



GUATEMALA HUMAN RIGHTS COMMISSION/USA

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14 months after his wrongful arrest, Polochic Valley Land Right Defender Abelino Chub has a hearing to determine if he will be released from prison

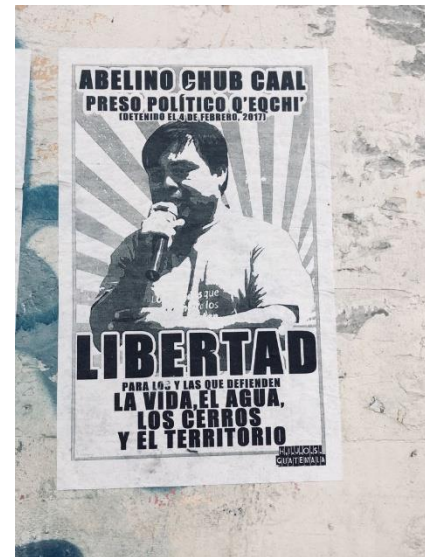
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Abelino, wrongfully imprisoned for over a year, is one of dozens of indigenous and poor land rights defenders who are facing malicious prosecution as retribution for defense of community land rights. 2015 Alice Zackmann awardee Prensa Comunitaria estimated 750 malicious prosecutions are ongoing in Guatemala. In light of the growing crisis, human rights organizations and a United Nations agency have asked the Guatemalan Attorney General's office to sign directives to provide guidance to prosecutors in the malicious prosecution of human rights defenders. This would facilitate sanctions for those who engage in malicious prosecution. Such a directive has yet to be signed.

The Fundación Guillermo Toriello (FGT) is a co-petitioner with GHRC and the Campesino Unity Committee (CUC) in a petition for protective measures and a petition for violation of Q'eqchi' land rights currently before the Inter American Commission on Human Rights. Abelino and the FGT worked closely with GHRC on the IACHR petitions. On January 17, Maria Choc, who GHRC hosted in a 2011 speaking tour, was arrested on similar charges.

Ten years after he began working with the Guillermo Toriello Foundation (FGT), Abelino Chub Caal, a young Indigenous Maya Q'eqchi' man had become a well-marked target for the economic interests in the area where his work was focused. Bilingual and university educated, the FGT Technical and Social Promoter [had been accompanying](#) indigenous communities near Lake Izabal and the Polochic River basin in Guatemala's north-east region in the struggle for recognition of their land rights. "This is an area known for land grabbing for large single crop plantations, diverting rivers for hydroelectric projects and nickel mining exploitation; activities imposed by companies without the least amount of consultation as is required by Convention 169 of the International Labor Organization," [wrote the FGT](#) in a written statement.

[Abelino Chub Caal was detained](#) on February 4, 2017 in San Pedro Carcha, Alta Verapaz accused of aggravated robbery, arson, illicit association, use of coercion, and belonging to illegal armed groups. The accusations were made by the "Inversiones Cobra Sociedad Anónima" company, owned by the Arriaza family, after an [October 26, 2016](#) eviction in a farm called Plan Grande. [According to a written statement](#) released by CUC (the National Campesino's Union) more than 1800 National Civil Police (PNC) officers evicted 88 families, burning their homes to the ground, while some community members suffered injuries. The eviction occurred while a central government dialog process to resolve the land rights dispute was ongoing, a dialog in which Abelino was advising the small farmers. Abelino also faces charges related to occupation of the "El Murcielago" farm owned by the same company. "The public prosecutors arrive, the large landholder tells them their allegations and they take it as truth. The Prosecutor's Office and Court in Puerto Barrios has been co-opted by businessmen," says Jorge Macias from the FGT.



Local authorities and large landholders assert the Q'eqchi maya were illegally occupying the land, though area residents affirm that the land they were living on was rightfully theirs and that the African Palm and banana plantations had encroached on their land leading to tensions, which Abelino was helping mediate in a central government sponsored dialog. Plan Grande is registered in El Estor municipal Indigenous Community Legal Status registry. In the initial hearing immediately following Abelino's arrest, charges were reduced to aggravated usurpation, arson and illicit association, but the charge of illicit association meant Abelino would have to await trial in prison. Hoping for more independent prosecutors, his lawyers were able to secure the transfer of the case to the Human Rights Prosecutors office in Guatemala City. At a hearing to formalize the charges on June 5, 2017, the Guatemala City based prosecutors asked the local Puerto Barrios judge Edgar Anibal Arteago Lopez to dismiss the case for lack of evidence. In a highly unusual ruling the judge charged Abelino despite the prosecutors move to dismiss, ordering Abelino to remain in preventative detention.

Abelino's lawyers were then able to transfer the case to the High Risk Court "A" in Guatemala City, one of a few courts especially protected to prevent undue pressure from threats and bribes, where they hope to have a better chance to fight the charges. Even so, Judge Claudette Dominguez, who will now decide whether or not Abelino will face trial, has a dubious record of sending indigenous land defenders to trial based on little evidence as happened in 2016 when Ancestral Authorities from northern Huehuetenango, Rigoberto Juárez Mateo y Domingo Baltazar, [were forced to face trial](#) for crimes they didn't commit.

Over a year after his arrest, Abelino Chub Caal is being held in Guatemala City's preventive prison in zone 18. The father of three has intermittent contact with his family and colleagues. Jovita Tzul, who is part of Abelino's defense team, describes three possible outcomes in hearing scheduled for Thursday, April 19. All charges could be dismissed. The charge of illicit association could be dismissed, allowing Abelino to await trial on other charges in his home. Or the judge could rule to send Abelino to trial for all three existing charges, which could mean another year in prison awaiting trial. "We just don't know. Anything could happen."

Abelino began his work to support Indigenous families working to recover their territory as a young member of *Encuentro Campesino* and had worked alongside well-known Maya Q'eqchi' land activist Ramiro Choc in the past. Choc was [sentenced to six years](#) in jail in 2008 for his support of the land rights of Maya Q'eqchi' communities.

The FGT estimates that in addition to Abelino, there are dozens of active arrest warrants for organized campesinos in the Polochic and El Estor area. "I would calculate that in El Estor alone there are more than 50 arrest warrants. In Livingston, Cahabon, Panzos, where there is the most conflict there are a huge number of people who have arrest warrants against them. It's a way to criminalize them, to accuse them of crimes and later they put them in jail, the same thing they wanted to do with Maria Choc," says Macias. On January 17, 2018, Maria Choc, who participated in a GHRC speaking tour in 2011, was detained and charged with aggravated usurpation, uttering threats and detention. Two other men, Luis Xol Caal y Antonio Asp Pop, were charged at the same time.

"These are spurious accusations that have no merit and the Public Prosecutor's Office contributes to mounting the cases with the information they are told by the businesses," said Macias. "They spend a few years in jail and then are let out due to lack of evidence."

While indigenous land rights defenders are targets for malicious prosecution, they are also victims to violence that goes unprosecuted. Two months after Maria Choc's arrest, on March 31, Hector Choc, the 19-year old nephew of Ramiro, Maria and Angelica Choc, was bludgeoned to death near his home in El Estor. [The Choc family believe](#) that the intended victim José Ich Choc, son of Angelica Choc and Adolfo Ich, a Maya Q'eqchi' community leader and teacher who was murdered in 2009 for his outspoken activism against the nickel mine in the region. José is an eye-witness into the murder of his father.