



abriendo espacios para la paz

Coordinación:
Avenida Entrevías, 76, 4º B
28053 Madrid. Estado español
Tel: (34) 918 543 150
coordinacion@pbi-guatemala.org

web: www.pbi-guatemala.org

Peace Brigades International *Brigadas Internacionales de Paz*

Proyecto Guatemala/ Guatemala Project

Equipo en Guatemala:
3ª Avenida 'A' 3-51, Zona 1
Guatemala. Centro América
Tel./fax: (502) 2220 1032
equipo@pbi-guatemala.org

To the attention of the Human Rights Committee of UNO

Concerning the upcoming evaluation of the State of Guatemala, Peace Brigades International – Guatemala project would like to share some relevant information on the situation of human rights defenders and criminalization.

1. Peace Brigades International is an INGO that provides physical, political and informational protection to human rights defenders who are threatened for their work defending human rights. PBI works strictly within the framework of legality under the principles of non-violence, non-interference and non-partisanship. We currently have field projects in Mexico, Guatemala, Honduras, Colombia, Kenya, Nepal and Indonesia.

2. The Guatemala Project of Peace Brigades International has a team of volunteers who currently accompany 11 organizations who receive threats due to the work they carry out in various areas: in search of justice and against impunity of the past and the present; in defence of land and territory, monitoring respect for human rights in the context of major economic projects; in the access of indigenous communities to the land and in the fulfilment of the labour rights of the people working in the countryside.

3. Due to our work and mandate, the focus of this document is the situation and assessment of progress, challenges and risks to the security situation of human rights defenders in Guatemala. All case-specific data included in this report are based on information collected and/or verified by members of the Guatemala Project of Peace Brigades International (hereinafter PBI) in the field. We also base the concerns identified in the analysis on our own work and the aggressions suffered by the organizations accompanied by PBI in Guatemala.

4. Concerning the commitment to improve the protection of human rights defenders, it can be pointed out that in 2016 there was a decrease in the number of attacks against human rights defenders registered by the Protection Unit for Defenders and Advocates of Guatemala (UDEFEUGUA), from 493 in 2015 to 263 in 2016 to 328 in 2017 (until October)¹. However, the severity and intensity of the attacks have grown to alarming levels. In 2014, 7 human rights defenders were murdered in 2015 13², in 2016 there were 14 murders and 7 attempted assassinations³ and in 2017 52 human rights defenders murdered (including the 41 adolescents that were burnt in a state facilitated children and youth home, that demanded better living conditions). To date, these murders remain in impunity. Many of the national protection measures

¹ <http://udefegua.org/documentacion/graficas/graficas-2017>

² http://udefegua.org/wp-content/uploads/2015/08/informe_final_2015.pdf p 33

³ <http://udefegua.org/wp-content/uploads/2015/08/Mensual-Diciembre-2016.pdf>

Promoting nonviolence and protecting human rights since 1981

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for defenders at risk that had been implemented by the Guatemalan State have been withdrawn unilaterally, despite the concern expressed by these people⁴.

5. No additional measures have been put in place to advance the investigation and prosecution of those who have attacked human rights defenders. There continues to be a high degree of impunity with regard to such attacks. PBI has witnessed situations where defenders accompanied by PBI were publicly threatened in front of a large number of people and police, with no legal consequence.

6. With respect to the call for action to reduce attacks against human rights defenders, the Guatemalan Government to date has still not finished developing a policy in this regard, and adequate protection mechanisms. Nor have other measures been implemented that could contribute to a better security situation for defenders, such as public support for their work, the provision of precautionary measures or national protection measures, and increased funding, training, and political support to the bodies that must ensure respect for human rights and the protection of human rights defenders (such as the Human Rights Ombudsman's Office, the Unit for the Analysis of Attacks against Human Rights Defenders, and the Human Rights Division of the Office of the Public Prosecutor).

(A) Regarding the defamation and criminalization

7. We continue to view with great concern the use of public defamation and false or disproportionate legal accusations against defenders, social organizations, and even entire communities. This mechanism is a serious attack on their honor and increases the exposure to violent attacks against them and, in general, the violation of their rights⁵. Publicly the work of human rights defenders has been discredited, thus opening the way to attacks and intimidation⁶. From 2012 to 2017, UDEFEGUA⁷ registered 216 cases of apparently unfounded legal accusations against defenders. Generally, they face charges that don't allow for alternatives to pretrial detention.

8. On July 22, 2016, Judge Yassmin Barrios rendered a judgment in the case of 7 defenders and representatives of communities of Huehuetenango opposed to a hydroelectric project. She acquitted 5 and released the other 2 after they had spent more than a year in remand prison. The judge said that "for the judges it is worrying that criminal charges can be filed based on facts that are not true." She also

⁴<https://twitter.com/emisorasunidas/status/366728135988883456>: Gobernación retira 28 de 58 medidas cautelares

⁵Comisión Interamericana de Derechos Humanos CIDH, Criminalización de defensoras y defensores de derechos humanos, 2015, págs. 117-127.

⁶For example, the defamation in social networks against an NGO and a community leader (<https://www.youtube.com/watch?v=-ileCrJ5YU>) during a march by the and the decision of the Supreme Court of Justice to suspend a hydroelectric license for not having carried out the consultations to the affected indigenous communities that the Guatemalan law orders. <http://www.prensalibre.com/guatemala/comunitario/campesinos-marchan-en-rechazo-a-hidroelectrica>

⁷ <http://udefegua.org/wp-content/uploads/2017/12/Informe-Criminalizacio%CC%81n-Guatemala-2012-2017-FINAL3.pdf>

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stated that "criminal proceedings have been used to criminalize actions carried out by the ancestral authorities and in which community leaders have participated to defend their rights We judges cannot become instruments to criminalize non-criminal conduct, and that should be clear because we judges are called to strengthen the rule of law within a country."

(B) Special vulnerability of economic, social, cultural, and environmental rights defenders (ESCE):

9. Large investment projects, whether in the extractive industry, bio fuel production, or electricity generation, have created and deepened conflict in Guatemala in recent years. As a result, the indigenous and agrarian communities of Guatemala have seen their land and territory come under threat, which is the basis of their life and survival, jeopardizing the enjoyment of their economic, social, cultural, and environmental rights.

10. Our accompaniment work, as well as the information provided by UDEFEGUA and Amnesty International⁸, confirms that one of the most targeted sectors continues to be economic, social, and cultural rights advocates, especially those who work in contexts of large-scale investments. Of 11 organizations accompanied by PBI in 2017, 8 are from this sector. Other common attacks against this sector have been defamation, intimidation, death threats, and criminalization.

(C) Women defenders

11. Women defenders working in rural areas are particularly exposed to aggression. They face particular attacks because of their gender: rumors and defamation of their status as a woman, mother and wife, harassment and sexual violence. Due to the overload of work in different areas of life, in the workplace, family, community and personal, defenders can see their health seriously affected.

12. In cases of criminalization of male human rights defenders, it is their wives and daughters who have to bear the economic burden of the family. In addition they lead the campaigns in favour of the liberation of their partners. PBI has been aware of cases in which the daughters of defenders were sexually assaulted so that their relatives would renounce their work in defense of human rights.

13. Of particular concern is the situation of women defenders accompanying victims of gender-based violence within the family. In these cases, PBI has learned that female defenders are often attacked by the aggressors of the victims they accompany, and they do not receive protection from state authorities. The state institutions responsible for protecting women victims of gender violence are characterized by the defenders as inadequate and without political support at municipal, regional, and national levels.

⁸ UDEFEGUA, Amnistía Internacional, Defendemos la tierra con nuestra sangre, 2016, p. 62



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Recommendations

Regarding the protection of human rights defenders:

14. Ensure that a broad and participatory process of discussion and consultation is carried out to develop a public policy of protection for human rights defenders, implementing the Inter-American Human Rights Court's 2014 sentence in the case of Human Rights Defenders and Others Vs. Guatemala. Ensure that the public policy is not restricted to measures of protection but confronts the main structural causes that add to the vulnerabilities of defenders, including an overall hostile environment for defending human rights, inadequate investigation and high levels of impunity in cases of attacks against them, as well as dealing with legislative reforms related to land and territory.

15. Develop a public communication policy at the highest level of the Republic, promoting the defence of human rights through official speeches and public statements, as well as the legitimacy of the activities of human rights defenders, specifically the legitimacy of those defenders who accompany cases related to land rights, the armed conflict, and the protection of the LGBT community.

16. Ratify the Optional Protocol to the International Covenant on Economic, Social, and Cultural Rights to enable women human rights defenders to benefit from the resources created under it.

Regarding the respect for the right to peaceful protest and non-criminalization of human rights defenders:

17. Reform criminal legislation to establish by law a presumption of innocence, reinforced in the case of human rights defenders and community leaders, in order to prevent all types of detention and abusive trials against them, given the effect their criminalization has on civil society as a whole.

18. Repeal the "Speed bump Law" ("Ley de Tumulos"), which opens the door to the prohibition of demonstrations carried out in the legitimate exercise of the right of assembly and demonstration.

19. Reform the offense of aggravated usurpation, ending an offense that facilitates criminalization and repression of the actions of campesinos in cases of land disputes.

Regarding structural causes that increase the vulnerability of human rights defenders:

20. Strengthen the protection, de facto and in law, of the right to participation, specifically establishing the obligation of carrying out a prior, free, and informed consultation in good faith and respectful of the culture and processes of each indigenous people, where appropriate, and the people and communities (including those that may potentially be) affected by projects that impact on the right to land, such as hydroelectric and extractive projects.

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