



International Network for Economic, Social & Cultural Rights
Red Internacional para los Derechos Económicos, Sociales y Culturales
Réseau international pour les droits économiques, sociaux et culturels
الشبكة العالمية للحقوق الاقتصادية و الاجتماعية و الثقافية

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Chris Grove
Director

370 Lexington Avenue
Suite 700
New York, New York
10017
United States
Tel: +1 212.681.1236

info@escr-net.org
www.escr-net.org

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the Tides Center

TO:

Gen. Otto Perez Molina, President of the Republic of Guatemala

CC:

Dr. Joshua Felipe Baquix, President of the Judiciary

Lic. Thelma Aldana, Director of Public Prosecutions

Mr Michel Forst, UN Special Rapporteur on the situation of human rights defenders

Ms. Victoria Lucia Tauli-Corpuz, UN Special Rapporteur on the rights of indigenous peoples

José de Jesús Orozco Henríquez, Special Rapporteur on human rights defenders of the Interamerican Commission on Human Rights

Rose-Marie Belle Antoine, Special Rapporteur for the Rights of indigenous peoples of the Interamerican Commission on Human Rights

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The International Network for Economic, Social and Cultural Rights (ESCR-Net) is the largest global network of organizations and advocates devoted to achieving economic, social and environmental justice through human rights, consisting of over 270 organizational and individual members in 70 countries.

We wish to express our deep concern over the criminalization of community leaders who act to promote and protect the rights of communities affected by mining and hydroelectric projects in the department of Huehuetenango, Guatemala, and the growing militarization of those indigenous territories. According to information received, on February 26, Arturo Pablo, Francisco Juan and Adalberto Villatoro, community leaders from Santa Cruz Barillas, were placed in preventive detention when they appeared before a public hearing held by the Huehuetenango Court of Justice. In connection with their peaceful resistance to the Qanbalam I and II hydroelectric dam project, they have been charged with committing illegal detentions, threats and kidnapping.

We are also informed that numerous indigenous leaders of the communities of the municipalities of San Mateo Ixtatán, Santa Cruz Barillas (Barillas), and San Eulalia, among others, have experienced threats, attacks and harassment by members of the national police and security personnel working for companies operating in Huehuetenango. According to reports received, more than 30 people from San Mateo Ixtatán, Barillas and Santa Eulalia reportedly face legal charges in connection with their opposition to large-scale energy and mining projects and their activities to defend the human rights of affected communities.

The projects in-question include, among others: an oil exploration and exploitation project, Xacbal 7-2012, operated by Loon Energy Corporation de Canada, which covers 171,720 kilometers and directly affects the towns of Barillas and San Mateo Ixtatán. They also include hydroelectric projects such as Qanbalam I and II, operated by Hidralia Energia-Ecoener-Hidro Santa Cruz SA in Barillas; the Pojom I and II dam, run by Hidralia Energia-Ecoener-PDH in San Mateo Ixtatán; La Cascata, a dam project operated by Enel de Italia in Soloma and 5M Project SA, operated by Magdalena Group in Santa Eulalia. In addition, the Torlon mining project, operated by Firestone Venture Company

Inc. in Chochal, Chiantla, and the development of electrical infrastructure by the TRECSA corporation have had serious impacts on the communities living in the area.

According to numerous social leaders, these projects are being implemented without complying with the fundamental right to free, prior, informed consent for indigenous peoples, the right of indigenous peoples to their ancestral lands and territories, and the right to promote a development model consistent with their values, cultures and worldview.¹

We are particularly concerned about reprisals against human rights defenders in an area of Guatemala that has experienced a long history of human rights violations during the armed conflict of the 1980s, when the communities in question suffered massacres, rapes, torture and disappearances. Given this history, the recent militarization of these territories in May 2012, when the government declared a state of emergency in Barillas, has raised serious concerns.

In addition to the concerning case of Arturo Pablo, Francisco Juan and Adalberto Villatoro, further alleged instances of reprisals against human rights defenders include the following:

- On January 19, 2015, approximately 40 vehicles with police and army personnel allegedly conducted raids against communities that had expressed their opposition to the hydroelectric projects Pojom I and II. After their community was attacked with tear gas, two brothers - Jesus Matthew and Casimiro Mateo - were forcibly transported by helicopter and placed in preventive detention in the city of Huehuetenango. They were subsequently released on probation, due to public protest and anomalies in the due legal process against the accused.
- On November 11, 2014, Marcos Ramírez Pedro, community leader from Ixquisis, in the municipality of San Mateo Ixtatan, was ambushed and wounded by gunfire by individuals who allegedly work for the company Hidralia Energia-Econener-PDH, in response to his opposition to the Pojom I and II project.
- On November 9, 2014, following a community meeting, representatives of Pojom and Ixquisis indigenous communities, which are affected by the Pojom I and II hydroelectric project, were reportedly attacked by workers of Hidralia Energia-Econener-PDH, resulting in multiple injuries.
- On June 23, 2014, Víctor Pérez of San Mateo Ixtatan was detained in connection with his opposition to the Pojom I and II hydroelectric project, and remained in preventive detention for three months, after which time he was freed on probation. Reportedly, he is currently still subject of an investigation by the Guatemalan government.

In this connection, we respectfully remind the Government of Guatemala of its obligations to uphold international human rights standards. Of particular relevance to the immediate situation of reprisals against human rights defenders, within the wider context of large-scale infrastructure projects impacting adversely on indigenous communities, we note that:

- Under the International Covenant on Civil and Political Rights,² Guatemala has the obligation to respect, protect and fulfill among others: the right to life; the right to freedom from torture, cruel, inhuman or degrading treatment; the right to liberty and personal security; and freedom from arbitrary arrest and detention, including due process guarantees established by law.
- Under the International Covenant on Economic, Social and Cultural Rights,³ Guatemala has the obligation to respect, among others: the right of everyone to an adequate standard of living for himself and his family, including food, clothing and housing, and to the continuous improvement of living conditions of existence; the right to the highest attainable standard of physical and mental health; and the right to water.
- Both Covenants also state that "in no case may a people be deprived of its own means of subsistence."
- Under the International Convention on the Elimination of All Forms of Racial Discrimination,⁴ Guatemala has the obligation to respect, among others: the right of everyone to equality before

¹ UN Declaration on the Rights of Indigenous Peoples, Articles 32 and 23; International Labor Organization Convention 169

² Guatemala ratified/acceded to the ICCPR in 1992.

³ Guatemala ratified/acceded to the ICESCR in 1988,

⁴ Guatemala ratified/acceded to the ICERD in 1983.

the law, without distinction of race, color and origin national or ethnic, notably in the enjoyment of the rights to equal treatment in the administration of justice; and the right to security of person and protection by the State against violence or attack by third parties.

- Guatemala has the duty to respect the standards defined in the Declaration on the Rights of Indigenous Peoples, including the right to determine and develop priorities and strategies for the development or use of their lands, territories and other resources, including the right to require that States obtain their consent, expressed freely and knowingly, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.

We also recall that companies operating energy and mining projects in Guatemala are themselves required by international standards to respect human rights. According to the UN Guiding Principles on Business and Human Rights, these companies must have a robust system of due diligence to avoid any involvement in the violation of human rights, monitor their practices continuously, publicly distribute reports on compliance with human rights, implement the measures identified to prevent the violation of human rights, and remedy any human rights violation that occurs in connection with their activities.

In light of this situation, we call upon the Government of Guatemala to:

1. Immediately take steps to ensure that Arturo Pablo, Francisco Juan, Adalberto Villatoro and other human rights defenders in Huehuetenango, who face detention and/or charges against them, enjoy a fair trial and compliance with due process established by Guatemalan laws and international standards;
2. Cease the criminalization of human rights defenders from San Mateo Ixtatan, Barillas and Santa Eulalia in connection with their activities to promote and protect the human rights of indigenous communities in Guatemala;
3. Protect human rights defenders, community leaders and others from the violation of their human rights by non-State actors, including from harassment, intimidation, threats and acts of violence, and take steps to hold non-State actors accountable for any such violations;
4. Put an end to the militarization of the Maya territories of Huehuetenango, particularly in the municipalities of San Mateo Ixtatan, Barillas and Santa Eulalia, and immediately take steps to withdraw police and army personnel currently occupying residential areas;
5. Respect the rights of indigenous peoples in Guatemala in accordance with the State's international human rights obligations, including the right to free, prior, and informed consent regarding any project that may affect indigenous peoples' ancestral lands and livelihoods; and
6. Take urgent steps to draft and implement a national plan of action, and take other measures, consistent with the UN Guiding Principles on Business and Human Rights.

Finally, we request that you keep us informed about this situation.

On behalf of ESCR-Net,



Chris Grove
Director