



## 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.*

### **Release of the criminalized and unjustly imprisoned human rights defender Bernardo Caal Xol**

The human rights defender and teacher Bernardo Caal Xol was released from prison on March 24, around 10 p.m., following four years and two months of "torture." Family, friends and social organizations had gathered to welcome him with outstretched arms as he walked out of the prison gates. His words following his release were strong and significant: "today I gained my freedom, it is a clear defeat of and triumph over criminalization, maybe they hoped that with this imprisonment they would be defeating the struggle for the defense of the territories, but no."<sup>1</sup>

A communiqué was read at the press conference Bernardo and his lawyers gave upon his release in Guatemala City on March 31. They denounced "the situation faced by the Maya Q'eqchi' territory regarding the phenomenon of criminalization" which "is characterized by the fabrication of crimes against community leaders who are demanding the fulfillment of their individual and collective human rights", such as that which occurred in Bernardo's case. The communiqué also explains how the construction of hydroelectric dams in this territory has its origins in failed attempts to build these during the 1980s, coinciding with one of the bloodiest massacres committed by the army during the Internal Armed Conflict (IAC). It was not, however, until the end of the IAC and the signing of free trade agreements, that the ground was prepared for these megaprojects to become a reality in the 21st century. This was done by deceiving the population and without informing them of the plans to divert the river that supplied water to the communities of the region. Since then, the communities began to organize to demand their rights. Bernardo is one of their current representatives, which is why he has experienced threats, criminalization and unjust imprisonment.

As Amnesty International (AI) stated in a communiqué issued on the occasion of the human rights defender's release: "Bernardo Caal Xol should never have spent a day in prison." After reviewing the criminal file opened against him they "found that there was no evidence of the crimes of which he is accused." AI also highlight how "the process against him was marked by similar patterns of criminalization used against other human rights defenders that the organization has documented in Guatemala." For this reason, AI declared Bernardo a prisoner of conscience. According to Erika Guevara Rosas, AI's Director for the Americas, "it is regrettable that in Guatemala unfounded criminal prosecutions aimed at harassing and hindering the work of human rights defenders, particularly environmentalists and Indigenous people, and those who fight against impunity and corruption, is such a common tactic (...). The people of Guatemala have suffered an unprecedented regression of the human rights situation in recent years. The authorities have tried to dismantle the justice system and the social fabric, criminalizing anyone who fights for a more just and dignified country."<sup>2</sup>

According to the Bernardo's lawyers, the judge ordered Bernardo's release for good behavior. Bernardo explained at the press conference that his release is not an act of good will on the part of the State nor the Guatemalan justice system, but rather that he was released because he had served his sentence. Guatemalan law states that prisoners who serve half of their sentence (Bernardo had already served more than half) can benefit from parole, as long as they demonstrate good behavior, as in this case. It is, however, a conditional release.

<sup>1</sup> Cucul, G., [Bernardo Caal: mi libertad es una clara derrota a la criminalización](#), Prensa Comunitaria, 25.05.2022.

<sup>2</sup> Amnistía Internacional, [Guatemala: Bernardo Caal Xol nunca debió pasar un día en prisión](#), 25.03.2022.

It is important to note that regarding this process there is still an appeal to the Constitutional Court (CC) pending, which in which they allege violations of human rights throughout the entire criminal process. In addition, there is another case against Bernardo, known as the "teacher case", still pending which has been taken by the Ministry of Education. The next hearing in this second case is scheduled for April 11.

According to the latest report from the organization Global Witness, "Guatemala is one of the most dangerous countries in the world for defenders of land, territory and the environment (...). In 2020, 13 environmental activists were killed, once again the fourth highest rate of killings of land and environmental defenders per capita."<sup>3</sup>

### **Increase in attacks against journalists who expose corruption and human rights violations: special concern in El Estor**

Members of Prensa Comunitaria (Community Press) were notified on March 25, that one of their journalists, Carlos Ernesto Choc Chub, had appeared "in a new complaint filed by 13 members of the National Civil Police (PNC) and by prosecutors from the Public Prosecutor's Office (MP) of the municipality of Morales", department of Izabal. The charge against him is for "instigation to commit a crime", referring to the events that allegedly occurred on October 22 and 23, 2021 in El Estor in the context of the wave of violence and repression carried out "by the State against the people who were demanding the right to consultation and who had carried out protests against the activities of the Russian-Swiss mine-company Solway Investment Group." Carlos is an indigenous Maya Q'eqchi community journalist whose work in the municipality of El Estor has reached a wide audience in Guatemala. As a result, since 2017 he has experience attacks, judicial harassment (including criminalization on fabricated charges by the company CGN-PRONICO, according to the statement from Front Line Defenders) and threats against him. As a result, he has found it necessary to change his address on several occasions to maintain his safety.

As well as Carlos Ernesto, this complaint also includes 11 authorities from the four Mayan Q'eqchi Ancestral Councils who have been carrying out the peaceful resistance against the mining company. The incidents for which they are accused allegedly occurred after a contingent of hundreds of police officers attempted to evict the Maya Q'eqchi' population from the peaceful sit-in that the communities had been maintaining since October 4, 2021 in front of the Solway processing plant.

Furthermore, "on March 6, 2022, more than 20 media outlets around the world published the investigation "Mining Secrets" coordinated by Forbidden Stories, a French organization which publishes stories from journalists who have been subject to censorship or threats. The investigation reveals how the Solway Investment Group channels money to the PNC to carry out evictions of Q'eqchi' communities that the mining company has identified as opponents, "implementing surveillance and bribery strategies." Front Line Defenders believes that the complaints against the journalist and the ancestral authorities are directly related to the journalistic work of Carlos and Prensa Comunitaria as a whole, as well as the recent publication of the investigation "Mining Secrets" and is deeply concerned for the physical and emotional well-being of all those affected.<sup>4</sup>

These attacks are also occurring in other regions of the country, as evidenced by the case of another Prensa Comunitaria journalist, Francisco Lucas Pedro from the indigenous Maya Q'anjob'al community. He was intimidated by PNC agents during a control operation between the municipalities of Santa Eulalia and San Mateo Ixtatán, in the department of Huehuetenango. The incident occurred on March 26, when the victim was on his way to Barillas. He was stopped, asked for all kinds of identification and photographed without permission. The journalist recognized one of the policemen as the same one who illegally captured him (without an arrest warrant) on December 21, 2019.<sup>5</sup>

"Guatemala is not Mexico yet, as far as violence against journalists is concerned, but that is where the country is heading at breakneck speed."<sup>6</sup> It is not only justice operators who are having to go into exile to safeguard their integrity, but many journalists, especially from community media, have also been forced to leave. This is the case of Lucía Ixchú and Carlos Cano of the Guatemalan collective Festivales Solidarios, who

<sup>3</sup> Ibídem.

<sup>4</sup> Front Line Defenders, [Guatemala: Nuevos actos de criminalización en contra del periodista Carlos Ernesto Choc Chub](#), 31.03.2022.

<sup>5</sup> Pez, L. y Francisco S.M., [Huehuetenango: Agentes de la PNC intimidan a periodista comunitario](#), Prensa Comunitaria, 26.03.2022.

<sup>6</sup> Prensa Comunitaria, [Giammattei y Porras criminalizan al periodismo que denunció a la mina de El Estor](#), 28.03.2022.

"work on issues of historical memory, defense of territory and accompaniment of political prisoners." They have been in exile for months because of threats resulting from their work documenting what they call a "low intensity war" in their country.<sup>7</sup>

### **Judge Aifán forced into exile to protect her life and Judge Xitumul suspended from the High Risk Court C**

Erika Aifán made public her resignation from the position of High Risk Judge which she had held for more than six years on March 21. In her statement she explained how, "upon seeing her right to defend herself violated in a pre-trial process led by magistrates linked to the "Parallel Commissions 2020" case and with no guarantees for her integrity, she had no other choice but to resign and go into exile: "I faced accusations, threats and pressures (...) today I have decided to resign because I do not have sufficient guarantees of protection for my life and integrity, nor the possibility of defending myself with due process", she stated in explanation of her resignation. "Making this decision was difficult, after almost 20 years of judicial work, but given the context and possibilities for guaranteeing my life and defending myself effectively, the best option seems to be to do this from abroad."

According to Ramón Cadena, lawyer and president of the International Commission of Jurists (CIJ), "this is a very hard blow for justice because we do not know if the high impact cases that Judge Aifán was presiding over will end up in the hands of an independent judge, with the same conviction as her. The most likely outcome is that these processes will be lost. Aifán resisted until the end, but she could not take it anymore." The Guatemalan Association of Judges for Integrity (AGJI), issued a statement condemning the systematic attacks against the judge and emphasizing that Aifán is a beneficiary of "precautionary measures granted by the Inter-American Commission on Human Rights (IACHR). The lack of guarantees compromises the State of Guatemala's position both nationally and internationally." Haroldo Vásquez, president of the AGJI, highlighted how Guatemala is "returning to the past, the exiles remind us of the 80s. No doubt there certain sectors are celebrating the departure of the judge, we are in the midst of a campaign against honest judges. This system of corruption is hostile towards those who don't fit in, which provokes enormous repression." Aifán's departure represents yet another justice operator (judges and prosecutors) who have had to leave Guatemala to protect themselves from the criminal structures that have co-opted all justice institutions.<sup>8</sup>

The day after Judge Aifán's resignation was made public, Judge Pablo Xitumul de Paz, president of the First Criminal Sentencing, Drug Trafficking and Environmental Crimes Court with jurisdiction over High Risk Group C cases, was notified of his removal from his post by a resolution from the Supreme Court of Justice (CSJ). His removal was made possible thanks to the withdrawal of his right to immunity. Xitumul is a well-known judge in Guatemala because in recent years he has sent several former officials linked to corruption cases and crimes against humanity to prison. He also benefits from precautionary measures issued by the IACHR for State protection measures due to the rulings he has issued. He claims that he has been denounced more than 30 times by relatives or friends of people he has condemned. According to the judge, the resolution of the CSJ constitutes a violation of due process and the legal principle, due to the fact that his file had not been reviewed by all the magistrates when they were deciding to remove his immunity, which in turn led to his removal from office. He is planning to file an injunction against this decision.<sup>9</sup>

In a press conference held in front of the Supreme Court of Justice (CSJ), members of social organizations, expressed their solidarity with Judge Aifán and highlighted "the strong pressures coming from the MP and the corrupt mafias that seek impunity and threaten the personal safety of Judge Pablo Xitumul." They indicated how this *modus operandi* responds to perverse mechanisms similar to those used in cases of persecution of prosecutors from the office of the Special Prosecutor against Impunity (FECI) and the now extinct International Commission against Impunity (CICIG). They announced mobilizations in the capital and other parts of the country, in rejection of the corruption and impunity

<sup>7</sup> Soledad, C., [Periodistas en el exilio denuncian acoso a medios comunitarios en Guatemala](#), El Salto, 12.03.2022.

<sup>8</sup> Toro, D., [Aifán, la jueza valiente que renunció para protegerse](#), No-Ficción, 21.03.2022.

<sup>9</sup> Román, J. y Pitán, E., [Pablo Xitumul es suspendido del Tribunal de Mayor Riesgo C mientras aclara su situación jurídica, resuelve la Corte Suprema de Justicia](#), Prensa Libre, 22.03.2022.

that they claim has been facilitated by the Attorney General, María Consuelo Porras, for which they oppose her possible reelection", as well as the "designation of candidates linked to the Officialism." <sup>10</sup>

### **OHCHR presents its 2021 report on the situation of Human Rights in Guatemala**

The Office of the United Nations High Commissioner for Human Rights (OHCHR) has published its 2021 report on the human rights situation in Guatemala. The report concludes that "Guatemala continues to face systemic and structural challenges (...), particularly related to inequality and discrimination, the justice system and the fight against impunity, democratic spaces and citizen participation. This context prevents significant progress in ensuring the exercise and enjoyment of human rights". As such, the report makes several recommendations to the Government of Guatemala, including a recommendation addressing the independence of the judiciary, which has come under such strong attacks in recent times, stressing the need to: "Guarantee the independence of justice institutions and strengthen the professional careers of justice officials, including strengthening the protection of justice officials, and the creation of national programs or institutional protection mechanisms to detect and adequately address the challenges related to judicial independence." <sup>11</sup>

### **Plurinational Summit for Water Freedom**

Social organizations, ancestral authorities, community leaders and authorities of urban neighborhoods in Guatemala City organized political, cultural and artistic actions throughout the month of March across the different territories, in order to raise awareness about the diverse and worrying problems related to the right to water. One activity of particular note was the Plurinational Summit for Water Freedom, which took place on March 25 and 26 in the Historic Center of the capital. Approximately 250 representatives of the different Mayan, Xinca, Garifuna and Mestizo nations participated. In these activities, and from different territories, they denounced the lack of access to water, the diversion of rivers and their contamination, as well as the diseases that this causes in the population, which have a particularly cruel impact on children.<sup>12</sup>

## **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 organization **Nunca Pares** to a unilateral hearing at the Public Prosecutor's Office, which related to one of the rape cases. We also accompanied members of the organization to a visual inspection at the scene of the incidents in the University of San Carlos (USAC), Guatemala's only public university.

We accompanied the **Human Rights Law Firm (BDH)** to a hearing at the court house in Guatemala City, which was held to certify two experts from the Virgen de la Asunción Safe Home (HSVA) case. We also accompanied a BDH lawyer to the General Directorate of the Penitentiary System, located in Guatemala City, to process the procedures related to the release of defender Bernardo Caal Xol.

We are deeply concerned to hear that 21 members of the **Residents' Association of Chicoyogüito - Alta Verapaz (AVECHAV)**, were sent to trial by a judge in Cobán. According to the communiqué issued on March 30, "this resolution evidences how the criminal law is being used to attack the defenders, accusing them out of trespassing in the territory" in which they peacefully demonstrated on June 9 of

<sup>10</sup> Sapalú, L., [Manifiestarán contra posible reelección de Porras o allegados al oficialismo](#), La Hora, 30.03.2022.

<sup>11</sup> OACNUDH, [Situación de los DDHH en Guatemala. Informe del Alto Comisionado de las Naciones Unidas para los DDHH](#), 28.02.2022.

<sup>12</sup> Guarchaj, M., [Mujeres denuncian enfermedades en la niñez por falta de acceso al Agua](#), FGER, 14.03.2022,

<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>

last year. The reason for this demonstration was to demand the return of the land from which they were violently evicted by the Guatemalan army in 1968 and where the Regional Training Center for Peacekeeping Operations (CREOMPAZ) is currently located.

### THE ISSUE OF ACCESS TO LAND

As part of our accompaniment to the **Community Council of the Highlands (CCDA) - Las Verapaces Region**, we maintained regular contact with the coordinators of the organization Lesbia Artola and Imelda Teyul. On March 8, International Women's Day, they received a visit from the Canadian Ambassador, Rajani Alexander (photo taken from the Facebook page of the Canadian Embassy in Guatemala).



It is also worth noting that the case of the criminalized and imprisoned defenders and members of the CCDA, **Marcelino Xol Cucul and Jorge Coc Coc**, was mentioned in the 2021 report for Guatemala of the Office of the United Nations High Commissioner for Human Rights (OHCHR). The information can be found in point 75 of the subsection "Criminalization" under the section on "Human rights defenders", which refers to the case of both human rights defenders, highlighting how "the improper use of criminal law against human rights defenders and journalists to prevent or punish them for the legitimate exercise of their work, through criminal actions which do not seem to be based on facts and concrete elements that justify criminal actions, increased. OHCHR documented irregularities in criminal proceedings against human rights defenders, such as the case of Jorge Choc and Marcelino Xol."

In addition to maintaining regular contact with the **Verapaz Union of Campesino Organizations (UVOC)**, this month we accompanied them to a technical meeting between the organization and the Public Prosecutor's Office.

### DEFENSE OF THE TERRITORY

We continue to follow up regarding the release of the indigenous authorities Timoteo Suchite and Agustín Ramírez, members of the '**New Day**' **Ch'orti** **Campesino Central Coordinator (CCCND)**, who have been imprisoned since 2013. We also maintained regular telephone contact with other members of the organization.



The big news this month, which we welcome with immense joy, has been the release of the human rights defender and representative of the **Peaceful Resistance, Cahabón**, Bernardo Caal Xol. On March 26, two days following his release, he began a caravan which accompanied him on his return to his community, during which PBI was present. The caravan began in Coban and passed through Carchá, Lanquín, Cahabón and the Oxec River, ending at Bernardo's community, Chabelén, where around 500 representatives of more than 150 communities participating in the Resistance gathered. We also attended a press conference held in the capital on March 31, where Bernardo was accompanied by his lawyers. In addition to all the activities related to Bernardo's release, we continue to maintain regular contact with other members of the Resistance.

We attended the commemoration of the 10th anniversary of the **Peaceful Resistance, La Puya**. Residents from 12 communities across the municipalities of San Pedro Ayampuc (SPA) and San José del Golfo (SJG) have maintained a sit-in at the entrance to the Progreso VII Derivada mining project for the past 10 years. This project involves the open-pit extraction of gold, silver and other minerals and is part of a series of mining plans to exploit the north-east of Guatemala's central department. The project is owned by the U.S. company Kappes, Cassidy & Associates (KCA), with Canadian investment (Radius Gold) and the participation of local subsidiaries Exploraciones Mineras de Guatemala S.A. (EXMINGUA) and Servicios Mineras de Guatemala S.A. (EXMINGUA). (EXMINGUA) and Servicios Mineros de Centro América S.A.L.



Together with the Human Rights Officer from the Dutch Embassy, Costa Rica, we carried out observation of an intermediate stage hearing in the case against Anabella España, Abelino Mejía, Flavio Vicente and Virgilio Garcia, members of the Board of Directors of the **Retalhuleu Community Council (CCR)**, are experiencing. The hearing was cancelled, so we accompanied Anabella España and Abelino Mejía when they signed the register at the MP and visited Anabella's community. In addition, this month we visited other member communities of the organization who are fighting for access to water. These communities have been deeply impacted by the siphoning of rivers by the sugar cane mills in the region, as well as the water pollution cause by the monocultures (from chemical pesticides), the natural environment and the family and community crops, all of which are essential for their survival, which is under a grave threat.



### 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:

- Alejandro Gallardo, Human Rights Officer at the **British Embassy**.
- Paola Royer, Cooperation Officer, **French Embassy**.
- Carlos E Moya-Linares, Political Affairs Officer, **US Embassy**.
- Paolo de Nicolo, **Italian Ambassador**.
- Carolien van Embden Andres, Human Rights and Policy Officer at the **Dutch Embassy**, as part of the visit with the CCR.

## 4. OTHER ACTIVITIES OF PBI GUATEMALA

This month we organized a **security workshop** with members of UVOC and a **healing encounter** for women human rights defenders from CCDA, which was facilitated by TZ'KAT Network of Ancestral Healers from Community Feminism and held in a community in Cobán.

We also broadcast a **new installment of our program ACÉRCATE**. This time we talked with members of the Peaceful Resistance, La Puya on the occasion of its 10th Anniversary. You can access it through our website: <https://pbi-guatemala.org/es/multimedia/acercate>

This month we also held our **biannual assembly in Guatemala**, in which we met members from different parts of the project to evaluate the work of the last 6 months and plan for the next semester.



## 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:

- Javier Nart, Member of the European Parliament (MEP), the Renew political group and Vice-President of the **DCAM Delegation for Central America**, and Norma Caballero, assistant to the MEP.
- Peter van de Velde, Deputy Director of the Central America, Mexico and Caribbean Division of the **European External Action Service (EEAS)** and Karolien Kras, Guatemala desk at the EEAS.
- Soraya Rodriguez, Member of the European Parliament (MEP) of the Renew political group and member of the **Delegation to the Euro-Latin American Parliamentary Assembly DLAT**, and Rosa Gómez Iniesta, assistant to the MEP.
- Tilly Metz, MEP from the Greens political group and Chair of the Delegation for Central America; Lena Widefjall, assistant to the MEP; and Garance Tardieu, advisor to the **Political Group for Latin American affairs**.

## 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.*



### **Sobrevivientes del genocidio cometido contra el pueblo Maya Achi.**

#### **Ante la opinión pública nacional e internacional**

##### **Hace saber:**

El en marco de la conmemoración de los 40 años de la masacre de 107 niños/as y 70 mujeres en el cerro Pacoxom, de la aldea de Rio Negro, Rabinal Baja Verapaz, el 13 de marzo de 1982, perpetrada por Patrulleros de autodefensa civil (PAC) y miembros del ejército de Guatemala.

**Expresamos** nuestra preocupación del actuar de la Fiscal General del Ministerio Publico de Guatemala por la desarticulación de la Fiscalía de Derechos Humanos y la Fiscalía Contra la Inmunidad que implica para el país impunidad y corrupción.

**Denunciamos**, la falta de voluntad de Estado de Guatemala de investigar, sancionar y juzgar a los perpetradores materiales e intelectuales del salvaje de 5 masacres en la Comunidad de Rio Negro. A tal grado la desobediencia a la Sentencia de la honorable Corte Interamericana de Derechos Humanos en el año 2,012, para que el Estado de Guatemala investigue los hechos y reparar las violaciones a derechos humanos cometidos contra los integrantes de la comunidad de Rio Negro. Situación que a la fecha no existe avance en el cumplimiento de dicha sentencia.

**Exigimos a** la comisión de postulación para la elección de Fiscal General y al Presidente de la República de Guatemala. La no reelección de la Fiscal General del Ministerio Publico María Consuelo Porras Argueta por ser una candidata que carece de idoneidad.

### **ASOCIACION PARA EL DESARROLLO INTEGRAL DE LAS VICTIMA DE LA VIOLENCIA EN LA VERPARACES MAYA ACHI.**

**-ADIVIMA-**



Rabinal, Baja Verapaz, marzo de 2022.



**PBI team in Guatemala:** Karen Katherine Vinasco Jiménez (Colombia), Marianne van de Vorle (Netherlands), Lina Alejandra Manriquez (Colombia), Marisol Robles Ruelas (Mexico), Madison Taggart (United States of America).

*All photos published (except the one taken from the Canadian Embassy FB) are from PBI*

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**GUATEMALA PROJECT  
PEACE BRIGADES INTERNATIONAL**

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