Brigadas Internacionales de Paz



Monthly Information Package Guatemala

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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.

Environmental management: inefficiency and lack of institutional foresight lead to catastrophes

When tropical storm Julia passed through Guatemala on October 10, President Alejandro Giammattei declared a state of public calamity. With 48 hours of rain, reports of rivers bursting their banks, landslides, flooded roads and crop losses came from across the country. Despite the critical situation, protection and evacuation actions in communities at risk were delayed and poorly executed. The huge toll of damage reported by the government paints a bleak picture for almost the entire country. A total of 8 deaths were reported, 19 roads were affected, 56 schools were damaged, multiple floods occurred and hundreds of homes suffered serious damage.¹

The impact was substantial throughout Guatemala, but Izabal, Alta Verapaz, Quiché and Huehuetenango, regions which have not yet recovered from the damage caused by storms Eta and lota which occurred at the end of 2020², suffered the greatest damage from floods and landslides. The communities within Quiché's Dry Corridor saw their river turn into a torrent that swept away everything in its path. Farmers have been left even more exposed to the already existing food insecurity in the region, leaving them with no alternative for survival other than migrating to other communities in the hope of finding employment under very precarious conditions. ³

Once again, the lack of institutional foresight in reducing vulnerability and providing adequate environmental management in the face of extreme natural phenomena led to catastrophe. An example of this is the landslides caused by heavy rains. These have been occurring for many years, but the necessary measures have not been taken to prevent them. "During the rainy season of 2022, landslides in Villa Nueva and on the road to El Salvador, (...) were marked this season due to the inefficiency of the authorities" in dealing with them. In the case of Villa Nueva "two vehicles fell into the gigantic hole, three people were taken to hospital with serious injuries and two women lost their lives." ⁴

Persecution of justice operators continues unabated

Over the last seven years, justice operators, journalists and other citizens have suffered threats, denunciations and criminal persecution at the hands of the Guatemalan state, according to an analysis by the Ocote news agency. Some of these people have been forced to go abroad for safety. Of the 86 people who have been persecuted, at least 45 are facing legal prosecution, with their cases at different stages of the legal process, and 17 have had to leave Guatemala.⁵

According to Eddy Cux, an analyst with Acción Ciudadana, the current justice system is persecuting innocent people who have fought against corruption. Carmen Aída Ibarra, executive director of the Pro-Justice Movement (MPJ), points out that these people are considered "enemies of the current regime" and are therefore persecuted and criminalized. Over the last month, the Public Prosecutor's Office (MP)

¹ Prensa Comunitaria, <u>Un gobierno sin capacidad y una tormenta que provoca 8 muertos en 24 horas</u>, 10.10.2022.

² Ola, A.L., ¿Cómo minimizar el impacto de las Iluvias en Guatemala? En la inversión está la respuesta, Prensa Libre, 14.10.2022.

³ Ical Jom, O., <u>Calá, el río que arrebata la vida</u>, Plaza Pública, 13.10.2022.

⁴ Calles, J., <u>Guatemala en crisis: colapso vial por socavamiento refleja el fracaso del gobierno</u>, Prensa Comunitaria, 03.10.2022.

⁵ Maldonado A., <u>Persecución y criminalización, AL MENOS 86 JUECES, FISCALES, PERIODISTAS Y CIUDADANOS PERSEGUIDOS EN</u> <u>GUATEMALA,</u> Agencia Ocote, 06.10.2022.

has "presented new accusations against former justice operators, while politicians linked to cases of alleged corruption benefited from resolutions issued by different judiciaries, demonstrating the contradictions in how the judicial system is currently functioning."6

Gustavo García Fong, an analyst with the Association for Research and Social Studies (ASIES), stresses that it is important "that the justice system responds to the interests of the common good, given that a biased justice system or one that citizens perceive as favoring a certain sector is obviously not just.". He also emphasizes that social audits are fundamental in ensuring the MP and the judiciary remain impartial and independent. 7

On the other hand, "the intimidating narrative of the Foundation against Terrorism (FCT), plaintiff in the cases against justice operators, former anti-corruption officials and (...) journalists is growing. To find out what the direction a case is going in or to confirm any criminal or judicial action, there is no longer any need to ask the MP or the judges, all you have to do is check the [social network] accounts of the FCT and its directors." According to Jaime Chávez Alor of the Vance Center for International Justice, these tweets reaffirm that actors such as the FCT are "key to criminalization." ⁸

Concerns over the current situation in Guatemala have reached beyond national borders, to the international arena. "Governments such as the United States, Spain, Great Britain and the European Union condemned the arrests of Santizo and Sosa, as they did with the arrest of Laparra and the exile of former prosecutors, magistrates and judges who have also been persecuted by Porras' MP and the FCT. This support, however, has not resulted in the abating persecution of lawyers such as Santizo and Sosa." 9

Ex-militaries attack the closing of the III Abya Yala Indigenous Women's Summit ¹⁰

As a prelude to the commemoration of the Day of Indigenous Resistance, the III International Summit of Indigenous Women of Abya Yala took place in Guatemala City on 9, 10 and 11 October. The aim of the event is to "contribute to the construction of a plurinational Abya Yala through the continental dialogue between indigenous women." During these self-organized meetings, which are periodically convened by the Summit's regional coordination, participants create spaces for discussion on strategies for taking action to defend the rights of indigenous peoples and, in particular, indigenous women. The most recent summit, held in Guatemala, was well attended, with participation from nearly 500 women across different parts of Latin America and garnered significant local and international visibility thanks to the coverage of alternative media outlets.

The closing even of the summit, however, was disrupted when a group of ex-military personnel with machetes and sticks attacked some of the participants. The event was attended by the Sepur Zarco's elder women and families, as well as other victims and survivors of the Internal Armed Conflict (IAC), who, upon witnessing this event, relived painful memories for which they are still seeking justice.

A worrying migratory situation in Guatemala

Statistics from the Guatemalan Migration Institute (IGM) report how, between October 1 and 16, 3,007 migrants of 21 nationalities have been identified and expelled from Guatemala, of whom 2,354 were Venezuelan.¹¹ Between October 2021 and August 2022, 155,553 Venezuelans managed to reach the southern border of the US. The hope of reaching the US stems from the desire to reunite with family members already there and to have a better quality of life. Unlike people from Central American countries, where a free mobility agreement exists with Guatemala, Venezuelans and citizens from the rest of the continent need a passport to enter the country and, in the case of some nationalities, a visa. For this reason, many people

⁶ Blanco E., ¿Distinto trato a Sandoval, Santizo, Laparra que a Torres y Baldizón?, La Hora Gt., 24.10.2022. 7 lbídem.

⁸ Redacción, Los tuits que intimidan y exhiben el poder e influencias de la Fundaterror, El Periódico, 06.10.2022.

⁹ Silva Ávalos H., Revés para el MP: Corte falla a favor de Leily Santizo y Siomara Sosa, Prensa Comunitaria, 05.10.2022.

¹⁰ III Cumbre de Mujeres Indígenas de Abya Yala.

¹¹ Pineda S., Cabrera F.; "Allá está mi familia": migrantes desesperados por no poder avanzar a EE. UU. siguen siendo expulsados de Guatemala, Prensa Libre, 17.10.2022.

migrate clandestinely, which adds to their vulnerability en route. ¹²

The US and Central American countries have diverted resources to border security and in organizing the police, military and other resources for the repatriation of detained migrants. Nevertheless, other nefarious actors are taking advantage of this situation, such as corrupt police who are demanding illegal payment to allow passage. Through the media migrants have denounced that Guatemala is the country of transit where they have had to pay the most bribes to the police.¹³ Moreover, according to a report by Global Financial Integrity, by 2021 "covote" gangs could have earned up to Q20 billion a year from smuggling migrants from Guatemala, El Salvador and Honduras.¹⁴

Guatemala is currently strengthening its migration controls, after national authorities participated in a meeting with William Popp - the US ambassador to the country - and US cooperation agencies. IGM director general Stuard Rodríguez said they are "sending the message that the US border is totally closed."¹⁵

2. ACCOMPANIMENTS¹⁶

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. 17

THE FIGHT AGAINST IMPUNITY

We accompanied the Human Rights Law Firm (BDH) to the second and third hearings of the oral and public debate against Bernardo Caal Xol on October 5 and 19 in the case known as the Teacher Case. This case began in 2017 when Bernardo Caal was denounced by the Ministry of Education (MINEDUC), while he was teaching in a primary school in the village of Sibicte de Chisec. At first he was accused of fraud, but later Judge Ricardo Isaais Caal changed the offence to undue financial deductions. The lawyers who are handling the case insist that the process should be administrative, not criminal. They have highlighted how the right to due process stipulated in the Constitution and other international legal instruments is being violated in this respect. Furthermore, Bernardo did not start receiving notifications about this case until he was released from prison and the trial is taking place five years after the denunciation. According to the lawyers, both facts constitute violations of the legally established statutes of limitations.

We also accompanied the BDH throughout the month at informative workshops they have been giving on the right to free, prior and informed consultation, as lain out in Convention 169 of the International Labor Organization (ILO). These workshops are aimed at communities belonging to the Peaceful Resistance, La Puya and have taken place in different communities across that region. The Resistance is in the phase of designating representatives for the aforementioned consultation, after their right to consultation was recognized by the Constitutional Court in a 2017 ruling.

Finally, we visited the BDH office and maintained regular telephone communication with the other members of the organization to follow up on their security situation.

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¹² Morales Rodas S., Cada mes cruzan Guatemala más de 54 mil migrantes sudamericanos rumbo a EE.UU., Prensa Libre, 18.10.2022. 13 lbídem.

¹⁴ Gamaro U., Mientras los migrantes arriesgan la vida por llegar a Estados Unidos, los "coyotes" perciben US\$1,200 millones cada año, Prensa Libre, 08.11.2022.

¹⁵ Pineda S., Cabrera F., Op. Cit.

¹⁶ We maintained regular contact with accompanied organizations who are not specifically mentioned in this section, but there are no activities to highlight.

¹⁷ See our website for general information on organizations and individuals we accompany: https://pbi-guatemala.org/en/groups-andindividuals-currently-accompanied-pbi

THE ISSUE OF ACCESS TO LAND

As part of our accompaniment of the Community Council of the Highlands (CCDA) - Las Verapaces Region, we maintained telephone contact with its coordinators, Lesbia Artola and Imelda Teyul, in order to monitor their security situation and that of the communities who form part of CCDA.

Regarding our accompaniment of the Union of Peasant Organisations Las Verapaces (UVOC), we accompanied its legal team to the hearings related to the criminalization of community leader and human rights defender David Maxena. The first of these hearings took place on October 3 and consisted of the presentation of the conclusions of the different parties in the case, before the sentence was passed. The defense team argued that a procedural error would prove the plaintiff's lack of procedural legitimacy. The plaintiff in this case is the company Agropecuaria Chintun S.A. This error pertains to the existence of an inscription in the General Property Registry proving the farm changed ownership under trust to another company (Financiera S.A.). On the basis of the documentary evidence presented, this company, held the ownership of the property when the alleged incidents occurred (05/08/2020). There-



fore, this other company should be the only entity entitled to act as a legal party in the judicial process and not Agropecuaria Chintun S.A.. UVOC's lawyer concluded by drawing attention to the fact that David Maxena's residence at the time was registered in Nuevo Chintun and not in the allegedly occupied territory. He also drew attention to the existence of a cemetery on the land that the Agropecuaria claims it owns, whose gravestones date from 100 years ago. This proves that the land has belonged to, or at least has been under the possession of, the community for many years. The court acquitted the accused on October 18. The judge's rationale included the impossibility of identifying the property and the doubts over David's presence at the time of the events of which he was accused.

We also accompanied UVOC to the meeting held on October 20 to celebrate the Day of the Revolution where they held a discussion on capacity building was held with many members of the organisation.

We also held several meetings with members and leaders of the organisation to follow up on their security incidents and their work.

DEFENSE OF THE TERRITORY

We accompanied the Council of Maya Ch'orti' Indigenous Authorities of Olopa to an activity on October 15 as part of the Media Self-Regulation Project. The event was coordinated by journalist Norma Sancir and was attended by Protection International and representatives of national and local (Chiquimula) media. The indigenous authorities expressed their need for support in terms of information dissemination. We also met with members of the Council to follow up on their work.

Regarding our accompaniment of the 'New Day' Ch'orti' Campesino Central Coordinator (CCCND), we held a face-to-face meeting with some of its members on October 10 to update and monitor their security situation. The security situation has worsened in recent months as incidents such as death threats, intimidation and surveillance have increased.



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As mentioned above, we accompanied the **Peaceful Resistance, La Puya** to multiple informative workshops organised by the BDH on the process of free, prior and informed consultation during October. In addition, we visited the La Puya camp to accompany the Resistance in their monthly mass and to update them on activities, security incidents and the designation of representatives.

Regarding our accompaniment of the TZK'AT - Network of Ancestral Healers of Community Feminism from Iximulew, we carried out monitoring tasks and telephone accompaniment in the framework of their activities.

Finally, regarding our accompaniment of the **Peaceful Resistance, Cahabón**, we accompanied the criminalized leader Bernardo Caal to the hearings related to the Teacher Case. The first of these took place on October 5 and consisted of the testimony of one of the two witnesses for the MP, Héctor Valdemar Chixoy, director of the school where Bernardo was assigned at the time. The MP tried to prove that Bernardo had been absent from his post without justification and that he had fraudulently signed the attendance book. Bernardo's defense was able to prove, through cross-examination, that the defendant arrived at the school as a commissioned assistant teacher, as the staff at the school was complete. They also demonstrated that Mr. Chixoy knew Bernardo from before and was aware of his union duties, including the permission to be absent from school. The second hearing was held on October 19, during which we attended the third part of the oral and public debate. This consisted of the testimony of the second of the two witnesses proposed by the MP on behalf of MINEDUC, Álvaro Edilberto, a retired teacher and departmental director of the Ministry of Education in AV. The hearing was delayed for about five hours because not all the evidence had been properly registered.

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.

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

- Paola Royer, Cooperation Attaché at the French Embassy.
- Carlos Moya-Linares, Human Rights Officer at the **US Embassy**.

At national level we met with:

- Lesbia Flores, officer from the **Departmental PNC in AV, Cobán**.
- Brenda Bin and Jessenia Gomez, PNC officers from Tactic, AV.

4. 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.

This month the European Representative met with:

- Alicia Homs, MEP from the S&D political group, member of the Delegation for Central America of the European Parliament and her assistant Pepe Mercadal.
- Karolien Kras, Guatemala desk at the European External Action Service.
- Tomás Reyes Ortego, chair of the COLAC Working Group (Latin America and Caribbean) of the **European Council.**
- Mathias Humenberger, representative for Austria at the COLAC Working Group.
- Katarina Schaupp Karmann, representative for Germany in the COHOM Working Group (Human Rights) of the European Council.
- Tilly Metz, MEP from the Green political group, President of the Delegation for Central America of the European Parliament.

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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.



Organizaciones de sociedad civil denuncian la grave situación de libertad de expresión en Guatemala ante la Comisión Interamericana de Derechos Humanos

Durante la audiencia, celebrada este 24 de octubre, organizaciones de sociedad civil expresaron su preocupacion ante la Comisión Interamericana de Derechos Humanos (CIDH), por el retroceso acelerado de la libertad de expresión y de pensamiento, marcado especialmente por actos de hostigamiento, intimidaciones y agresiones en contra de periodistas y medios de comunicación independientes por parte del Gobierno de Alejandro Giammattei.

Las organizaciones peticionarias expusieron en la Audiencia Temática que tuvo lugar durante el 185 período de sesiones de la CIDH, las acciones legislativas del Congreso de la República, que suponen retrocesos para las libertades de pensamiento y de expresión, y la disminusción de garantías para el ejercicio periodistico.

Las peticionarias dijeron a las y los comisionados que el decreto 39-2022, Ley de Prevención y Protección de la Coberdelincuencia, fue creada como "una herramienta legal para coartar la libertad de expresión", al darle poder al Ministerio Público para perseguir penalmente a personas indivudales o grupos que difundan por cualquier vía información considerada "confidencial". Esta situación, advirtieron, promueve la censura y la criminalización contra las voces críticas que ejerciten su derecho a la fiscalización y a periodistas o medios de comunicación que realicen investigacines en contra de funcionarios públicos.

En el caso de la iniciativa de ley 6076, Ley para el Fortalecimiento de Seguridad Pública y del Ejército de Guatemala, expresaron su preocupación porque esta le otorgaría poder legal a la Policía Nacional Civil y al Ejército "para hacer uso de la fuerza frente a toda resistencia pasiva o activa que se niegue a obedecer sus órdenes". También enfatizaron que autorizar la participacion del Ejército en tareas de seguridad ciudadana supone una amenaza para el derecho de protesta y de libertad de expresión de la ciudadanía.

Se refirieron al Convenio de Cooperacion Interinstitucional suscrito entre el Ministerio de la Defensa y el Tribunal Supremo Electoral (TSE) para la transferencia de información, datos y documentos. El riesgo de este convenio "radica en permitir que el Ejército de Guatemala, que por mandato constitucional es apolítico, tenga acceso a la información electoral y sea utilizado para reprimir las elecciones bajo el supuesto de estar asegurando el orden público, vulnerando así el ejercicio democrático de la sociedad civil", según las organizaciones.

Las organizaciones alertaron sobre el acoso y la ausencia de garantias para el ejercicio periodístico, situación que ha llevado a seis periodistas a salir del país. Ademas, dijeron que estos hechos perjudican a trabajadores clave para el funcionamiento de los medios, como ocurrió a la directora financiera de El Periódico, Flora Ramos, actualmente en prisión.

Asimismo, señalaron la gravedad de la situación porque personal del Ministerio Público y del Organismo Judicial estarían involucrados directamente en los hechos de criminalización contra periodistas, porque se ha visto con preocupación que órdenes de aprehensión aparecen en redes sociales, incluso en casos bajo reseva, antes de que las víctimas sean notificadas, como ocurrió en el caso de Juan Luis Font, actualmente fuera de Guatemala.

También recordaron la "notoria violación de garantías" contra el periodista José Rubén Zamora, detenido desde el 29 de julio de este año, y contra la comunicadora Anastasia Mejía Tiriquiz, quien fue escuchada en audiencia 35 días después de lo establecido en la Constitución, luego de su detención en septiembre de 2020.

Durante la audiencia también se denunció el acoso y las agresiones en contra de quienes hacen la labor investigativa y de difusión de información reacionada con las operaciones ilegales de la Corodinadora de Comunidades Afectadas por la Transportadora de Energía Eléctrica de Centroamérica Sociedad Anónima (TRECSA).

En ese caso, puntualizaron sobre la criminalización contra cinco personas comunicadoras, a través de una denuncia judicial, robo de un vehículo y el intento de asesinato de una persona en 2021, así como intervención de dispositivos celulares, pérdidas de información y represalias en su contra al hacer las denuncias por estos hechos ante las autoridades competentes.

Los peticionarios denunciaron las violaciones al debido proceso y la situación grave de José Rubén Zamora, presidente de elPeriódico, detenido desde hace 85 días en aislamiento solitario, quien ha sido hostigado con técnicas psicológicas, introducción de chinches, cortes de agua y revisiones innecesarias con guardias y perros agresivos en su celda, así como la negación de información, la persecusión y hostigamiento a los abogados para obstruir su derecho defensa.

Además, adviertieron sobre los ataques a elPeriódico a través de netcenter quienes hacen uso de información bajo reserva a la que solo el Ministerio Público y el Estado tienen acceso, así como el bloqueo de tres cuentas bancarias del medio, pese a que un juez levantó su embargo.

Las peticionarias concluyeron que el Estado guatemalteco ha dejado de cumplir por acción u omisión con su deber de respetar, proteger y garantizar el ejercicio del derecho de libertad de expresión, situación que alienta las violaciones y abusos por parte de actores estatales y no estatales.

Por lo que solicitaron a la CIDH que exhorte al Estado para que:

1. Revise a la luz de los estándares interamericanos de derechos humanos el marco normativo vigente y en proceso de aprobación, derogando todas aquellas disposiciones que puedan atentar contra la libertad de pensamiento y expresión; o bien limitar, restringir y criminalizar la labor de periodistas, comunicadores sociales y comunitarios; y de personas y colectivos que defienden derechos. La normativa guatemalteca no debe abonar a la discrecionalidad ni afianzar el uso arbitrario del poder limitando las libertades de pensamiento, de expresión, de asociación y de manifestación; ni impedir el ejercicio libre del periodismo y la defensa de los derechos humanos.

2.Cumpla con su deber de garantía de ejercicio de la libertad de expresión de periodistas, comunicadores comunitarios, medios independientes y personas que defienden derechos; para que puedan realizar su labor de manera segura y libre; y que se abstenga de cometer, alentar o permitiragresiones contra éstos, así como de utilizar métodos autoritarios de control y censura en su contra.

3.Asuma acciones concretas para poner fin a la impunidad en ataques contra periodistas, comunicadores y personas que defienden derechos; asegurando la realización de investigaciones inmediatas y eficaces de toda agresión contra ellas. El fin de la impunidad es una de las garantías indispensables para que estas personas realicen su labor y no se vean obligadas a abandonar el país, por considerar que no cuentan con las garantías necesarias para el ejercicio del periodismo y la defensa de derechos en condiciones seguras.

4.Cese la criminalización y la persecución judicial contra la prensa, periodistas, comunicadoras y comunicadores críticos. En especial, que se considere, a la luz de las garantías de la Constitución y los estándares internacionales, la liberación inmediata del periodista José Rubén Zamora, presidente del Consejo editorial de El Periódico y que se detengan el hostigamiento judicial y el ahogamiento financiero de las cuentas de éste y cualquier otro medio de prensa independiente en el país.

5.Cumpla con el deber de reparación de las violaciones de las garantías judiciales de periodistas y comunicadores criminalizados por parte del Ministerio Público y el Organismo Judicial en los casos que aquí se han citado y en cualquier otro en el que se haya seguido el mismo patrón de criminalización.

6.Diseñe e implemente en conjunto con la sociedad civil y con la participación de comunicadores, periodistas y personas defensoras de derechos humanos, un Sistema Integral de Protección que prevenga y responda a las agresiones, las amenazas, la estigmatización y cualquier otra condición de violencia estructural que experimenten quienes ejercen el derecho humano a la libertad de expresión.

En septiembre pasado la Relatoría para la Libertad de Expresión (RELE) solicitó al Estado de Guatemala una visita de trabajo para constatar la situación de José Rubén Zamora, sin recibir respuesta. Esta mañana, durante la Audicencia, se reiteró la posibilidad de realizar una visita in situ para documentar la situación del país, en especial el caso de Zamora. Asmimsimo, la CIDH ofreció su intermediación para reestablecer un canal de diálogo entre la sociedad civil y el Estado guatemalteco con el fin de desahogar los puntos que se vertieron durante la audiencia.

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Integrantes de la Red Rompe el Miedo Guatemala (RRMG):

Centro Civitas, Protection International, Federación Guatemalteca de Escuelas Radiofónicas, Asociación Sobrevivencia Cultural y Artículo 19.



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GUATEMALA PROJECT PEACE BRIGADES INTERNATIONAL

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