



The Molina Theissen family at a press conference after the sentencing of 4 retired military officers for aggravated rape and crimes against humanity for the kidnapping, rape and torture of Emma and the forced disappearance of her 13-year-old brother Marco Antonio. Guatemala, 25.05.2018.

14 CortelDH, *Caso Defensor de Derechos Humanos y Otros vs. Guatemala*, Sentencia de 28 de agosto de 2014.

15 UDEFEGUA, *Resumen Informe Anual 2014*, 15.01.2015.

16 Amnesty International, Center for Justice and International Law (CEJIL), Front Line Defenders, Mesoamerican Initiative

# The huge vacuum

left by the close of the Secretary for Agrarian Affairs (SAA)

“We need agrarian justice! We need equal rights and respect for ancestral land rights! The closure of the Secretary for Agrarian Affairs puts an end to a pathway for solving the complex situation of land conflicts.”<sup>1</sup>

One of the outcomes from the signing of the Peace Accords (1996) was the creation of several institutions aimed at addressing problems of historical and structural significance, such as agrarian conflicts arising from the concentration of land in few hands. In this context, the SAA<sup>2</sup> was created, with the main objective of updating agrarian policy and generating mechanisms to resolve such conflicts.

## Origin and Management of Land Conflicts

Agrarian conflicts have their origin in the historical dispossession of territory suffered by indigenous peoples, which dates back to the time of Spanish colonization and continued following the Creole independence which has kept the indigenous and mestizo population under a feudal system. One result of these processes was the concentration of land in very few hands,<sup>3</sup> which forced the majority of the indigenous, peasant and dispossessed population to demand their right to land, the basis



Accompaniment at the inauguration of the 12 Tz'ikin community in Senahú, Alta Verapaz. 150 families evicted from the La Mocca coffee plantation in 2006, were able to obtain land through the SAA's dialogue tables, 10.02.2010

of their subsistence. In the 1970s, these demands were unsuccessful, as the lack of democracy put a total stop to mass demonstrations and other political strategies which sought a solution for this deep inequality. The State's response was to carry out a counter-insurgency war against the indigenous population and all those considered “enemies of the state” because of their activism and political militancy.<sup>4</sup> The State implemented a brutal ‘scorched earth policy’ against the population in

the 1980s, which involved the massacre of entire villages and communities and provoked waves of migration, both within and outside of Guatemala. At the same time, forced resettlement policies aimed at the uprooted population and survivors of the massacres were carried out with people forced to live in so-called “Model Villages”, which also contributed to the increase in agrarian conflict.<sup>5</sup>

In response to these situations the Peace Accords consider “the resolution of the agrarian problem and rural development

- 1 Interview with Lesbia Artola, Coordinator of the Community Council of the Highlands (CCDA) - Las Verapaces Region, 09.03.2021. All quotes in this article corresponding to Lesbia Artola were taken from this interview.
- 2 Álvarez Castañeda, A, y Sarti Castañeda, C.A., *Acuerdos de paz y Constitución en una democracia frágil. El caso de Guatemala*, Berghof Foundation, Berlin, 2019.
- 3 According to data from the Central American Institute for Fiscal Studies (ICEFI), 92% of small producers occupy 22% of the productive land, while the 2% represented by commercial producers use 57% of land.
- 4 See essays in Vela Castañeda, M. (coord.), *Guatemala: la infinita historia de las resistencias*, 2a edición, Universidad Iberoamericana, México, 2020.
- 5 Comisión para el Esclarecimiento Histórico (CEH), *Guatemala, Memoria del Silencio, Tomo IV, Consecuencias y efectos de la violencia*. Guatemala, junio de 1999, p.156-159.



Visit to one of the communities that presented, in October 2016, the “Alternative Proposal for the Integral and Sustainable Development of the Communities affected by the declaration as Protected Areas of Laguna del Tigre and Sierra del Lacandón” to regulate their situation in the face of the permanent threat of eviction. Attempts to find a way forward through dialogue roundtables stalled. Petén 23.11.2016

to be fundamental and non-negotiable in order to respond to the situation of the majority of the population living in rural areas, which is the most affected by poverty, extreme poverty, iniquities and the weakness of state institutions. The transformation of the structure of land tenure and use must incorporate the economic, social and political development of the rural population as an objective so that the land may serve those who work it, ensure the basis of their economic stability, the foundation of their progressive social well-being and guarantee their freedom and dignity.<sup>6</sup>

Thus, the Peace Accords committed the Guatemalan State to addressing the structural causes of these inequalities through a “global strategy in favor of rural development” which included conditions such as: the broad participation of the campesino and indigenous population; access to land and productive resources;

support to the campesino population for “increased access to commercial facilities, information, technology, training and credit”; a legal framework – including a responsible institutional framework – and legal security over land because “Guatemala requires a reform of the legal framework for agriculture and an institutional development in rural areas to put an end to the dispossession and lack of protection that have affected peasants and indigenous peoples in particular.”

For all these reasons, the SAA was created, as an institution to assume the charge of agrarian conflicts. Among its tasks was to facilitate the handling of cases to obtain legal certainty over historical property titles due to: accumulated and uncompensated labor rights (relations between settlers and farmers), irregularities in the land registry institutions, sale of communal lands for individual interests, etc.

## Land conflicts provoked by the installation of megaprojects

The Agreement on Socioeconomic Aspects and the Agrarian Situation (AASESA) urges “national and foreign businessmen to invest in the country, considering that the signing of the Peace Accords and their implementation are essential components for the stability and transparency required for investment and economic expansion.”<sup>7</sup> The finalisation of the Internal Armed Conflict (IAC) and Guatemala’s existing natural wealth intensified the extractive industries’ in the country. The State facilitated the installation of transnational and national companies, seeking to gain social acceptance for these projects with the argument that investment brings development to the population.

A study on the most recent dynamics of agrarian conflict in Guatemala, based on the experience of the SAA’s work during the 2004-2008 administration, has focused on the consequences of these kinds of aspirations.<sup>8</sup> The investigation concludes that the Guatemalan State’s commitment to an extractivist economic model has exacerbated existing conflicts. The growing threat of dispossession looming over the territories and natural resources of indigenous and peasant communities goes hand in hand with megaprojects of various kinds: agrofuels, metal mining, petroleum, hydroelectric dams and the Northern Transversal highway.

The environmental legislation created in the 1970s and 1980s has also strongly contributed to these conflicts: the case of communities settled in what have since been designated Protected Areas, and who currently live under the permanent threat of eviction, were never taken into account.<sup>9</sup>

The study of 2009 found a deep gap between the sectors benefiting from

6 AASESA, Numeral 27.

7 AASESA, Numeral 17.

8 INTRAPAZ, *Conflicto por el uso de la tierra. Nuevas expresiones de la conflictividad agraria en Guatemala*, URL, 2009

9 According to the study, another actor contributing to land conflicts are drug traffickers.





On August 27, 2017, villages of Cahabón celebrated the community consultation in which 26,537 people voted against the OXEC hydroelectric projects, compared to only 11 who were in favor. The consultation was not recognized. The hydroelectric activities continue and Bernardo Caal Xol, one of the leaders of the Resistance is being criminalized and remains in jail.

Quiché and Izabal. According to official sources, between 1997 and 2016, 8,080 cases entered the system, of which 6,695 were resolved, benefiting more than one million people.<sup>11</sup>

Since the government of Otto Pérez Molina (2012-2015), however, the roundtables for dialogue facilitated by state entities such as the SAA, lost much credibility with indigenous, campesino and social organizations, as they were used to identify leaders of communities and movements and initiate criminalization processes against these people.<sup>12</sup> Furthermore, another obstacle has been the increasingly frequent strategy of “delaying tactics, which has been used to avoid solving the underlying problems and results in fatigue among the communities. Sometimes meetings were held every 15 days or every month, but the issues were repetitive, and the negotiations did not move forward.”<sup>13</sup>

and those harmed by megaprojects, with the communities forming part of the latter group. Based on the 13 cases analyzed, it concludes that the “communities experience dispossession, food insecurity, loss of economic opportunities, divisionism, loss of property (or the impossibility of acquiring it), environmental damage, psychological damage and loss of power, among other consequences. On the other hand, the beneficiaries obtain state support, permits for the exploration and exploitation of natural resources and million dollar permits for the construction of physical works.”<sup>10</sup> The investigation concludes further that the role of the SAA in these conflicts has been very limited because it has had almost no power to confront corporate power. The imbalance between the power and

benefits enjoyed by the companies and the dispossession and abandonment suffered by the communities is brutal.

### Roundtables for Dialogue

One of the tools used by the SAA to resolve the conflicts contemplated in the Peace Agreements were the roundtables for dialogue to which all parties involved were summoned: campesino organizations, communities, farmers, agricultural companies, the Human Rights Ombudsman’s Office (PDH), the state, local and agrarian institutions. Most of these roundtables were carried out in the departments with the highest number of agrarian conflicts, which are also those with the highest rates of poverty and malnutrition: Huehuetenango, Petén, Alta Verapaz,

Despite the fact that different Guatemalan governments have designed their own agrarian policies (2004-2008, 2008-2012 and 2012-2019), none have managed to consolidate a State public policy focused on the structural problems that cause land conflicts. Nevertheless, thousands of campesino and indigenous families have achieved legal certainty over their lands thanks to the tireless work of indigenous and campesino organizations, indigenous authorities, as well as human rights organizations and law firms. According to AASESA, the State has the obligation to strengthen the capacities of rural organizations to achieve one of the Peace Accords objectives: “to remedy and overcome this legacy [concentration of resources versus poverty of the majority], to promote a more efficient and

10 INTRAPAZ, Op. Cit.

11 SAA, *Informe de Monitoreo de la Política y Conflictividad Agraria Año 2016*, Gobierno de la República de Guatemala, diciembre 2016 (This SAA work report was the most recent one found).

12 PBI has observed this pattern with various accompanied organizations: the Peaceful Resistances of La Puya and Cahabón, the Union of Peasant Organizations (UVOC), the CCDA and the Community Council of Retalhuleu (CCR). This practice has also been reported and recorded by the Guatemalan Unit for the Protection of Human Rights Defenders (UDEFEQUA).

13 Interview with Jorge Luis Morales Cifuentes, UVOC lawyer, 01.03.2021. All quotes in this article corresponding to Jorge Luis Morales Cifuentes were extracted from this interview.



With the Agreement for the Resettlement Agreement of the Populations Uprooted by the Armed Conflict (1994), “the government of the Republic commits itself to ensure the conditions that allow and guarantee the voluntary return of uprooted persons to their places of origin or to the place of their choice, in conditions of dignity and of dignity and security”. With this promise, the Chicoyogüto Neighbors Association initiated the demand for the recovery of their land. On July 28, 1968, the community was evicted by the army, which set up the Military Zone No. 21, which was used as a torture center between 1978 and 1990. By judge’s order in 2012, exhumation work began in the facilities; 565 skeletons of civilians, including children, were recovered.

equitable agrarian policy, strengthening the potential of all actors, not only in the field of productive capacities but also in the deepening of cultures and value systems which coexist and exchange in the Guatemalan countryside.” The fact is, however, that state institutions actively hinder their work and criminalize members of these organizations for seeking access to land for peasant and indigenous families.<sup>14</sup>

A current concern is that agrarian conflicts, especially in the region of Alta Verapaz, are not only ongoing, but have increased in intensity due to the implementation of hydroelectric, mining and monoculture mega-projects.<sup>15</sup> Furthermore, the absence of agrarian authorities, exacerbated by the onset of the Covid-19 pandemic, has facilitated a considerable increase in evictions - and threats of evictions - carried out by

non-state actors against Q’eqchi’ and Pocomchi’ communities.<sup>16</sup>

Faced with the closure of the SAA, and the total lack of information and clarity over how and under which institution the state will continue the SAA’s work existing conflicts remain unresolved and new conflicts are falling into the vacuum. The Presidential Commission for Peace and Human Rights (COPADEH), which was created following the closure of the SAA and other Peace institutions, with the intention of replacing them, has established functions for coordinating agrarian conflicts, through the culture of peace and dialogue, but does not specify whether the cases, resources and personnel of the SAA will fall under its jurisdiction.<sup>17</sup>

The peasant and indigenous organizations wonder where the

commitments outlined in the Peace Accords and the processes assumed by the SAA have gone. Jorge Luis Morales, lawyer from the Union of Campesino Organizations Las Verapaces (UVOC), says that “although it did not provide many answers, at least with the SAA there was a route to follow and it created a governmental responsibility to try to solve these conflicts.” Lesbia Artola, Coordinator of the Community Council of the Highlands (CCDA) - Las Verapaces Region, wonders where they will go “in looking for solutions to land problems.” She points out that “instead of advancing, they have gone backwards, and if before we still had hope for the resolution of land conflicts, that is no longer the case.” Morales considers that in view of this panorama, the only thing left to do is to think of other strategies to solve the problems: “we cannot become tired, we have to keep on fighting”.

14 See the following publications: *Alta y Baja Verapaz, donde la defensa de DDHH se hace más difícil cada día*, Informe Anual 2020, Guatemala, mayo de 2021; *Escalada de criminalización y órdenes de captura contra defensores en Alta Verapaz*, Boletín 41, agosto 2019; también UDEFEGUA, *Informe sobre Criminalización en Guatemala 2012-2017*, noviembre de 2017

15 PBI Guatemala, *¡Defendamos la vida! Las luchas sociales en Alta Verapaz*, 2019.

16 PBI Guatemala, *El derecho a la tierra bajo amenaza en las Verapaces: desalojos en tiempos de COVID-19*, [www.pbi-guatemala.org](http://www.pbi-guatemala.org), 28.05.2020.

17 Presidencia de la República, *Acuerdo Gubernativo 100-2020*, 30.07.2020.

# Conclusions

about the closing of the Peace institutions

The 2019 report “Peace Agreements and Constitution in a Fragile Democracy. The case of Guatemala” had already identified the main problem of the peace institutions to be “the volatility of their policies, the short scope of the budgets allocated and the poor public visibility they have had.” At the same time, it was pointed out that, although “the new institutional framework and legislation remedied in some way the lack of constitutional change”, they did not “promote State reforms deep enough to ensure compliance with the Agreements.”<sup>1</sup>

According to Jorge Santos, coordinator of the Unit for the Protection of Human Rights Defenders-Guatemala (UDEFEUGUA), the closure of the peace institutions marks the end of a process which began with the government of Otto Pérez Molina (2012-2015), continued during the government of Jimmy Morales (2016-2020) and has now been consolidated by the government of Alejandro Giammattei (2020-present), whose ultimate objective is the return to an authoritarian state. The closure of these institutions attempts to silence serious human rights violations, destroy the few advances achieved by the Peace Accords and halt the process of building



a culture of peace.<sup>2</sup> The beginning of this process has also been identified by Impunity Watch, which points out that a strong weakening of the peace institutions had begun as far back 2012, through the allocation of low budgets and poorly qualified personnel.<sup>3</sup>

Iduvina Hernández, a political analyst and human rights defender, agrees with Santos in considering that the closure of the peace institutions mark “a very serious political position as well as an attack against democracy as has been seen in practice. It marks the

confirmation that the government has an “agenda of corruption and seeks impunity (...) putting the definitive mark on the way in which the economic, political and military elites, have colluded with organized crime, approached the peace negotiations process, without any interest in fulfilling the commitments made nor building a culture of peace and democracy.”<sup>4</sup> In the same vein, Sandino Asturias affirms that the closure clearly demonstrates the comprehensive vision of the government aimed at weakening human rights and establishing a policy

1 Álvarez Castañeda, A, y Sarti Castañeda, C.A., *Acuerdos de paz y Constitución en una democracia frágil. El caso de Guatemala*. Berghof Foundation, Berlin, 2019.

2 Interview with Jorge Santos, 11.03.2021.

3 Impunity Watch, *La Paz en Riesgo: Análisis del Cierre de las Instituciones de la Paz en Guatemala*, 2020.

4 Interview with Iduvina Hernández, 19.03.21.





contrary to the Peace Accords and in favor of militarization.<sup>5</sup>

For Feliciano Macario, member of the Board of Directors and in charge of the Justice in Transition program of the National Coordinator of Widows of Guatemala (CONAVIGUA), these institutions “were tools for responding to the petitions of the indigenous peoples, campesinos, women, uprooted peoples.... That was their importance. Closing them is a way of saying that these means no longer exist. For us it means, in part, annulling the Peace Accords, which is dangerous.”<sup>6</sup>

### A confusing horizon for peace

The future of the defense of fundamental rights, against impunity and the recovery of historical memory in Guatemala remain uncertain within this context of

the dismantling of peace institutions. Azarías Perencén, Secretary General of the former Union of Workers of the Peace Secretariat (SITRASEPAZ), points out that “the gradual strangulation of the institutions” implies a revision of the narrative about the Peace Accords since “the State has not been recognized as responsible for violating the human rights of large sectors of the population.”<sup>7</sup> “Or, if there was recognition, history has been distorted and, in some cases, they have wanted to compensate the perpetrators”, says José Paz Gulate, secretary of conflicts with SITRASEPAZ,<sup>8</sup> referring to the current legislative initiative 5664 which is intended to economically compensate ex-military personnel who participated in the Internal Armed Conflict (IAC). In this sense, Raúl Nájera shares the following collective reflection from H.I.J.O.S. Guatemala (Sons and Daughters for Identity and Justice

against Forgetting and Silence): “to a certain extent we understand that the peace institutions have been misused, at the same time that a policy of denial has been directed at the victims and the practice of forced disappearances which took place during the war. You cannot compensate the victims while also compensating the perpetrators.”<sup>9</sup>

Despite all the obstacles encountered on the road to peace, as Feliciano Macario states, both the surviving victims and the new generations that have inherited this history will continue to fight for truth, justice and reparation: “despite the attitudes of the Government, we are not going to let ourselves be defeated. We will continue to exist and our demands will remain the same. We will continue. If our grandparents lived, and our parents remained in the struggle, I imagine that our children will also continue.”

5 Interview with Sandino Asturias, General coordinator of CEG, 05.03.2021.

6 Interview with Feliciano Macario, Guatemala, 25.02.2021. All quotes from F. Macario that appear throughout this article were taken from this interview.

7 Interview with Azarías Perencén, Guatemala, 25.02.2021.

8 Interview with José Paz Gulate, Guatemala, 25.02.2021.

9 Interview with Raúl Nájera, Guatemala, 25.03.2021.

## Case

### of Aldea Los Josefinos Massacre Vs Guatemala

In April 1982, in the midst of the internal armed conflict (IAC), the population of the village of Los Josefinos (Petén) was the victim of a massacre perpetrated by the Guatemalan army. 39 years later, following a long struggle for justice by survivors of this horrific act, the Inter-American Court of Human Rights (IACHR) held a virtual hearing to review of the case between February 17 and 18, 2021. PBI accompanied the Association of Relatives of the Detained-Disappeared of Guatemala (FAMDEGUA) in the transfer of witnesses during the hearing.

#### The Acts Committed

Between April 29 and 30, 1982, “a military unit from the Guatemalan army carried out house burnings, forced disappearances and extrajudicial killings of men, women, boys and girls, whose bodies were thrown into a mass grave. The survivors were forced to flee to the mountains or other parts of the country. Many children were left alone or separated after the death of their parents or during the flight of their relatives. There is no certainty over the number of people murdered during the massacre, but it is estimated that there were at least 28 adults and 14 minors.



Courtesy of FAMDEGUA

Three people who attempted to escape became victims of forced disappearance by the army and at least eight survivors remain missing.”<sup>1</sup>

These events were part of the counterinsurgency strategy deployed by the Guatemalan State during the IAC, which resulted in terror: “(...) the notion of “internal enemy”, intrinsic to the National Security Doctrine, became increasingly broad for the State. This doctrine became, at the same time, the *raison d’être* of Army and State policy for several decades. Through its investigation, the CEH recorded one of the most devastating effects of this policy: State forces and related paramilitary groups were responsible

for 93% of the documented violations,” including 92% of arbitrary executions, 91% of forced disappearances and 626 massacres. The victims of these crimes were people belonging to very diverse groups: “workers, professionals, religious, politicians, peasants, students and academics; the vast majority (...) were people of Mayan origin.”<sup>2</sup>

Following 12 years of silence, the survivors of Los Josefinos contacted FAMDEGUA in 1994 and began the process of legal and psychosocial accompaniment. The exhumation of the remains was requested before the Court of First Instance of Petén in 1996.<sup>3</sup> Subsequently, the former Auxiliary Mayor of Los Josefinos, Samuel Bracamonte,

1 CEJIL, *Masacre Aldea de Los Josefinos*, 21.02.2020.

2 Oficina de Servicios para Proyectos de las Naciones Unidas (UNOPS), Informe de la Comisión para el Esclarecimiento Histórico (CEH), *Guatemala, Memoria del Silencio, Tomo V, Conclusiones y Recomendaciones*. Guatemala, junio de 1999. p. 24, 25 y 43.

3 The team from the Guatemalan Forensic Anthropology Foundation (FAFG) conducted the exhumation in March 1996. They recovered 19 skeletons and 27 projectile fragments. Taken from report No. 16/19 case 12.991 Massacre of Los Josefinos Village. February 12, 2019.

and the Commander of Military Zone No. 23 of Petén at the time of the massacre, Eliú Cabrera, testified before the Public Prosecutor's Office (MP), denying any knowledge of the incident. The process remained stalled here. Confronted with the culture of impunity when trying to bring the case before the national justice system, “the relatives of the victims took the decision to present the case before the Inter-American Commission on Human Rights (IACHR) in 2004, where a friendly settlement process was initiated, in which the State assumed its responsibility and committed to conduct an investigation, erect a monument in memory of the victims and compensate their families. However, in 2012, the relatives withdrew from the friendly settlement due to the State's failure to comply with its commitments. In 2019, the case was elevated to the Inter-American Court of Human Rights and the virtual public hearing was held on February 17 and 18, 2021.” As of today, the judgment is still pending.<sup>4</sup>

### The Hearing

The profound damages caused by the violence suffered during the massacre was evident from the statements given during the hearing by the witnesses. The consequences of the violence, resulting from the terrible human rights violations are equally as grave. These included forced displacement and the consequent economic and social harm, as the community lost everything and many experienced family disintegration. The absence of effective investigations and sanctions against those responsible was also evidenced during the hearing, as well as the continued lack of investigation into the whereabouts of the victims who are still missing. It should be noted that with the passage of time, several of the survivors died without having the opportunity to obtain justice, which has caused deep sadness. As one of the witnesses said: “we feel sad and we when ask for justice, not for revenge,

we do it for the new generations so that they do not have to experience what we have lived through”.

According to Paula Worby, an expert witness on forced displacement in Guatemala at the hearing, people never cease to be affected by this type of experience. However, many of the damages can be alleviated if there is early and adequate attention, guaranteeing the conditions necessary for survivors to lead a dignified life. In Guatemala there is not enough recognition of what happened during the IAC though. Investigating and raising awareness about these crimes is the first step towards the recovery for the victims.

### Our Accompaniment

The accompaniment provided by PBI during this hearing is part our work in protection for judicial processes relating to the search for justice and the recovery of historical memory. Manuel Antonio Farfán, President of FAMDEGUA,

affirms that the aim of the organization is to guarantee psychological, legal and security accompaniment. As a result, they requested the PBIs timely accompaniment to provide security and international observation as part of the protection of the physical integrity of the witnesses during the hearing before the Inter-American Court of Human Rights. They were accompanied during the preparation of their testimonies, throughout the course of the hearing and on the return to their communities.

This hearing represents another opportunity for the Guatemalan State to comply with its obligations, by promoting the investigation of the facts so that justice is done, the people responsible pay for their crimes, and the state provides full reparation to the victims and collaborates in the clarification of the truth. This is one of the many cases of terrible crimes committed during the IAC which, to this day, remain under the cloak of impunity. PBI will continue to follow up on the case.



Courtesy of FAMDEGUA

4 Pérez, R., “La historia está viva y no se nos olvida”: caso Los Josefinos llega a la CorteIDH, Prensa Comunitaria, 05.05.2021.



**PBI** is an international non-governmental organization (NGO) which provides international accompaniment and observation at the request of threatened social organizations. The presence of international volunteers backed by a support network helps to deter violence.

## PBI in Guatemala

**PBI** maintained a team of volunteers in Guatemala from 1983 to 1999. During those years, it carried out accompaniment work with human rights organizations, unions, indigenous and campesino organizations, refugees and churches. In 1999, after an evaluation process, it was decided to close the project since the country had greatly advanced in the opening of space for the work of human rights organizations. Nevertheless, PBI continued attentive to the happenings in Guatemala through a follow-up committee.

From the middle of 2000, **PBI** began receiving a number of requests for international accompaniment. Due to these requests, PBI carried out an investigation in the field that made evident a turn in the direction and a losing of space for human rights defenders. In April of 2002, **PBI** decided to reopen the Guatemala Project in order to carry out international accompaniment and observation in coordination with other

international accompaniment and observation in coordination with other international accompaniment NGOs. In April 2003, the new **PBI** office was opened in Guatemala.

## Purpose and principles

Contribute to improve the human rights situation in Guatemala and accompany social and political processes that promote the enhancement of democracy and participation in the country and the region. To attain this, PBI employs an international presence that supports the maintenance and opening of political and social spaces for human rights defenders, organizations and other social expressions facing repression due to their work supporting human rights.

**PBI** follows the principles of non-violence, non-partisanship and non-interference.

### Team office in Guatemala

3a. Avenida "A", 3-51 zona 1, Ciudad de Guatemala  
Tels.: (00502) 2220 1032 / 2232 2930  
correo-e: [equipo@pbi-guatemala.org](mailto:equipo@pbi-guatemala.org)

**Web:** [www.pbi-guatemala.org](http://www.pbi-guatemala.org)  
**Facebook:** [pbiguatemala](https://www.facebook.com/pbiguatemala)

### Photos: PBI Guatemala

All photos – unless otherwise stated – were taken during the March for the Dignification of the Victims of the IAC, Guatemala, 25 de febrero 2021.

### Guatemala team in first semester 2021:

Andrea Rey López (Spain), Irene Salinas Cortés (Colombia), Alexandra de Almeida Galo (Portugal), Laura Carolina Saavedra Garzón (Colombia), Anuja Pathak (Switzerland/United Kingdom), Elisa Molinaro (Italy), Tiago Medeiros Delgado (Brasil)

This publication has been produced with the financial support of Trocaire and Generalitat Valenciana. The contents of this publication is the sole responsibility of PBI Guatemala and does not necessarily reflect the opinions of Trocaire and the Generalitat Valenciana.



(mail to [coordinacion@pbi-guatemala.org](mailto:coordinacion@pbi-guatemala.org)).

- Attribution: You must give appropriate credit, provide a link to the license, and indicate if changes were made. You may do so in any reasonable manner, but not in any way that suggests the licensor endorses you or your use.
- NonCommercial: You may not use the material for commercial purposes.
- ShareAlike: If you remix, transform, or build upon the material, you must distribute your contributions under the same license as the original.

This work has been published under Creative Commons's licence. It is allowed the total or partial reproduction of this publication provided it is without means of profit, the source is mentioned and PBI Guatemala is notified about the use

**trócaire**



Published in Guatemala City in July 2021