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Escalation of Criminalization and Number of Arrest Warrants Issued to Human Rights Defenders in Alta Verapaz

Peace Brigades International has witnessed an alarming increase in cases of criminalization towards the human rights defenders that we accompany, especially in Alta Verapaz. Both the Union of Campesino Organizations for the Verapaces (UVOC), and the Community Council of the Highlands (CCDA) - Las Verapaces Region, have registered a large number of arrest warrants. In the case of CCDA - Region Las Verapaces more than 750 warrants have been issued across 43 communities. The criminal charges include aggravated trespassing, bodily harm, illegal detention, coercion, homicide, attempted murder and threats. In addition, the people who form part of these organizations are also suffering from stigmatization, attempts at co-optation and division, as well as being targeted with threats, false accusations and arrest warrants that are intended to intimidate and wear down both people and organizations.



There is a historical origin to this situation which is common to the whole country, through it is particularly serious in Alta Verapaz (AV). Its roots are in the struggle over access to and ownership of indigenous communities' land, land where they have lived for decades and, sometimes, centuries. Although these communities have lived and worked for generations in this territory, the

precarious nature of their possession means that in some cases thev not have "written" documents attesting to their ownership. Therefore, they have been immersed endless in litigation aimed at determining legal ownership over the land.

Guatemala is principally an indigenous

country, with approximately 60% of the population identifying as indigenous. This percentage rises in some departments such as AV (75% -100%)², so the issue of legal sources is a crucial element. As established by the UN Declaration 61/295 on the rights of indigenous peoples, these communities "have,

by definition, a collective character" and therefore, traditional uses of access and possession of land must be considered as legitimate forms of ownership within legislation, since these provisions are part of the State's international obligations.

The reasons behind the large number of arrest warrants against human rights defenders in AV, are many: the defense of the territory against the arrival of large scale economic projects, mainly hydroelectric; the reclassification of land into protected areas; the sale of land where campesino communities have lived and worked for decades, or even centuries, to new landowners: the return of communities to homes destroyed following the forced displacements that occurred during the internal conflict; etc. Additionally, it is worth highlighting that Cobán has the only special prosecutor from the Public Prosecutor's Office (MP) dedicated to prosecuting the

¹ Interview with Lesbia Artola, coordinator for CCDA - Región las Verapaces, 20.06.2019 and Jorge Luis Morales, lawyer for UVOC, 5.06.2019.

² Inter American Commission on Human Rights (IACHR), Situación de los derechos humanos en Guatemala: Diversidad, desigualdad y exclusión, 31.12.2015, p. 39.

crime of trespassing³. According to Carlos Morales, coordinator of the UVOC, the central problem is the accumulation of land.

According to the Human Rights Ombudsman's Office (PDH) and the Office of the UN High Commissioner for Human Rights (OHCHR), the most common crimes used to criminalize defenders of land and territory are: aggravated trespassing, coercion, threats, incitement to

commit crimes, illegal detentions, theft, theft of electricity and illicit association. "The use of the crime of aggravated trespassing is of serious concern. Of the 106 cases analyzed [in the report], 38 (36%) were for this crime, where charges were made in the context of land conflicts that could have to be resolved by civil justice and not by criminal means. According to the denomination of the crime, the mere presence on the property is considered a commission

of flagrant trespassing, which in turn prevents the presentation of evidence to possible land rights, based on the traditional occupation of indigenous peoples, and affects their rights to the presumption of innocence and a legal defense."⁴

Below we outline some of the hundreds of criminalization cases against members of the indigenous and campesino organizations that we accompany.

Human Rights Defenders from CCDA

The criminalization of Jorge Coc and Marcelino Xol Cucul, indigenous authorities from the community of Choctun Basilá (municipality of Cobán), is based on the accusation of homicide and attempted homicide relating to acts that occurred on July 13, 2017. On that day one person was killed and others were injured, all of them were members of the Chilté cooperative located in the municipality of San Pedro Carchá. Half a year later, 13 arrest warrants were issued against inhabitants of Choctun Basilá for these two crimes. Jorge Coc, who lives in Las Pacayas, about 40 minutes from Choctun Basilá where he works his land, was arrested on January 16, 2018. Jorge has declared that on the day of the events he was at his home in Las Pacayas taking care of his sick father. Marcelino Xol Cucul was arrested on March 12, 2018 by private individuals who beat him before taking him to a police station. Marcelino says that on July 13, 2017 he was teaching in a community in Chisec, several hours from the scene of the



Jorge Coc and Marcelino Xol Cucul in prison of Cobán,

crime.⁵ Despite their testimonies of innocence, the inconsistencies in the testimonies from the witnesses to the crime and the failure of the accusers to individualize the crimes both men were formally charged and imprisoned. Their cases are currently being debated.

On August 24, 2018, a further two of the 13 accused of the same crimes, Juan Bautista Riveiro and José Manuel Coc Saquil, were acquitted after 11 months in pretrial detention. This acquittal was appealed by the MP of Cobán and the decision of the court of appeal is pending.

According to CCDA's assessment of the situation, this criminalization has it origins in an inter-community dispute between Choctun Basilá and the Chilté cooperative. It is a conflict that has been ongoing for more than 10 years and it originated with the annexing of land to the Choctun Basilá community. Both communities claim this land as their own. Over the course of the last 10 years, the community of Choctun Basilá, has denounced aggression they have suffered from members of the Chilté cooperative on more than 90 occasions. They even succeeded in setting up a round-table for dialogue with the Office of the Vice President in an attempt to resolve this dispute. This, however, produced no results.

The PDH and OHCHR's reports mention this as one of the cases where an entire community has been criminalized and where there is no differentiation of the accusations brought against the accused.

In August 2018, human rights defenders **Erwin Haroldo Choc**

³ Interview with Jovita Tzul Tzul, lawyer for CCDA, 02.07.2019.

⁴ PDH and OACNUDH, Situación de las personas defensorasde derechos humanos en Guatemala: Entre el compromiso y la adversidad, May 2019.

⁵ Interviews with Jorge Coc and Marcelino Xol Cucul, 19.06.2019.



Sam and Martín Chuj Cajbon, community leaders from Secocpur, were arrested after leaving a round-table on dialogue with the State's agrarian institutions, aimed at finding solutions to land conflicts. "These incidents have affected the confidence of the human rights defenders, their organizations and their communities in the spaces for dialogue with the State and they are as such reluctant to participate in them, which impedes the ability to

address social claims in this way".6 The people of Secocpur, located in the north of AV, on the shore of the Laguna Lachuá National Park, are being accused of living illegally within the park, while they maintain that they have a historical right to live there. Erwin and Martín were released in December 2018, after almost 4 months in pretrial detention. They are still facing charges for trespassing on protected areas, however, and for an attack on the cultural heritage

of the nation, despite the fact that there are expert reports relating to their whereabouts and ownersip of property that support their declarations. According to Lesbia Artola, coordinator of CCDA - Las Verapaces Region, Secocpur is one of the communities where almost the entire population has an arrest warrant against it. There are two other communities in this situation that, together with Secocpur, come to a total of 107 arrest warrants.

Human Rights Defenders from UVOC



Jorge Luis Morales, lawyer of UVOC and Justino Xollim Tilom during a protest in the capital, 2015

Despite the fact that the community of La Primavera (San Cristóbal Verapaz), comprising of 279 families, has had legal certainty over their lands since 2014, there are complaints against the community members who fought to achieve these land titles, and who secured the purchase of the land through the National Land (FONTIERRAS). Therefore, they are now forced to defend their ownership. Intra-community divisions have been caused by a failure to correctly measure the plots corresponding to each family and as a result of the breach of the agreements by FONTIERRAS. This cadastral uncertainty has led a group of community members, incentivized by the company that owned the land previously, to denounce the situation to the MP and demand an eviction.

In the first half of this year, we observed the escalation of the conflict by registering various aggression such as intimidation, destruction of community crops, preventing access to the water supply, logging, threats of eviction and arrests, as well as shots fired near homes in the community.

On February 15, 2019, **Justino Xollim** Tilom, legal representative of the community of La Primavera, was arrested when he went to the MP to file a complaint for illegal logging. The accusation against him is for the same crime he went to report: the illegal logging of trees. The MP accepted the complaint against him without analyzing the context of repression and criminalization which the inhabitants of La Primavera are experiencing. The judge ordered him to remain under house arrest

with a disproportionate bond of eight thousand Quetzales (ca. US\$ 1,070). Justino was released from prison after four days and only following payment of this bond. According to information provided by the UVOC lawyer, in March of this year there were another 6 members of the community of La Primavera with arrest warrants against them.

Carlos Caal is a legal representative from Nueva Seamay and as a result of his leadership, farmers and other actors in the area have repeatedly accused aggravated him of trespassing, aggravated robbery and arson. In recent years, a total of 16 alleged crimes have been attributed to him. On March 13, 2019 he was arrested under an arrest warrant that had been issued in 2013 (a case that had been resolved since 2016). At the time he was captured, Carlos suffered humiliation and illtreatment by the police. According to the UVOC lawyer, it was an illegal detention. The same policemen who captured Carlos Caal subsequently went through his house to intimidate him and his family.

PDH and OACNUDH, Op. Cit.

Human Rights Defenders from the Peaceful Resistance Cahabón



Raúl Caal, leader and member of the Cahabón Peaceful Resistance's board of direction, April 2019

On January 29, 2019, Raúl Caal, a member of the Resistance's board of direction, was arrested for aggravated trespassing in Cobán while searching for his police records to register as a mayoral candidate. This alleged trespassing took place at the Chit Coj estate, where the Q'eqchi human rights defender has been only once. However, Judge Ricardo Isaías Caal Caal, the same judge who sent Bernardo Caal Xol to trial, decided to send the case to trial at the second sentencing court. Raul spent two days in pretrial detention before he was released on bail after paying a bond of six thousand Quetzales (ca. US\$ 800). The beginning of the debate is planned for August 5.

The criminalization of the Q'egchi and defender of the Oxec River, Bernardo Caal XoI, is the most well known case from the region. He was arrested and imprisoned on January 30, 2018. After this arrest he was charged, prosecuted and finally sentenced to seven years and four months in prison, in November 2018, for the crimes of illegal detention and aggravated robbery. Since then he has been detained in the Preventive Detention Center in Cobán. The acts for which he has been accused occurred during a demonstration in Cahabón on October 15, 2015. These took place at the site known as El Puentón, near the company Oxec II, where a group of approximately 100 people stopped a Pick up with workers of the company Netzone, hired by Oxec.

UN human rights experts expressed concern over the conviction of Bernardo as a retaliation for his opposition to the Oxec⁷ hydroelectric project. Meanwhile, the legal defense, represented by lawyers from the Human Rights Law Firm (BDH), has pointed out various contradictions throughout the process. Bernardo Caal was not in the place of the acts at the time they occurred, and the contradictions in the evidence and testimonies provided by the prosecution raise doubts about the veracity of their claims.

The BDH have appealed the sentence and filed an injunction. In addition the MP and the company, which is an adhesive complainant, have also submitted an appeal requesting for the sentence to be increased. Since then, several scheduled appeal hearings were suspended because the judges did not present themselves in court.

It should be noted that, over the course of this process, there have been serious defamation targeted at Bernardo and the Peaceful Resistance Cahabón through the national media. An example of this is was an editorial and article in the *Prensa Libre* newspaper from October 23, 2018, the day before the last hearing, blaming Bernardo for the crimes and insinuating he was responsible for a homicide in another part of the country.



Bernardo Caal Xol, political prisoner in the Cobán prison, April 2019

OHCHR, Guatemala: Expertos de la ONU preocupados por condena a líder indígena en represalia por oposición al proyecto hidroeléctrico Oxec, 19.12.2018.



Assassinations of Leaders Still Not Investigated

While these cases of criminalization against members of the campesino organizations progress, the cases relating to the murders of community leaders remain stalled. There has been no progress in their investigation. In 2018, five members of CCDA were killed: Samuel Chub from the community of Xyaal Kobe, Gumercindo Butz from the community of Chiquoyo, José Can Xol from the community of Choctun Basilá, Mateo Chaman Pauu from the community of San Juan Tres Ríos and Ramón Choc Sacrab from the community of Ixloc, San Pedrito. All of them participated in the round tables for dialogue, which is a worrying aspect as it would appear that participating in these precesses has become has become a high risk activity. An example of this is the investigation of the murder of José Can Xol with a firearm which took place in Choctun Basilá on May 10, 2018.8 Members of the Chilté cooperative were identified and investigated for this crime and yet arrest warrants have not been issued.

One case in which there has been an investigation, trial and sentence is that of **Daniel Choc Pop**, leader of the San Juan Los Tres Ríos community and member of CCDA. He was murdered on June 8, 2016. He was a human rights defender of the land, territory and rights of indigenous peoples. He was involved in the struggle to

secure legal ownership of disputed lands between the community and the owner of Rancho Alegre. Two months before his murder he had filed a complaint relating to threats he had received and was granted security measures. The killer was captured at the crime scene. After two weeks in pretrial detention he was released, but sent to trial for homicide in a 'state of emotion'. He was sentenced to two years in prison on June 19, 2019, a sentence that was declared commutable for a daily payment of five Quetzales (ca. US\$ 670). This sentence left CCDA and its leader, Lesbia Artola, in a state of deep dismay and indignation: "What message are you giving us? That the life of a defender is worth nothing to



Lesbia Artola, coordinator of CCDA, October 2018

the authorities, that there is no justice for us, that they can kill us and they are free, that we are worthless to them, that they can do whatever they want. And they kill us for defending our land, for defending our lives, for defending our rights."9

Alta Verapaz is the poorest department in Guatemala, more than half of the rural population lives in extreme poverty in several of its municipalities. 10 Added to this difficult situation are the social, economic and psychological effects of the constant persecution, harassment and criminalization suffered by more than a thousand people. Lesbia Artola emphasizes the despair and fatigue in which whole families, who no longer dare to leave their community, are living. As such, they are deprived of carrying out essential day-to-day tasks such as working the fields, going to the market to sell their products, taking their children to school, going to the health center, etc. Lesbia's analysis coincides with the PDH and OHCHR's observations that concluded: "This has produced a situation of confinement in which the members of the community do not leave it for fear of being arrested, with serious consequences in the exercise of several human rights, including their rights to education, principally for children, their rights to health and decent work."11

⁸ FIDH, Guatemala: Asesinato de José Can Xol, miembro de la Junta Directiva del CCDA y autoridad ancestral de la comunidad Choctun Basilá, 18.05.2018.

⁹ Entrevista a Lesbia Artola, Cit.

¹⁰ Programa de Naciones Unidad para el Desarrollo (PNUD), Más allá del conflicto, luchas por el bienestar. Informe Nacional de Desarrollo Humano 2015/2016. Guatemala 2016, p. 257.

¹¹ PDH y OACNUDH, Op. Cit.

More than Two Years on from the Tragedy at the "Safe Home": An Interview with Leonel Dubón, Children's Rights Defender



The situation of children and adolescents in Guatemala is critical. An example of this are the events that took place on March 7 and 8, 2017. in the so-called Virgen de la Asunción "Safe" Home (HSVA), where 41 girls died and 15 were seriously injured. The HSVA was created as a state center for the protection of underage victims of violence, abandonment and child abuse and housed between 600 and 800 children with a diversity of profiles and needs. 1 We interviewed Leonel Dubón, Executive Director of "The Children's Refuge", an organisation dedicated to defending children's rights. This organization cares for child and adolescent victims of sexual violence, exploitation and trafficking. Dubón, who has been working in this area for 30 years, was selected as "International Trafficking in Persons Hero" by the US State Department in 2011, for his continued struggle to prevent human trafficking.

On March 7, 2017, adolescents from the HSVA2 held a protest against the poor living conditions they were subjected to at the Home, as well as the mistreatment they had repeatedly suffered. Approximately 100 adolescents fled the home. Most were captured later that evening by the police, who took them back to the HSVA. At dawn on March 8, 46 boys were moved to an auditorium (a relatively spacious room). However, 56 girls were moved to a room with standing capacity for only 26 people. without a bathroom nor access to water. Both spaces were closed with padlock and guarded by the National Civil Police (PNC). One witness stated that "the girls shouted that they were dirty, that they were cold, that they wanted to wash and change. No staff

member from the HSVA approached them about these needs."3 Hours later a fire broke out in the room where the girls had been locked in, allegedly started by one of the girls as a way to get the attention of the authorities so they would be let out. In this regard, one of the survivors said: "We called for help, but they ignored us."4 According to the investigation of the Public Prosecutor's Office (MP), the authorities present at the HSVA took 9 minutes to open the door.5 Several testimonies indicate that the volunteer firemen had to wait 40 minutes to be allowed to enter the Home.⁶ 41 girls died in the fire, 19 in the HSVA facilities and 22 in hospital.

According to the report of the Office of the UN High Commissioner for

Human Rights (OHCHR), the events of March 2017 at the HSVA, not only demonstrated negligence in terms of child protection but constituted a human rights violation. In the months and years leading up to the fire, the residents from the HSVA filed dozens of complaints, with public institutions, relating violence. abuse. trafficking in persons and sexual exploitation. These reports received no response. Following the tragedy the MP accused the sub-secretary for Social Welfare of manslaughter, mistreatment of minors, abuse of authority and breach of duties. One of the complainant organizations that defends the families of the girls, Women Transforming the World (MTM), emphasized that the events of March 7 and 8 should be framed

OACNUDH, Las víctimas del Hogar Seguro Virgen de la Asunción. Un camino hacia la dignidad, Guatemala, November, 2018; Muñoz Palala, G. y Dubón, L., Sistema de protección de la niñez debe ser transformado, Prensa Libre, 19.03.2017.

This institution comes under the responsibility of the Presidential Secretary for Social-Welfare.

OACNUDH, Op. Cit.

Ibídem. 4

Ibídem.

García, J., Estos 5 responsables de la tragedia de las niñas siguen impunes, Nómada, 06.06.2017.

OACNUDH, Op. Cit.





Groups put candles for the burnt girls during a manifestation in the Central Park three days after the tragedy, 11.03.2017

within the context of continuous sexual violence and that they must be analyzed and examined from a gender perspective.⁸

What does the HSVA tragedy mean for children's rights?

We are talking about a tragedy that is not only limited to the events of March 8, 2017, but which began with the opening of the HSVA. Human rights violations began to occur from the moment it opened. Guatemala opened a macro-institution: a center that sought to house more than a thousand children and adolescents in one single location, without a specific model of care and totally violating their right to a family.

Therefore, crises began to arise out of the poor relationship between the children and staff, who did not have the correct skills to care for them.

When the Patriotic Party (PP) assumed power (2012-2015), the living conditions of the children at the home begin to change. The concept of a 'solidarity home' was changed to 'safe home' and a policy of zero tolerance towards the children was applied. Children who were in the home for their protection were mixed with minors who were in conflict with the law. Paradoxically, the home was anything but safe, it was no longer a question of respect for human rights, rather we saw the application of military style discipline.

Once the PP's term ended, the deterioration of the conditions at the home began to intensify, because the new government had no model to apply. What you had was a center that houses approximately a thousand minors, without a methodology or daily routines of therapeutic care for the girls who were arriving with traumas as a result of the different types of violence they had experienced.

The events of March 8 were not the first time there had been incidents at the home, in fact, there had been many others. We had begun to notice that there were serious problems throughout the child protection system. For that reason, I would

⁸ García, J., Hogar Seguro: Esto le piden los familiares al juez, Nómada, 22.08.2017.



Protest in the Central Park three days after the tragedy, 11.03.2017

say that this is a prolonged tragedy, where children suffered a lot, not only the 41 girls who died in the fire, nor the more than 550 who survived, it is a tragedy that has continued and is the result of a series of systematic errors on the part of the different institutions. It is true that the Law for Integrated Protection, delineates the structure of the system, how it should work and the responsibilities of each institution that forms part of the system, but in practice it is not functional.

The Convention on the Rights of the Child (CRC) was approved in 1989 and Guatemala ratified it in 1990. However, the national protection system is not working.

Would you say that these events helped to raised awareness about

the failures of the protection system?

I believe that as a result of these events there is more knowledge about what was happening in the "Safe" Home, there is more clarity about the need to transform the childcare and protection system. I think there have been some important fundamental changes, however changes to the system have not occurred. There is still a lack of a specialized care model. We find strains of thought within the system that are often contrary to a human rights based approach. I believe that institutions need to be redefined, to be transformed completely, but I doubt very much that this could happen under the current institutional model. I believe that these institutions should disappear and the current institutional framework should be transformed, that's why we talk about the transformation of the protection system. We believe that childhood in the country deserves a deeper transformation. A transformation that would imply the creation of institutions with new dynamics of care, grounded in a human rights based approach, from both staff and directors of these institutions.

Is there a comprehensive plan to care for the survivors of the tragedy and provide reparations for the damage, as well as their families and the families of the deceased?

We, at the Children's Refuge, accompany 12 of the 15 survivors.





Every 8th of the month the Network of Ancestral Healers realize a ceremony at the Memorial of the 41 burnt girls, called Plaza de la Niñas, 8.03.2018

Two other girls been have by the Alliance accompanied Association and one girl is still in the United States. The 12 girls we accompanied were received on their return from hospital in the United States and we accompanied them in the Refuge's centers until they were gradually able to reintegrate into their family environments. We are continuing to provide follow up care for these girls. It must be said that the Secretary for Social Welfare set up a special unit to accompany these cases. We developed an initial proposal that was subsequently approved, with a legislative decree which established March 8 as the National Day of the Tragedy and of Non-Repetition of Violence, but the most important thing was that we secured a living allowance for the girls. Of the 12 girls we continue to accompany, 10 are doing well, but one of them has been missing for more than seven months and we haven't been able to find her. It is a very complex situation, because,

although there are resources available for the accompaniment and they have received all the necessary medical attention, the physical rehabilitation has been difficult and the trauma caused by this tragedy is very deep. The girls have had moments of regression, when they have remembered that painful moment. I think that as a society in general we are not yet conscious of the impact that the tragedy had on the lives of these girls. I believe that the State does not see them as victims, but as problematic girls, and any action that has been done "in their favor" has been more a response to external pressures. The more than 550 surviving children were granted precautionary measures from the Inter-American Commission Human Rights (CIDH), so there are mechanisms to pressure the State to provide accompaniment.

Very little has been said about the 500 boys and girls who were

also living at the facilities. What happened to them?

According to data from the Human Rights Ombudsman's Office (PDH), 11 children have died, in diverse circumstances, since the tragedy. Some have been killed in the streets. The State must be held accountable for these deaths and clarify the circumstances in which they occurred. Many of the family reintegrations that occurred following the tragedy were not well planned. There were cases of girls who were returned to the same fathers who had raped them. The perception is that the State simply wanted to get rid of the children and this was not carried out in an organized manner. Many of the children were distributed between other institutions but two or three days later they were looking to relocate them again because the institutions where they had been taken did not meet the standards necessary to adequately care for them.

Would you say that the institutionalization of children, and the events that occurred in HSVA, are related to the discrimination suffered by children?

I think there is discrimination against children, especially because the majority of children who are institutionalized are poor, they come from marginalised areas of the city that do not have access to services. As a result they suffer a permanent violation of their human rights and the State does not guarantee them dignified living conditions. But there is something much more serious than this. Many of these children, for a long time had been tortured inside the center, many of girls were beaten and injured by the staff, they received punishments as if they were in a concentration camp. We have many complaints from before the tragedy of March 8. However, these acts have never been investigated in depth. That is why we insist that aside from the tragedy, there have been many cases of torture, imprisonment, physical punishment and psychological violence, which have never been investigated, and we are not sure whether these kinds of practices have been eradicated in the smaller state homes or in private homes.

Could it be said that the events that occurred in the HSVA should be framed within a generalized context of gender based violence, as one of the complainants has stated?

Absolutely. And I can say this because I had the privilege of talking with many of the girls who died, before the tragedy occurred. I had meetings with them, because the crisis had been a long time

coming, they had already protested the way they were being treated. In fact, in November 2016, I invited, a representative of the Children's Rights Committee, along with other organizations to visit the HSVA. This person collected a lot of information that was passed on to the State, but he received no response. I believe that issues of gender based violence, such as torture, are issues that may be difficult to to demonstrate legally. however, given my close relationship to the girls, and because of the knowledge I have of human rights, it was it was plain that atrocities were being committed.

What changes would be the necessary to provide integrated protection for the children of Guatemala and so guarantee the non-repetition of these incidents?

I think it is urgent to approve the 5285 decree, an initiative which seeks to transform the protection system. This initiative envisages three scenarios. The first is the creation of a central authority that would be responsible for generating the necessary public policies for the integrated protection of children and would mean that children's concerns are present in the Government and State's main agenda. The second and third steps include the creation of a social protection council and a special protection institute that would perform all the functions of protection and representation. The council would focus on community level work, aiming to keep children in their own communities, and keep them out of the special protection system as far as possible. Without a transformation of the system we are lost, that things are going to go from bad to worse. If you ask me to compare the situation of children's rights in 2017, when the tragedy occurred, with today's situation, I would say things are much more serious today. Children continue to die for a multitude of reasons, they have few expectations from life in this country. That is why thousands of children have left Guatemala or are becoming involved in criminal activities, it has to do with the lack of opportunities. We need comprehensive protection processes and a system that guarantees basic living conditions.

Do you consider the girls who protested on March 7 to have been defending their rights?

For me they were defending their rights and the rights of other girls. I believe that in many cases neither the country, nor society, organizations, have given children their own space. In fact, we have many girls who participate in the Refuge's processes. When they leave shelter and protection programs they become leaders in their own communities, they are defending rights. So for me the girls who protested on March 8, 2017, and much earlier, are definitely defenders of their own rights. The issue is that the country continues to see girls as objects, and not as subjects of rights. We still believe that girls are not capable of identifying their needs or raising demands. So for me they continue to be, and will continue to be, defenders of their own rights and human rights defenders. I believe that Guatemala is at a very important political crossroads and within this political crisis transcendental issues such as this have, unfortunately, become invisible.



The Cunén Communities' Council: "from Protest to Proposals"

The Cunén Communities' Council (CCC) is made up of a multitude of communities – organized as a non-hierarchical assembly – who have managed to defend their rights and the rights to their territory, on a diversity of issues from resistance to large scale economic projects that negatively affect them, to creating concrete proposals for alternative energy generation that respects the environment. They also carry out important communications and training work, promoting respect for human rights, environmental rights and indigenous peoples' rights.

Strength in Unity

January of this year, Constitutional Court (CC) ruled that the construction of the electricity network to be carried out by the Transportadora de Energía Centroamérica S.A. (TRECSA) was not of national urgency, and declared the Governmental Agreement 145-2013, issued during the government of Otto Pérez Molina (2012-2015), to be unconstitutional. The appeal that led to this decision was filed in 2017 by the Coordinator of Communities Affected by TRECSA. The Coordinator was formed in 2013, when TRECSA entered their region. The Cunén Communities' Council (CCC) is part of the Coordinator and was one of the organizations that promoted the dissemination of information about this large scale project among affected communities. According to the plaintiffs, the Governmental Agreement 145-2013, which established this project to be of national urgency, "was used by TRECSA to obviate legal proceedings and to coerce the municipalities into granting construction permits." In this



View at Cunen, June 2019

way, state institutions have evaded their obligation to consult affected populations in various departments throughout the country¹.

This is a clear example of the successful organization of communities in coming together to defend their rights in the face of government decisions that negatively affect them. To gain a deeper understanding of this experience, we interviewed three members of

CCC, Pedro Sicá, Esteban Rivas and Tiburcio Oxlaj, who shared the history of their organization with us, how the CCC functions and its achievements in the defense of human rights and their rights to their territory.

The main concern of the population of Cunén over the last few years has been the installation of an electric grid in the area, as the interviewees point out: "the problems are becoming more acute. We said

Bolaños, R.M. y Fernández, J.M., CC ordena que construcción de red eléctrica de Trecsa ya no es de urgencia nacional, Prensa Libre, 16.01.2019; Federación Guatemalteca de Escuelas Radiofónicas (FGER), Comunidades exigen frenar proyecto de distribución de energía que invade sus territorios, 19.03.2019

no to mining, but then the other extractive companies dedicated to energy production arrived, in this case it was a Colombian company, which was forcing people to turn over their land for the transport of high-voltage electricity with its hydraulic power lines."

TRECSA is a Colombian company operating within the electricity transmission sector. It works with the State under the country electrification plan and has construction licenses for a hydraulic ring and for the construction of power lines as part of the "Rural Electrification Program" (PER). During Otto Pérez Molina's administration, efforts were made to promote the activities of TRECSA Government Agreement through 145-2013. This nullified the right to free, prior and informed consultation affected communities, declared that construction of these electrification programs, awarded to this company during the government of Álvaro Colom (2008-2012) through Government Agreement PET² 1-2009, was of public and national urgency. This has generated many conflicts throughout the department of Quiché and other regions across the country. The concession impacts 15 departments, 74 municipalities and 340 towns, building 24 substations and 853 km of transmission lines3.

According to Pedro Sicá, the work that CCC carried out in this case consisted of "investigating, informing and looking for highly qualified people to do the technical studies to determine the usefulness, or not, of the project". Through the National Institute of Electrification (INDE) they obtained information relating to the national energy policy and energy



Member of CCC shows to the mountain where they want to install meshes to collect water from the mist, June 2019

matrix and realized that the production and transport of electricity is not destined for the communities where it is lacking, but is channeled into the System of Electrical Interconnection of the Countries of Central America (SIEPAC). This information was passed on to communities, where they were able to show, using the INDE maps, that the communities would be exploited as the energy produced would not be directed to the communities, but would be used to benefit the mining licenses and for export. Faced with this evidence, which was very clear from the map, people declared that "this is not for us, so we will not let it pass through our lands." The installation of power lines by TRECSA in Cunén has not progressed because the communities have denied them the right to pass through their territories.

Similarly, the CCC are aware of the existence of construction/exploitation

licenses signed by the Municipality that are not being implemented at the moment due to the pressure that the communities are exerting to ensure that all due procedures are respected. "We had to coordinate with other departments, that is why now we have our regional meeting in the West (the Assembly of Peoples of the West). We are part of this initiative because we need to coordinate efforts with other departments, so as not to accept the tricks and to have a little more strength in our struggle. This is how we began analyzing the situation together and eventually to request support from the International Commission of Jurists (ICJ) to analyze the legal processes and how best to take action if necessary. Up to now we have secured the CC judgement which is not in our favor, rather it upholds the constitution. The law is unconstitutional and therefore the legal order 145 could be suspended. There is strength

² PET refers to the Plan for the Expasion of the Sistem for Electricity Transmission.

³ Centro de Medios Independientes (CMI), Ley de Servidumbre Forzosa 4782: Expropiación en tiempos de conflictividad, 28.08.2014.



in unity, as they say. And we have achieved it, we have managed to suspend TRECSA's work".

On May 31 and June 1, 2019, CCC convened an assembly with the towns of Quiché, Sololá, San Marcos and Huehuetenango to discuss the issue of the CC ruling against government agreement 145-2013: "TRECSA is a company but its projects, the PET and the PER, with all its infrastructure, no longer have a legal basis in Guatemala. That is to say, it is like a fish out of water that has been left flapping about. But we have to continue looking for relevant information to find out how we can ensure the sentence is enforced. People are waiting for instructions, if we tell them to remove the infrastructure, people will remove it and throw it away, but that is not our job. We have to act according to the law. And as for the TRECSA pylons that have been erected in Sacapulas, the people who put them there are the ones who should remove them and take them away."

The History of the CCC

The CCC was formed before TRECSA's attempt to enter the region, on January 14, 2009, in response to the National Registry of Persons' (RENAP) failure to distribute the Personal Identification Documents (DPI) over the course of a year, leaving thousands of people without identification. One direct consequence was that these people could not participate in civic life nor express their views on large scale economic projects in community consultations. The reasons for forming the CCC are a good reflection of the threats suffered by people in the municipality at that time. Pedro Sicá, who has participated in the Council from the beginning, explains it this way: "The Community Council began to emerge in 2008 in response to plans by the Government and the Ministry of Energy and Mines (MEM) to authorize several mining exploration and exploitation licenses. We didn't really know what this meant, because we were used to respecting everything the government said, just because it was the government. The discourse was the same as it is now: first establish legal security and then citizen security, to protect and foreign investment, encourage because companies won't want to invest if there is no legal certainty. When they talk about security, they mean an increase in police and army to repress the population in the face of any social uprisings aimed at claiming their rights. Today they still talk about guaranteeing foreign investments, and that there should be a law that protects all the businesses that come to invest. According to them, there are many companies that are interested in a diversity of material, so it is better to grant them permission to come and exploit our resources and tell the people that they are going to work there. "

In 2008 the communities learned. through government sources. that there were nine mining and electricity transportation projects planned for the region that would use up 80% of Cunén's land. Thus, the communities became aware of the effects these economic projects would have, they became requested organized and government to convene a public consultation: "We began to analyze the government's claims: how long would the employment offered last, what pollution would it cause and

even if pollution was not an issue, how would the population benefit in the medium and long term or would there be only an immediate benefit etc.? Eventually we reached the conclusion that what these people actually had planned would lead to environmental destruction, and that was when the communities came together to see what we could do. We had to organize a research team to look into the government's approach to the exploitation of natural resources. This is how the Council of Communities was formed."

The communities of Cunén are divided into 9 micro-regions. Each micro-region is made up of 30 to 35 communities. The CCC is organized from the grassroots, without a hierarchical structure; all the communities have the same voice. This can be seen from the way messages are transmitted during the assemblies, which is always collective. They also stress that they do not want to change this structure because "it would not fit well in their culture".

Pedro continues: "We had to go to the MEM to request information about what specific development plans they had for Cunén, and we discovered that most of the territory from the Cunén region was already under concession for exploration. So we recorded the information and called a general meeting of all the communities to present the public documents given to us by the Ministry, which confirmed that mining licenses have been granted and that the region of Sacapulas, Cotzal, Uspantán does have minerals for exploitation... At this point we sought help from people with technical expertise who could provide us with information on the advantages and disadvantages of mining. We

found that in most cases there are only disadvantages: destruction, diseases, poverty, social division, etc. Then the communities decided that we would be better off not accepting. That is how this Council of Communities was organized. Its main task is to gather information and share it with the communities; the decision is then taken by the communities according to this information and their own interests."

After the establishment of the CCC, in January 2009, "a popular consultation was held in the entire municipality of Cunén in which around 19,000 people from 71 communities said 'No' to mining exploitation, that we do not want environmental destruction in our municipality. Finally we drew up a municipal agreement where it was stated that Cunén does not accept mining exploration or exploitation, nor any other form of large-scale exploitation of our natural resources."

The Second Consultation: The Community Security Policy

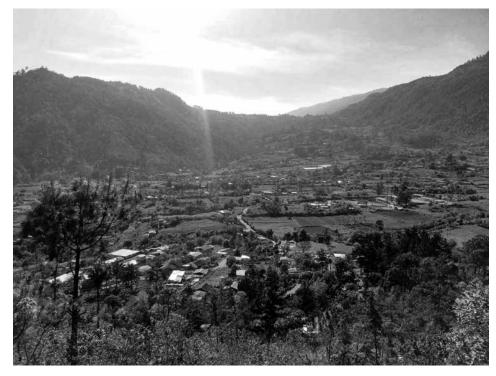
The second community consultation was held in 2012, following the election of the former mayor who wanted to bring a local court and a National Civil Police (PNC) substation to Cunén. According to the interviewees, the Municipal government at the time doctored the minutes from their meetings to show that the communities were in favor of both entities without further conditions. As a result of this, the CCC summoned the councils of each community to discuss this and the communities declared that they definitely did not need the court nor the PNC. Esteban Rivas said: "We have not had a PNC station in Cunén for years, nor a court, nor the Public Prosecutor's Office (MP), nor any other entities of the State or the justice system." However, this municipality has been designated as a peaceful municipality, almost free from delinquency. The people have

seen how well the councils work and support this way of doing things and shared it in their communities and the young people have dedicated themselves to working and studying rather than delinquency. Here, when it comes to resolving conflicts, the council of elders in each community is convoked. We as the Council have nothing to do with these processes, each community resolves the issue as they consider them. If they decide it is a very serious issue, then they take it to the justice system in Nebaj."

Nevertheless, in 2015 the Government decreed Cunén as an "ungovernable zone" (this designation also "Northern encompassed the TransversalStrip"andthemunicipalities community consultations have resulted in rejections for mining and hydroelectric plants). Pedro comments that this designation was assigned to the communities to justify the intensification of the state security apparatuses present in the region: "that was at the time of the Patriotic Party (PP). The President said whatever he wanted and did whatever he wanted, and that is why he is now in prison. There was a time when they declared us a dangerous area, ungovernable. But we went to the capital to fix this situation,. We met with the third deputy minister for the interior and presented good proposals that they liked at the end of the day."

"We were founded as a resistance movement, but we haven't stayed there. We protest but we also propose."

Both the CCC's vision and work is broad and proactive, ranging from resistance to concrete proposals for improvement, as they are very aware of how the climate emergency and pollution is affecting the whole world. In Guatemala communities

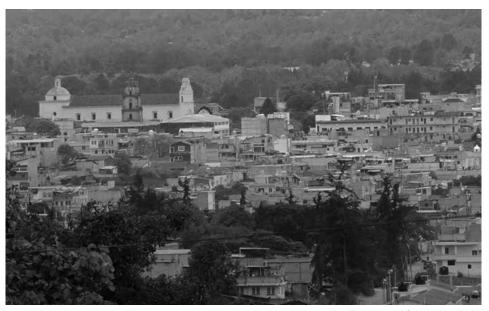


Cunéns field, June 2019



have seen the consequences of this first hand: "Large scale projects and investments in natural resource exploitation are one thing, but now there is also the challenge of climate change, and the issue of pollution. It is no longer a case of someone coming to fight with us, we need to take care of the environment under our own initiative. The large scale economic projects are responsible for environmental pollution, but we all have a responsibility as well. Whether we are a company, a peasant, the poorest or the richest person, we have to coordinate our efforts to determine what we should do to stop pollution. This task has already been discussed at our delegation so that each member can begin creative actions in their own communities and municipalities in addressing the pollution. Now their task is to inform the rest of our members, because that is the agreement we made with the other delegations."

The CCC has been looking for support in learning how to take advantage of natural resources and produce energy in the communities without destroying their environment, by turning to alternative sources such as wind generation, biomass (organic waste), solar panels and community hydro-power, etc. They are launching many of these projects and preparing trainings for the communities: "this is how our work has been, from the protest to the proposals. We won't be waiting around for global, national or departmental proposals, we propose to develop our own solution, adapting to innovations and renewing our knowledge. We propose to develop family and community level solutions, even regional, where possible. To



The center of Cunen, June 2019

generate information and raise awareness with people. We have gone to the Zona Reyna to inform people of the companies' activities, on extractivism, on our organization and our community initiatives. As a result of this work communities have been able to develop their own community energy systems (hydroelectric turbines) without affecting water sources or having to divert tributaries or springs. Sometimes you start thinking about conflicts over the scarcity of water, not just here but everywhere in Guatemala throughout the world there is conflict over the scarcity of water. Well, we are not going to wait until the last drop is gone and people are dying, we are always investigating other possibilities. So, even if we just do an internet search for the information we need, we can see, for example, how in the Atacama, Chile, there is already a system for catching mists using mesh. This interested us, and through further research we discovered that

there is a similar experience here in Guatemala, in the Cuchumatanes mountain range." The installation of a water collection method using meshes has been working very well in San Juan Ixcoy since its installation in April 2019. The CCC is preparing to train people in more communities and install these meshes. The most serious problem in the region at the moment is that springs are drying up and leaving little water for use, which has caused the emergence of several conflicts between communities over access to water.

"We are searching for other tools, other ways to solve the situation and our needs. If we have wind then we look at whether we can use a wind generator and, if people are in favor, we can make a small project that produces electricity for about 20 families. Our resistance is to take care of everything we have, and to take advantage of it for ourselves without reaching the level of exploitation."

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New Accompaniment with the Chinautla Multisector

In December 2018 we began accompanying the Chinautla Multisector, which is composed of various actors from this area: communities from the municipality of Chinautla, the Community Development Councils (COCODE), Catholic and Evangelical Churches, youth groups and other collectives such as the Association of Women Potters and the Association of Women in Solidarity. It forms part of the Urban Platform, which is a movement of various groups, associations, multisector organisations and self-managed cooperative groups (housing among others), who have organized to defend various rights such as: the defense of territory, water, housing, food sovereignty and women's rights.



Protest in Santa Cruz Chinautla, 28.07.2018

Origins of the Resistance

The communities of Santa Cruz Chinautla face various of problems that threaten their life, territory and rights. One of these problems is environmental pollution, which is particularly severe during the rainy season, as a result of the increased flow and strength of two rivers, Las Vacas and Chinautla, which in turn increases the accumulation of solid waste. The waste originates from Guatemala City, where, for more than 75 years, the city's sewage has been diverted into a river that originates

in Zone 3 of the City. Waste water rivers from the Municipalities of Mixco, San Juan Sacatepéquez and of Chinautla itself all flow together through Chinautla. There is not only waste water, but also solid waste carried down by the rivers which turns the riverbed in Chinautla into a landfill.1 In addition, the largescale clay extraction projects have added to the problem of pollution, resulting in diversions to the course of rivers, alterations to river banks, the weakening of local infrastructure, cracks in homes and an increase in respiratory diseases.

The bridge that enters the village of Santa Cruz Chinautla has flooded and collapsed several times. The population of Chinautla has denounced this situation for vears.2 It is estimated that some 1,550 families live within the area of risk.3 Given this situation, and in the face of a further collapse of the bridge in June 2018, the population decided to organize a peaceful resistance for two weeks at km 11 on the road to Chuarrancho and San Antonio Las Flores. The objective of this resistance was to denounce the damage caused to the local infrastructure by the clay extraction companies, as well as the serious problems caused by the waste carried by the Chinautla River (from the landfill in Zone 3). The population's principal demand is from the clay companies to cease operations.

One of the clay extraction companies reacted to this peaceful protest by accusing Efraín Martínez and Francisco Vásquez, members of the COCODE for Santa Cruz Chinautla and the Multisectoral, of threats and illegal detentions⁴.

¹ Community Development Association SERJUS, Problemática del Pueblo Poqomam en Santa Cruz Chinautla, June 2018.

NISGUA, Residents of Santa Cruz Chinautla denounce eco-ethnocide, 1.09.2011

³ Q., O. F., Entre paredes rajadas: así viven mil 550 familias por hundimiento de la vieja Chinautla, Prensa Libre, 18.05.2018

⁴ Source: Chinautla Multisector





Clay extraction in Chinautla, July 2018

Challenges Facing the Population

The municipality of Santa Cruz Chinautla neighbors Zone 6 in the north of Guatemala City. It was built "on an old landslide located in a geologically unstable area due to the existence of several faults."5 The 1976 earthquake caused more cracks to open, forcing the Santa Cruz Chinautla municipality to relocate to upper Jocotales, forming the New Chinautla settlement. "The so-called Old Town is located in a rugged valley cut through by the Chinautla River, and prone to disasters due to floods and partly due to the waste washed down from the capital city. The valley in question ends where the Chinautla River and Tzaljá rivers flow into the Las Vacas River" where most of the clay companies are located⁶.

In 2011, Chinautla was home to 118,510 inhabitants and a population density of 1,481 per square

kilometer,⁷ which makes it one of the most populated municipalities in the country. The population of Santa Cruz Chinautla is of Maya Poqoman origin. Their main activities are the pottery and clay crafts that are sold in markets throughout the country. The artisans who dedicate themselves to this activity are being strongly affected by the large-scale extraction of clay carried out by the companies, as this is the raw material they use for their work and it is becoming increasingly scarce.

In May 2018, one month before the Resistance was formed, the Department of Monitoring and Risk Management of the National Coordinator for Disaster Reduction gave (CONRED). an updated analysis on the situation in Santa Cruz Chinautla. This report stated that, both the situation of environmental pollution and extractive activities, are impacting the environment and the public health of the population and hinder the construction of housing in various parts of the municipality, because there is no urban planning in line with the topography of the

A simple walk through the community evidences the ecocide that is taking place. The river is literally a river of garbage, the banks are not even visible due to the enormous amount of waste. The whole river is covered with white foam and the smell is unbearable. The garbage reaches some side streets in the village.



Handicrafts of Chinautla, July 2018

Clay extraction and the arrival of big business

Clay extraction in this area has been present for decades, nevertheless the nature of this activity has transformed over time. 50 years ago, clay was extracted on a small scale and in small quantities, as it was principally used in community's artisan production. However, when Aroldo Medrano⁹ became mayor, he began the process of industrial extraction using machinery and trucks from the capital. These licenses for the large-scale extraction of clay were granted by Medrano, and without consulting the affected communities. The right to free, prior and informed consultation is one of the demands of the Chinautla Multisector, since the Maya Pogoman population forms part of this organisation.

⁵ Del Aguila, A., El negocio de las areneras y su afectación a la población urbana: el caso específico del municipio de Santa Cruz Chinautla, Enfoque No. 63, 20.12.2018

⁶ Ibid.

⁷ Ibid.

⁸ Ibid

Arnoldo Medrano was elected mayor in 1986 and re-elected six consecutive times. In 2015 he was arrested and is being prosecuted in different legal cases and for various crimes, such as embezzlement, falsification of documents, use of forged documents, fraud, illicit association and money laundering. According to investigations by the Public Prosecutor's Office (MP) and the International Commission against Impunity in Guatemala (CICIG), he established "a family network of corruption" to loot the municipality of Chinautla during the 30 years of his administration (information extracted from several articles of Prensa Libre and elPeriódico between 2015 and 2017).

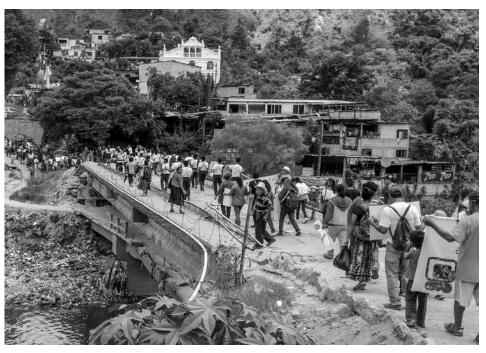
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"Since the 1980s, when Mr. Medrano was mayor, we have observed the proliferation of companies exploit quarries, from which they have been extracting clay and other material. Some of them are owned by the mayor, according to the neighbors, however they are not registered under his name. One such company is Arenera K-9, which has continued to destroy the hills that once protected the community. This extractive activity and the boom in the construction industry much has gained momentum recently, which has increased the exploitation of clay extraction from the Chinautla and Las Vacas rivers, as well as the manufacture of gravel and the extraction of earth, white sand and other materials, both within the surroundings of Santa Cruz Chinautla" as in other nearby communities¹⁰.

At present there are multiple mines operating in the territory, of which only some have valid licenses. The community most affected by extractive activities is Santa Cruz Chinautla. The closest houses to the clay beds are 500 meters away. There used to be more than 150 families living there, but now only 20 remain, the others have been moved and relocated elsewhere!

Attempts at Dialogue

The Chinautla Multisector asked the Human Rights Ombudsman (PDH) to intervene by establishing a process of contact and mediation between the parties. On July 3, 2018 a roundtable for dialogue was created with members of the



Manifestation in Santa Cruz Chinautla, 28.07.2018

Chinautla Multisector, the Ministry of Energy and Mines (MEM) and of Environment and Natural Resources (MARN), the Executive Secretary of CONRED (SECONRED) and the representatives of the clay extraction companies. The Municipalities of Guatemala and Chinautla were also called to participate, as well as the Governors office, but they did not attend.

The commitments established were:

- Preparation of reports on the environmental impact of the clay extraction companies in question, by the MARN and the MEM.
- Preparation of environmental management plans by the companies.
- Preparation of a risk management plan by SE-CONRED.

 Tour of the area, with all institutions, to verify the damages of extractive activities.

So far, neither the government authorities nor the private companies have complied with the agreement. The clay extraction companies argue, repeatedly, that they do not extract clay but that they collect the clay that the river drags. They also argue that the activities are carried out below Santa Cruz Chinautla's urban center, therefore, there should be no discernible geological link with the damage to the houses and hillsides that affect the population¹². However, as described throughout this article, the Chinautla Multisector and other sources aware of the situation. highlight the serious damage that large-scale clay extractive activity is causing in the area.

¹⁰ Community Development Association SERJUS, Op. Cit.

¹¹ Source of Information: Chinautla Multisector

¹² Del Aguila, A., Op.Cit.



PEACE BRIGADES INTERNATIONAL GUATEMALA PROJECT

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

PBI in Guatemala

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

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

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

Purpose and principles

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

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

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