



Monthly Information Package Guatemala

Number 221 - February 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.

Tactic Case: 45 years in prison for former military commissioner for the forced disappearance of three community leaders

On February 24, the High Risk Court "D" issued a ruling in the Tactic Case, sentencing former military commissioner José Manuel Castañeda Aparicio to 45 years in prison, non-commutable, for the forced disappearance of the community leaders Rodolfo López Quej, Francisco Guerrero López and Jacobo López Ac. The events took place during one of the bloodiest periods of the Internal Armed Conflict (IAC), under the de facto government of the military coup leader Efraín Ríos Montt (1982-1983). The verdict against the accused was unanimous on the part of the court's three magistrates, presided over by Judge Sara Yoc.¹



The sentence comes "almost four decades after the three community leaders were kidnapped from their homes in the village of Tampo, in the municipality of Tactic, in Alta Verapaz." "The court affirmed that the judicial process proved how, in the early hours of the morning on January 26, 1983 an operation was carried out in which military commissioners and civil self-defense patrols (PAC) members from Tactic aggressively entered the homes of the victims, pointed guns at their families and took control of the place, then later tied the hands of the victims and captured them." Judge Yoc affirmed that this was the modus operandi of the military and paramilitary forces throughout the IAC, which was akin to a "witch hunt" and highlighted how the use of these practices subjected the population "to a history of terror." "Jacobo López Ac was one of the 565 people exhumed by the Forensic Anthropology Foundation of Guatemala (FAFG) at the former Military Zone No. 21 [currently known as CREOMPAZ] between 2012 and 2013 and was identified in 2016 thanks to DNA tests. The López family still does not know the whereabouts of Rodolfo López Quej and Francisco Guerrero López."²

Consuelo López, a relative of the three victims, insists that her family's case is not unique, that there are many other families who are still searching for their disappeared: "they are suffering, just as we are suffering."³

Persecution and imprisonment of justice operators seriously threatens the Rule of Law

The arrest of Leily Santizo, former head of the International Commission against Impunity in Guatemala (CICIG) alongside former prosecutors from the Special Prosecutor's Office against Impunity (FECI), Aliss Noemí Morán Mejía, Eva Sosa, Paola Mishelle Escobar Quiñónez and Willy Roberto Racanac López, have taken place within a context of a generalized persecution of judges and prosecutors who have fought against corruption and impunity.⁴ This is causing great concern, both among Guatemalan society and the international community.

¹ EFE, [Caso Tactic: Tribunal declara culpable a exmilitar por tres desapariciones](#), CNR Noticias, 24.02.2022.

² Burt, J.M y Estrada, P., [Condema para acusado de la desaparición forzada de tres dirigentes comunitarios](#), Agencia Ocote, 28.02.2022.

³ *Ibidem*.

⁴ Este último se mantiene detenido bajo arresto domiciliario.

On February 9, the day before the arrest of Leily Santizo, the Supreme Court of Justice (CSJ), withdrew Judge Pablo Xitumul's immunity. He "sat on the tribunals which convicted Efraín Ríos Montt for genocide, former Vice President Roxana Baldetti for corruption and three retired military officers for the disappearance of the child Marco Antonio Molina Theissen" during the IAC. The they based their decision to strip him of his immunity stemmed from an altercation with an agent of the National Civil Police (PNC) who then denounced him of an alleged abuse of authority. "Without immunity, Xitumul can be arrested at any time."⁵

The roots of this situation date back to 2019 when there was a wave of persecution and detention of former anti-corruption prosecutors from CICIG and FECI. That year, "when CICIG's mandate ended and former President Jimmy Morales decided not to request its renewal before the United Nations, the Attorney General, Consuelo Porras, refused to continue employing staff who, for a decade, had collaborated with the Public Prosecutor's Office [MP] in high-impact investigations. She said it was not her responsibility to ensure the security of these personnel." Intimidation and attacks against former CICIG and FECI workers began at that moment.⁶

The Unit for the Protection of Human Rights Defenders (UDEFEQUA), has stated in a press release that these actions demonstrate the clear objective of "punishing and forcing independent justice operators into exile."⁷ This statement by UDEFEQUA is corroborated by former FECI prosecutor Rudy Herrera, who has been forced into exile and who has denounced that the Guatemalan state is carrying out a campaign of persecution against independent justice operators with the objective of "guaranteeing impunity for criminal networks" operating in the country." He adds that "the Attorney General Consuelo Porras came to office with the mission of guaranteeing impunity for the criminal networks which, in theory, she should be investigating. This made things difficult for the prosecutors committed to our work from day one, but in recent months it has become increasingly clear." He adds that he was "one of the prosecutors in charge of the Parallel Commissions Case, which demonstrates the efforts and agreements made by different corrupt actors to keep the institutions of justice corrupt." He has been forced to leave the country with his family, to avoid becoming another victim of the unjust persecution faced by his colleagues, which has been "designed to punish those of us who dared to expose corruption and demand that those who benefit from corruption be held accountable". In addition to the people who have already been unjustly detained, so far "at least 13 former Guatemalan justice operators are in exile due to the persecution they face in the country, according to the former MP official Juan Francisco Sandoval, "who had to go into exile in July 2021 after being removed from his post by Porras herself."⁸ "Sandoval also warned that the life of lawyer Leily Santizo, currently held at the Mariscal Zavala prison, is at risk since there are people imprisoned there who were investigated by the CICIG."⁹ Aliss Morán Mejía, who is detained in the same prison, runs the same risk because several people detained in the same prison as her were implicated in the processes she investigated when she was a FECI prosecutor.¹⁰

Public expressions of concern and denunciations of this situation have come from Guatemalan civil society, national institutions such as the Human Rights Ombudsman's Office (PDH) and the international community, who have also spoken out on the matter. The Human Rights Ombudsman, Jordán Rodas, has highlighted how the arrest of former members of CICIG and FECI is "a spurious persecution against professionals" and has recommended the MP to act with total objectivity, "in strict adherence to the principle of presumption of innocence and due process, so that all investigations, arrests and proceedings are carried out in accordance with the law, to prevent officials who have done their job from being persecuted and punished for having fulfilled their duties".¹¹

The U.S. State Department, the European Union (EU) and the United Nations (UN) have highlighted how the accusations and arrests against anti-corruption prosecutors and independent judges in Guatemala follow a pattern of intimidation and revenge originating at the Public Prosecutor's Office and the Supreme Court of Justice (CSJ). According to Brian Nichols, Assistant Secretary for Western Hemisphere Affairs at the U.S. State Department, these are troubling actions that undermine the rule of law. UN Secretary General António Guterres has called for "compliance with the requirements of fair trial and

⁵ García, J., [Los detalles del caso contra una ex abogada de la CICIG y una ex fiscal de la FECI](#), Plaza Pública, 10.02.2022.

⁶ *Ibidem*.

⁷ *Ibidem*.

⁸ Pérez Marroquín, C., [Exfiscal de Feci Rudy Herrera sale al exilio y señala persecución del MP contra operadores independientes](#), Prensa Libre, 17.02.22.

⁹ García, J., Op. Cit.

¹⁰ Prensa Comunitaria, ["Este acto responde a la política de represión que se realiza desde el Ministerio Público"](#), 17.02.2022.

¹¹ García, M., [PDH califica como "persecución espuria" captura de ex integrantes de CICIG y FECI](#), La Hora, 11.02.2022.

due process" and reminded the Guatemalan authorities that "it is the duty of all national institutions to respect and observe the independence of the judiciary." The EU has expressed "its deep concern at the continued deterioration of the rule of law in Guatemala, in which the CSJ and the Attorney General have initiated legal actions against judges, lawyers and independent prosecutors, resulting in arrests and loss of judicial immunity" and "calls on the authorities to guarantee the safety of persons in detention and to safeguard their right to due process."¹² In a similar vein, the United Kingdom expressed its concern over the events, which "further undermine" the rule of law in Guatemala and "urged the authorities to guarantee the safety of the detainees and safeguard their right to due process".¹³

According to Samantha Power, administrator of the United States Agency for International Development (USAID), the actions of the Attorney General, María Consuelo Porras, are "terrible", because "instead of protecting Guatemalans from crime and corruption (...) she is using her position to intimidate and persecute judges and prosecutors who defend the rule of law."¹⁴

The Inter-American Commission on Human Rights (IACHR) also expressed its concern in a communiqué issued on February 22, for what it defines as acts of criminalization and judicial persecution against justice operators and former members of CICIG. It has urged the State of Guatemala to guarantee an independent and impartial justice system and to protect justice operators "against attacks, acts of intimidation, threats and harassment, and to investigate those who commit rights violations and punish them effectively", because "if States do not guarantee the security of their justice operators against all kinds of external pressures, judicial activity can be seriously affected, obstructing access to justice." The Court "urges Guatemala to take measures to prevent the improper use of criminal law and pre-trial proceedings as a way of restricting the independent work of justice operators." In this regard, the fact that the CSJ has ordered the continuation of the pre-trial proceedings against Judge Erika Aifán, who sits at the High Risk Court for group "D" crimes, is also a matter of concern. Finally, the Commission calls on the State of Guatemala "to cease any interference against the independence of the Judiciary in order to guarantee independent and impartial justice in a State governed by the rule of law."¹⁵

On the National Day for the Dignity of the CAI Victims, they take a position on the election of the Prosecutor General.



On the National Day of Dignity of victims of the IAC, celebrated on February 25, the National Platform of IAC Victims' Organizations delivered a letter to the Nominating Committee for the election of the Attorney General, supporting the positions of other entities who have rejected "the reelection of the current head of the Public Ministry, María Consuelo Porras." The reason behind this rejection is that they consider that Porras "has dedicated herself to destroying the Public Prosecutor's Office and to obstructing investigations so as to protect the corrupt." In fact, the letter reiterates how "she was sanctioned by the United States government and included in the Engel List of corrupt and anti-democratic actors for her persecution of justice operators." Similarly, "the Association of Journalists

of Guatemala (APG), also delivered a letter to the Nominating Committee to demand the exclusion of Porras from the nominee, as they consider her to be unsuitable for the position and for the attacks and persecution against national journalists and social communicators." The National Platform of Victims' Organizations of the IAC has asked the Nominating Committee to elect people who respect human rights, who guarantee access to justice to the victims of serious human rights violations and to the entire population, as established in the Constitution and international treaties.¹⁶

¹² Pérez, C., y EFE, [EE. UU., UE y ONU condenan persecución penal contra fiscales anticorrupción y señalan patrón de "intimidación y venganza"](#), Prensa Libre, 11.02.2022.

¹³ Álvarez, A., [Reino Unido: persecución de jueces socava el estado de derecho en Guatemala](#), La Hora, 16.02.2022.

¹⁴ La Hora, [Power de USAID señala "terrible" actuar de C. Porras contra jueces y fiscales](#), 12.02.2022.

¹⁵ CIDH, Comunicado No. 037/22, [CIDH expresa preocupación por nuevas afectaciones a la independencia judicial en Guatemala](#), 22.02.2022.

¹⁶ Sapaúl, L., [Víctimas del conflicto armado también rechazan reelección de Porras](#), La Hora, 25.02.2022.

Another assassination of a CODECA leader marking 23 murders

Once again we must lament the assassination of another human rights defender and leader of the Committee for Campesino Development (CODECA) on February 6 2022. The organization issued a statement the day following the murder, that Alvaro Marcos Morán, 34 years old, was from the Tierra Blanca community in Santa María Xalapán, Jalapa department. He was shot to death when he was traveling from Guatemala City to Xalapán for a meeting. He had is survived by two children. CODECA highlights in its communiqué that 23 human rights defenders members of the organization have been murdered since 2018 and they demand justice and punishment for the material and intellectual authors of these crimes. The Human Rights Ombudsman, Jordán Rodas Andrade, spoke out condemning the murder and reminded the State of its responsibility "to ensure that human rights defenders can carry out their work without interference, harassment and with full guarantees of respect for their physical integrity." He also rejected "the escalation of serious human rights violations, which remain in impunity, and of which women defenders of rights and territory are victims, in particular members and leaders of CODECA".¹⁷

2. ACCOMPANIMENTS¹⁸

*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.*¹⁹

THE FIGHT AGAINST IMPUNITY

This month we met with the **Never Give Up (Nunca Pares)** collective, who are demanding justice for the rapes suffered by several students in January 2020. We kept up to date with the various legal proceedings they have had to go through. We are still waiting for a date to be set for the hearing of their case.

THE ISSUE OF ACCESS TO LAND

We visited Marcelino Xol Cucul and Jorge Coc Coc, human rights defenders and members of the **Community Council of the Highlands (CCDA) - Las Verapaces**, criminalized and imprisoned, in Cobán prison.

We continue to follow the situation of David Alejandro Saal, leader of the **Union of Peasant Organizations Las Verapaces (UVOC)**, who was detained while other leaders from the organization were meeting with state authorities. We accompanied him to his first hearing during which he was indicted. UVOC have expressed their concern for the safety of David Alejandro, who is being held in the Cobán prison.

DEFENSE OF THE TERRITORY

This month the members of the **'New Day' Ch'orti' Campesino Central Coordinator (CCCND)**, shared their concern about the increase in security incidents and the criminalization of their leaders with us. We are also concerned about the situation of Timoteo Valdez, an indigenous authority from the Tutucopote community (municipality of Olopa), who is facing criminalization. On January 30 he was arrested and accused of illegal detention, but due to his delicate state of health he was kept in custody in a public hospital. After his first statement, the judge ordered him to stand trial but released him. His health remains very delicate.

We visited the criminalized defender Bernardo Caal Xol, member of the **Peaceful Resistance, Cahabón**, at the Cobán prison.

¹⁷ Álvarez, A., *Codeca denuncia el asesinato de integrante; van 23 de 2018 a la fecha*, La Hora, 09.02.2022.

¹⁸ We maintained regular contact with accompanied organizations who are not specifically mentioned in this section, but there are no activities to highlight.

¹⁹ See our website for general information on organizations and individuals we accompany: <https://pbi-guatemala.org/en/groups-and-individuals-currently-accompanied-pbi>

The members of **the Peaceful Resistance, La Puya** are preparing for activities to celebrate their 10th Anniversary, which will take place on Sunday, March 6. They are celebrating 10 years of resistance against the El Tambor mining project, which was suspended in 2017 for failing to comply with the obligation to carry out a free, prior and informed consultation with the affected population. We have prepared an ACÉRCATE, to broadcast on the occasion of the anniversary in which members of La Puya will share the experience of their resistance and their work in defense of human rights during these 10 years.



Regarding the **Community Council of Retalhuleu (CCR)**, we accompanied the criminalized human rights defenders Abelino Mejía, Flavio Vicente and Anabella España, to their signing of the register at the Champerica Peace Court. We then accompanied them to the España River, where they showed us the high levels of contamination of the river, caused by agribusiness in the area.

In the framework of our work with the communities of **Olopa and Quezaltepeque**, this month we accompanied six criminalized indigenous authorities of Olopa during the hearing they had to

face in the Criminal Court of First Instance of Chiquimula. The judge decided in favor of the request of the authorities' defense to change the frequency with which they must sign the register at the Public Prosecutor's Office, to every two weeks instead of every month. The judge also ruled in favour of allowing Odilio Guzmán, a relative of the management of the mining company Cantera de los Manantiales (in the village of La Prensa, Olopa), to join as a plaintiff in the accusation of illegal detention against the criminalized authorities.



3. POLITICAL ACCOMPANIMENT

Meetings and other contact with the diplomatic bodies, international organisations and Guatemalan authorities.

Meetings with national and international authorities are an important way for PBI to make known what we do and what our objectives are. Through these meetings, where necessary and in a reserved manner, we share our concerns about worrying situations that we have witnessed first-hand from the work we do in the field.

As part of our dialogue with the diplomatic corps and international organizations present in Guatemala, this month we met with:

- Carolien Van Embden, Human Rights Officer at the **Dutch Embassy in Costa Rica (virtual meeting).**
- Hans Magnusson, **Sweedish Ambassador**, Guatemala City.
- Mateo Barney, Head of Political Affairs and Monica Izaguirre, Political Affairs Officer, **Canadian Embassy, Guatemala City.**
- Alan Mayo, Officer, Democratic Spaces Unit, **Office of the United Nations High Commissioner for Human Rights (OHCHR)** (virtual meeting).

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

- Dolores Serna, Service Officer at the **PNC department of Alta Verapaz**.
- Yesenia Sandoval, Human Rights Auxiliary Officer at the **PDH in Chiquimula**.
- Rudy Martínez, Chief and Marian Lucilla Tista Ixpata, day officer at the **PNC office in Chiquimula**.

4. OTHER ACTIVITIES OF PBI GUATEMALA



From February 28 to March 1, we held a **security workshop** attended by 20 members of UVOC. Santiago Choc Cu from the BDH gave a legal clinic on Criminalization and Arturo Chub from Protection International facilitated an exchange on security incidents and protection measures at the individual and organizational level.

5. ACTIVITIES OF PBI GUATEMALA OUTSIDE GUATEMALA

Outside the country we constantly develop and strengthen the network of support for the Guatemalan PBI project, as this is one of the essential tools necessary to protect defenders of human rights. Regional Representatives, the Project Office Coordinator and other members of the committee and the Project Office and national groups of PBI, conduct public relations campaigns with many NGOs, agencies and national governments, parliamentarians and others. In this context we develop actions and public relations campaigns, and / or advocacy aimed at protecting defenders of human rights.

The European Representative held meetings with:

- Miguel Urbán, Member of the **European Parliament** (MEP) of the GUE political group and member of the **Subcommittee on Human Rights** and Ana Vicente Moreno, advisor to the same political group.
- Djamila Chikhi, responsible for Latin America at the Secretariat of the EP Subcommittee on Human Rights, her advisor Nicolas Joel David and Sara Cheddadi, intern at the same department.
- Rosa Gómez Iniesta, assistant to Soraya Rodríguez MEP, from the Renew political group, and member of the **EP Foreign Affairs Committee**.
- Norma Caballeros, assistant to MEP Javier Nart, from the Renew political group, vice-president of the **EP Delegation for Central America**.

6. NON-GOVERNMENTAL ORGANISATIONS

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

BASTA YA DE VIOLENCIA MISÓGINA EN CONTRA DE QUIENES HEMOS LUCHADO CONTRA LA CORRUPCIÓN

Durante años, la Fundación contra el Terrorismo ha desarrollado campañas y ataques en medios y redes sociales para intimidar a personas con demostrada independencia dentro del sistema de justicia y en la sociedad civil. Este tipo de esfuerzos busca amedrentar, infundir temor, minar la reputación y últimamente silenciar a quienes hemos enfrentado las redes criminales y de poder en el país.

La campaña se ha ensañado contra las mujeres, en particular, utilizando prejuicios y acciones misóginas para atacar a las juezas, magistradas, fiscales y abogadas que hemos contribuido al proceso anticorrupción.

Esta semana, denunciarnos que los representantes de este grupo radical pasaron de los ataques virtuales a la confrontación directa contra nosotras. En un tribunal, Ricardo Méndez Ruiz y Raúl Falla insultaron a las firmantes y amenazaron con el uso de la fuerza.

Estamos convencidas de que las mujeres y las niñas violentadas a través de redes sociales debemos exigir que se investiguen este tipo de hechos porque tenemos derecho de una vida libre de violencia de cualquier tipo. Recordamos que el sistema judicial debe garantizar que no sean doblemente agredidas las mujeres que están siendo limitadas en su libertad y mientras se dilucida su situación

A ambos les reiteramos que no nos intimidan. Pero elevamos la voz porque este tipo de violencia misógina y machista no puede seguir siendo utilizada para preservar la impunidad y garantizar que la corrupción de siempre continúe imperando. Hemos hecho las denuncias correspondientes y reiteramos al sistema de justicia la exigencia de garantizar la integridad de ambas.

Guatemala, 21 de febrero de 2022

Leily Santizo – Eva Siomara Sosa

(A través de nuestra abogada defensora, Licda. Flor de María Galvez)

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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