



## Monthly Information Package Guatemala

Number 220 - January 2022

### 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.*

#### **Sentence for Crimes Against Humanity in the Achí Women's Case**

At the end of this month, the High Risk Court A, composed of Yassmin Barrios, Patricia Bustamente and Gervi Sical issued a ruling in the emblematic case of the Achi Women, sentencing five former members of the patrollers for civil self-defense (exPAC) to 30 years for "crimes against humanity in the form of sexual violence." Those convicted include: Benvenuto Ruíz Aquino, Bernardo Ruíz Aquino, Damián Cuxum Alvarado, Gabriel Cuxum Alvarado and Francisco Cuxum Alvarado. This ruling comes 40 years after the crimes were committed during the Internal Armed Conflict (IAC).<sup>1</sup>

The trial began on January 5, a decade after the initial complaint was filed by 36 women survivors of sexual violence in 2011. "Despite the fact that these 36 women participated in the criminal proceedings, the prosecution only pursued five perpetrators. Ana Lucia Xiloj, one of the three Mayan lawyers representing the Achí women, explained that the case originally sought to hold the military commanders, who had control over the soldiers, accountable as well as the patrolmen who committed rape." But the prosecution decided to prosecute only the men identified by five of the victims.<sup>2</sup>

The case went to court in 2018. Claudette Domínguez, head of High Risk Court A at the time, "was in charge of the case in the beginning, but was later removed from it. During one of the hearings, the judge questioned the women who testified. She asked them if they had received payment for testifying and later failed to give their stories any evidentiary merit. Domínguez permanently closed the case against three of the defendants and provisionally closed it for the five who were convicted on Monday, January 24. Appeals filed by the prosecutor's office and the plaintiffs' lawyers managed to reverse the latter decision and ensured that the five defendants continued with the criminal proceedings. The judge was removed from the case. Miguel Ángel Gálvez, head of High Risk Court B, was appointed in her place and decided to send the five men to trial. Domínguez is currently has a complaint against her for racism in her treatment of the women and their Mayan lawyers. The plaintiffs and the prosecution are seeking to open the case against the other men that Judge Domínguez released. If they succeed, a second phase of the case would begin.<sup>3</sup>

Despite the attitude that Judge Domínguez demonstrated in 2018, the court that sentenced the five former patrolmen on January 24, 2022 affirming: "we firmly believe in the testimonies of the women who were raped and we know that each one of them is an individual, who we value and respect".<sup>4</sup>

#### **Diario Militar Case include four forced disappearances of minors<sup>5</sup>**

In the second half of 2021, 12 high-ranking military officers and former police officers were indicted in the Diario Militar (Death Squad Dossier) case for the crimes of forced disappearance, crimes against humanity and extrajudicial execution. In January 2022, one of the accused, a retired military officer Víctor Augusto Vásquez Echeverría, was indicted for the crime of aggravated forced disappearance. The Prosecutor's Office added new victims who appear in the Diario Militar to the charges, including: Juan Pablo and María Quirina

<sup>1</sup> López Vicente, J.D., [Caso Mujeres Achí: la condena llega 40 años después de los crímenes](#), Agencia Ocote, 24.01.22.

<sup>2</sup> *Ibidem*.

<sup>3</sup> *Ibidem*.

<sup>4</sup> España, M.J. y Pitán, E., [Caso Mujeres Achí: sentencian a más de 30 años de cárcel a cinco expatrollers militares por delitos de lesa humanidad](#), Prensa Libre, 24.01.22.

<sup>5</sup> Pérez, R., [Diario Militar: un general debe responder por las desapariciones de los hermanos Juan Pablo y María Quirina Armira López](#), Prensa Comunitaria, 19.01.2022.

Armira López, both minors, and two children of five and two years old, the sons of Patricio Yool Osorio and Narcisca Cuxanero Xian, who were detained between March 10 and 19, 1984. A total of 15 people, including four minors, were detained and taken to military zone 302 in Chimaltenango when Vásquez Echeverría was the military commander of that zone.

Francisco Vivar, lawyer for one of the plaintiffs in the case, indicated that it is possible that Juan Pablo Armira López was a victim of torture, due to the description "he broke", which appear in the Diario Militar: "Why didn't this child hold on? Surely because he was subjected to an interrogation using torture methods. How much could A 12 year old child endure?"

The extension of this accusation to the crime of forced disappearance of minors highlights the cruel use made by military intelligence of many children during the IAC. According to Paulo Estrada, a plaintiff in the case, the judge's decision supports their claim that even children were catalogued as "internal enemy" and as sources of information for the clandestine intelligence system during the IAC.

The intermediate stage hearings will be held and the beginning of the public debate will be announced in the first months of this year. This another milestone in the struggle for memory, historical clarification and justice, carried out by the organizations for the surviving victims of the IAC.

### **Effectiveness of the Search System for Missing Women questioned.**

The effectiveness of the Isabel Claudina Alert and the Immediate Search Mechanism for Missing Women (August 2018), has been questioned by civil society organizations three years following its entry into force. According to figures from the Women's Observatory of the Public Prosecutor's Office (MP), the alert system has a high success rate: on December 5, 2021, 89% of the alerts had been deactivated. Social organizations, however, have criticized that the mechanism does not clarify the fate of the women once located: it does not establish whether they were found alive or dead or if they were subjected to any kind of violence, nor does it ensure a coordinated follow-up nor actions by the relevant institutions. They also question the fact that the alerts are only disseminated through social networks, which in some rural contexts does not contribute to the search for women. The mechanism, as it functions now, "does not address the problem of the disappearance" of women in sufficient depth.<sup>6</sup>

Faced with this situation, the organizations have proposed four improvements to the search mechanism: the strengthening of the institutions that make up the National Search Coordinator with additional personnel and budgetary allocations; the creation of a specific center to investigate the alerts and, in the event of a crime, the transfer of the findings to the MP; the implementation of a mechanism to sanction the non-action of officials; reforms to the Law for the Immediate Search for Missing Women and the integration of the National Institute of Forensic Sciences (INACIF) to the Search Coordinator.<sup>7</sup>

In October 2021, eleven initiatives to reform the Isabel-Claudina Alert system were relegated by Congress despite the sharp increase in the numbers of violence against women.<sup>8</sup> The Mutual Support Group (GAM), in a report presented in September last year, recorded that between January and August 2021 femicides increased by 31% compared to the same months last year (396 versus 302).<sup>9</sup>

### **Corruption, a major threat to Guatemala**

The Corruption Perceptions Index (CPI), compiled out by the coalition Transparency International who are in represented in Guatemala by the organization Citizen Action (AC), found that Guatemala is "one of the countries with the most significant and consistent declines since 2012." The country has dropped from 91st place in 2012 to 150th place in 2021. Attacks on judicial independence and NGOs, an MP that obstructs investigations and authorities increasingly reluctant to fight corruption, are some of the factors have led to Guatemala falling to the bottom of this index. "Guatemala's section in the CPI begins by describing how conditions in the country have worsened since the departure of the International Commission Against

<sup>6</sup> Castañón, M., [A más de 3 años de la Alerta Isabel-Claudina ¿Cuál es su efectividad?](#), La Cuerda. 13.01.2022.

<sup>7</sup> *Ibidem*.

<sup>8</sup> Cuevas, D., [Congreso relega reformas para mejorar la alerta Isabel-Claudina para búsqueda de desaparecidas](#), Prensa Libre, 11.10.2021.

<sup>9</sup> EFE, [Los femicidios se incrementan en un 31 % en Guatemala durante 2021](#), 14.09.2021.

Impunity in Guatemala (CICIG). The "siege" to which independent justice operators are subjected, especially over the last two years, is another factor that has weakened the fight against corruption."<sup>10</sup>

According to Edie Cux, lawyer and member of AC 2022 is a crucial year for Guatemala due to the election of the Attorney General. This could "contribute to the fight against impunity and corruption, or, on the contrary, continue the line" of the current Prosecutor Consuelo Porras: "the current institutions at the Public Prosecutor's Office lack the confidence of the population; levels of violence and impunity have increased and I think a first step could be to elect a person who can strengthen that institution," says Cux. He also explains how the negative aspects of the way in which Prosecutor Curruchiche has turned the Special Prosecutor's Office against Impunity (FECI) "into an entity that does not prosecute corruption, but rather attacks the operators of justice." Cux believes that there is no independent judiciary and suggests that a reform of the justice system would improve the perception of corruption in Guatemala.<sup>11</sup>

For its part, the U.S. State Department pointed out that the Public Prosecutor's Office in Guatemala is obstructing investigations on corruption, as a result of the request for impeachment filed against the High Risk Judge, Erika Aifán, who was recognized in 2021 as an International Woman of Courage (IWOC) for "her efforts to strengthen the rule of law in Guatemala." This statement was made public through the State Department's spokesperson, Ned Price, who stated that this impeachment request erodes confidence in the country's judicial system.<sup>12</sup> Hundreds of organizations and individuals have shown their support for the judge and the fight against corruption through multiple communiqués.

## 2. ACCOMPANIMENTS<sup>13</sup>

*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.*<sup>14</sup>

### THE FIGHT AGAINST IMPUNITY

This month we accompanied the **Human Rights Law Firm (BDH)** to a press conference which took place in front of the Presidential Palace, within the framework of the presentation of the government report for year two. Organizations from various communities of Peten, Alta Verapaz and Izabal denounced acts of corruption, impunity and the lack of response to the demands of indigenous populations who have suffered evictions and State abandonment. They also expressed concerns for the extremely serious situation faced by the evicted population of Laguna Larga.



Regarding our accompaniment of the **Residents Association of Chicoyogüito, Alta Verapaz (AVECHAV)**, we held a meeting with their members to update us on their activities and the progress of the legal proceedings faced by 21 members who have been accused of committing the crime of aggravated trespassing during their participation in a demonstration last year demanding their right to the land from which they were dispossessed in 1968.

<sup>10</sup> Vásquez, J., [AC: Es la nota más baja de Guatemala en índice de corrupción](#), La Hora, 25.01. 2022.

<sup>11</sup> *Ibidem*

<sup>12</sup> Pineda, S., [EE. UU. se pronuncia por petición de antejuicio contra Aifán](#), Publinews, 16.01.2022.

<sup>13</sup> We maintained regular contact with accompanied organizations who are not specifically mentioned in this section, but there are no activities to highlight.

<sup>14</sup> See our website for general information on organizations and individuals we accompany: <https://pbi-guatemala.org/en/groups-and-individuals-currently-accompanied-pbi>



### THE ISSUE OF ACCESS TO LAND

As part of our accompaniment of the Union of **Peasant Organizations Las Verapaces (UVOC)**, we met with their coordinator, Carlos Morales, this month to follow up on the evictions which occurred last year and the situation of the people impacted, as well as to update us on the organization's activities.

We paid another visit to the community leaders, Jorge Coc Coc and Marcelino Xol Cucul, who are members of the **Community Council of the Highlands (CCDA) - Las Verapaces**, in Cobán prison. We also maintained regular contact with the coordinators of the organization, Lesbia Artola and Imelda Tuyul.

### DEFENSE OF THE TERRITORY

As part of our accompaniment of the **Peaceful Resistance, Cahabón**, we visited Bernardo Caal Xol, a Maya Q'eqchi' human rights defender and community leader who is imprisoned at the Cobán Penitentiary Centre. We also maintained regular telephone contact with members of the organization from various communities.

We have maintained contact and virtual meetings with several representatives of the **Peaceful Resistance, La Puya**. We hope to accompany them in the activities they have planned for their 10th Anniversary March 6.

We accompanied the **Maya Ch'ortí Indigenous Authorities of Olopa and Quetzaltepeque** to the first declaration in the criminalization case against the Ancestral Authority Felipe Diaz Ramirez. The prosecution had brought six charges which were eventually dismissed (only the crime of illegal detention has remained under investigation). Don Felipe is under house arrest and has to sign with the court every 15 days.

Regarding the **Community Council of Retalhuleu (CCR)**, we accompanied the four criminalized defenders (Anabella España Reyes, Abelino Salvador Mejía, Flavio Vicente and Virgilio García Carrillo) to sign in at the court, as part of the alternative measures imposed on them. The next hearing in their case is scheduled for March 14.





### 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.*



This month we met with the following institutions and departmental authorities:

- Martín Pérez, Service Officer, Police Station 51, National Civil Police (**PNC**) **Department in Alta Verapaz.**
- Luís López, Head of Communications Office of the **Ministry of the Interior in Alta Verapaz.**
- Carlos Guillermo, Assistant of the Human Rights Ombudsman's Office (**PDH**) **of Alta Verapaz.**

### 4. OTHER ACTIVITIES OF PBI GUATEMALA

On January 27-28, we organized a **security workshop** for the communities of Olopa and Quezaltepeque. Arturo Chub, from Protection International was the facilitator and Santiago Chóc Cú, from BDH, organized a legal clinic on criminalization for 25 participants.

## 5. NON-GOVERNMENTAL ORGANISATIONS

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

### PRONUNCIAMIENTO POR UNA JUSTICIA INDEPENDIENTE

#### Frente al claro deterioro de la administración de justicia en Guatemala, agudizado por el nuevo antejuicio contra la jueza Erika Aifán, y ante el retroceso acelerado del Estado de derecho, los ciudadanos y ciudadanas y organizaciones firmantes manifestamos:

En las últimas décadas hemos pasado por diferentes etapas que nos han llevado de la esperanza de lograr consolidar los cambios necesarios para sentar las bases de un modelo de desarrollo incluyente expresado en los Acuerdos de Paz, la evidencia del actuar del Estado paralelo-criminal y de los actores que lo conforman, gracias a los casos expuestos por la Comisión Internacional contra la Impunidad en Guatemala, a la época actual donde la sociedad es víctima de un proceso apurado de restauración de la época oscura de la represión y la impunidad.

Desde el gobierno anterior hemos visto cómo se ha perdido la separación de poderes propios de una República democrática, se ha transgredido la ley en toda forma por parte de quienes tienen la obligación de cumplirla y respetarla desdiciendo la misma Constitución para mantener magistrados fuera del tiempo estipulado y constituyendo Cortes con funcionarios señalados por graves hechos de corrupción en el exterior, que corresponden igualmente a acciones ilegales realizadas al amparo de la impunidad que tiende a ser la prioritaria acción del Estado, cada vez más.

Nos enfrentamos hoy a acciones deliberadas cometidas por funcionarios en todos los poderes, que intentan despojarnos de la capacidad de expresarnos, de auditar las acciones indebidas que se cometen cada día, tanto a través de la represión como a la persecución penal espuria, utilizando el aparato de justicia y seguridad para perseguir y acallar a la ciudadanía y no para defenderla, como debería ser su fin primordial. Por otra parte vemos con asombro cómo los condenados anteriormente por corrupción se ven liberados de toda culpa, pareciendo ser el fin primordial de algunas Cortes el garantizar impunidad a quienes se unieron para desfalcar las arcas del Estado privando de los recursos para el desarrollo a toda la sociedad, o a quienes han utilizado las instituciones para garantizar prebendas e intereses contrarios al bien común.

Estamos conscientes que solo la unión entre los diferentes pueblos, sectores, personas, desde una visión ecuménica, incluyente, teniendo como objetivo la búsqueda del bien común, puede revertir el intento de las fuerzas oscuras que tienen capturado al Estado. Por ello hoy es vital respaldar a aquellos funcionarios que contra viento y marea siguen testimoniando que es posible hacer justicia y combatir la corrupción. Por ello, respaldamos a los jueces y juezas que se ven perseguidos por no ceder a las presiones de los funcionarios corruptos, cumpliendo con su deber a toda costa.

Demandamos la depuración de los tres poderes del Estado y que procedan en primer lugar a destituir a aquellos funcionarios que han sido señalados, incluso internacionalmente, ya que en este momento se constituyen en cómplices al mantenerlos. Una Corte de Constitucionalidad, una Corte Suprema de Justicia y un Ministerio Público encabezados por magistrados y funcionarios señalados dejan sin sustento todas las decisiones tomadas por esos órganos, haciendo un daño inimaginable al imperio de la Ley. Es urgente limpiar esos organismos y recuperar la credibilidad de la población en una justicia proba y eficiente, igual para todos.

Guatemala, 17 de enero de 2022

#### ORGANIZACIONES "PRONUNCIAMIENTO POR UNA JUSTICIA INDEPENDIENTE"

ACCI • ACI • ACMI Mujeres de Iztabal • ACCSS • ACOPAMP • ADECES • ADICI • Agenda Política Mujeres en la Diversidad • AGPD • AGRDIVI Jajapa • Agroindustrial K&C, S. 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[CAMPO PAGADO]

**PBI team in Guatemala:** Laura Carolina Saavedra Garzón (Colombia), Anuja Pathak (Switzerland/United Kingdom), Karen Katherine Vinasco Jiménez (Colombia), Marianne van de Vorle (Netherlands), Siglinde Luthner (Germany), Lina Alejandra Manriquez (Colombia), Mariana Ávila Montejano (Mexico).

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Website: [www.pbi-guatemala.org](http://www.pbi-guatemala.org)

facebook: pbiguatemala

**Office of the team in Guatemala**

3a Avenida "A" 3-51, Zona 1

Ciudad de Guatemala, Guatemala

Phone/ Fax: (+502) 2220 1032

**E-mail:** [equipo@pbi-guatemala.org](mailto:equipo@pbi-guatemala.org)