



GUATEMALA HUMAN RIGHTS COMMISSION/USA

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Guatemala Human Rights Update - December 2018

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A. Summary Report

1. Two Maya Chuj river defenders killed in Ixquisis; attack follows defamation of q'anjob'al authority

On December 16, the bodies Neri and Domingo Esteban Pedro were found near the San Andres dam construction site. The brothers were active in community opposition to the dam. Their murder follows rising tensions as communities continue to oppose the project.

2. Military opens fire on a family in the Peten, father killed, mother and two children injured

On December 23, the army's Jungle Brigade opened fire on the family on a road near the town of Bella Vista, killing 25 year old Niglan Ixcoy Maas in front of his wife and two young children, who were also injured. Residents of Bella Vista and other communities in the region of the Laguna de Tigre and Sierra Lacandon National Parks have long denounced aggressions by the military, requesting protective measures from the Inter American Commission on Human Rights.

3. Two Guatemalan children die while under US Border Patrol custody

On December 7, seven-year-old maya Q'eqchi girl Jakelin Caal Maquin and on December 24, eight-year-old Maya Chuj boy Felipe Alonso Gomez died of illnesses while in the custody of US Border Patrol agents. These deaths follow the shooting of 19-year-old Maya Mam woman Claudia Gonzalez by Border Patrol agents in May. Her killing remains in total impunity.

4. CGN nickel mine security guards fire on community leaders seeking dialog

Concerned about the destruction of a spring that provides water to hundreds of Maya Q'eqchi families in El Estor, Izabal, community members report that on December 1 they sought dialog with CGN nickel mine employees. In response security guards opened fire on the delegation.

5. UN Special Rapporteur concerned Bernardo Caal conviction is an attempt to silence and discredit legitimate legal defense

United Nations Special Rapporteur on the Rights of Indigenous People released a statement on December 19 expressing concern that the conviction and 7 year and four month jail sentence of Maya Q'eqchi authority Bernardo Caal is an attempt to "silence and discredit" legitimate legal defense against the Oxec dam. She noted the sentence was "preceded by virulent defamation campaigns in the media."

6. El Estor judge deprives fishermen and journalist of due process, prolonging pre-trial detention and threats of arrest

On December 19, the hearing to review the pre-trial detention of Lake Izabal water defender Eduardo Bin Pou was suspended for the fifth time, denying Bin Pou the possibility of conditional release. Recurrent and unjustified suspension of hearings has prolonged pretrial detention and threat of imprisonment for many criminalized K'eqchi water defenders and journalists.

7. Victims seek to overturn exclusion of sexual violence charges in CREOMPAZ forced disappearance case

On December 14, an appeal that victims in the CREOMPAZ forced disappearance case had presented was heard before the Femicide Appeals Court. The victims contested a lower court's decision to exclude the crime of sexual violence from the prosecution of 11 military officers charged with forced disappearances and extrajudicial executions in the Coban military base.

8. Constitutional court suspends CICIG officials' immigration expulsion order

On December 18 Guatemalan immigration authorities ordered the expulsion of 11 non-Guatemalan investigators employed by the International Commission against Impunity in Guatemala CICIG, but on December 21 the Constitutional Court suspended the order. On December 26, under direction of President Morales, the National Solicitor General requested the impeachment of Constitutional Court judges who had ruled against the expulsion.

9. KCA silver mining company files \$300 Million CAFTA suit in World Bank's arbitration mechanism

On December 11 the Nevada based KCA silver mining company announced its intent to sue the government of Guatemala for \$300 million USD in damages under the arbitration framework created as part of the DR-CAFTA agreement.

10. Genocide apologist Ricardo Mendez Ruiz announces presidential candidacy

On December 17, Ricardo Mendez Ruiz of the Foundation Against Terrorism, announced his candidacy for president in the 2019 national elections. In November, fellow genocide apologist Zury Rios, daughter of convicted genocide author Efraim Rios Montt, announced her candidacy.

11. Tzutzuil authorities in Santiago Atitlan protest the presence of the military

On December 4, the Guatemalan military entered Tzutzuil territory, violating a 1990 presidential commitment after the December 2, 1990 massacre of 13 Santiago Atitlan residents.

B. Full Report

1. Two Maya Chuj river defenders killed in Ixquisis; attack follows defamation of q'anjobal authority

On December 16, the bodies Neri Esteban Pedro and Domingo Esteban Pedro were found near the Yal Witz River and the San Andrés hydroelectric project along the Transversal Highway of the North. The brothers had been active opponents of the San Andres hydroelectric project in the Maya Chuj region of Ixquisis, municipality of San Mateo Ixtatan. There is concern that the murders will not be investigated or prosecuted, as is the case of the murder of Sebastián Alonso Juan who was killed during a peaceful protest in January 2017.

[Prensa Comunitaria reports](#) that in the weeks prior to the murders a defamation campaign was launched against Rigoberto Juarez Mateo, q'anjob'al authority and coordinator of the Ancestral Plurinational Government. Juarez is a leading voice in opposition to hydroelectric projects in San Mateo Ixtatan. On November 8 the Energia y Renovacion SA corporation building the dams published what it called a "Peace Accord for Development," but without participation or approval of indigenous authorities in the area who oppose the dams.

On November 13 a paid ad dated November 8 was published in the El Periodico newspaper, claiming Rigoberto Juarez had usurped authority in representing Mayan organizations in an October 11 and 12 dialog between indigenous authorities, the Attorney General, and the US and Swiss ambassadors to Guatemala. The ad was signed by well known regional representatives of indigenous communities, but within hours of its publication those communities denied signing the communique, which accused Juarez of responsibility in a violent incident in that occurred in October.

Since 2009, communities in the Ixquisis microregion in northern Huehuetenango have been the target of criminalization and violence as a result of their opposition to three interconnected hydroelectric projects, San Andres, Pojom I and Pojom II, funded by the Inter-American Development Bank (IDB) and the Central American Bank for Economic Integration (CABEI).

Read: [Statement on the double assassination, physical aggression, and the dangerous situation faced by communities in the Ixquisis region, Guatemala, signed by close to 100 other national and international organizations including GHRC.](#)

2. Military opens fire on a family in the Peten, killing the father

On December 23, 25 year old Niglan Ixcoy Maas was shot and killed by members of the Guatemalan army after they opened fire on him and his family as they traveled in a vehicle en route to Bella Vista, San Andres, Peten. Ixcoy Maas' partner, 23 year old Rosa Max and two

children were also shot and injured in the attack. The Guatemalan daily La Hora reports that the unit involved was the Special Jungle Brigade.

Communities in this region, the National Park of Laguna del Tigre, have long denounced militarization of the region, and unprovoked violence and harassment by the military. Outraged neighbors protested, occupying the ferry that controls access to northern Peten. Human rights organizations and the Human Rights' Ombudsman's' office have requested protective measures from the IACHR for community leaders in this region. The PDH has requested protective measures for the Ixcoy Mas family and a full investigation into the attack.

3. Two Guatemalan children die while under US Border Patrol custody

US and Guatemalan press reports indicate that on December 24, eight-year-old Felipe Alonzo Gomez, a Maya Chuj boy from Yalambojoch, Nenton, Huehuetenango died while in custody at the Alamogordo Border Patrol Station in Texas. He had been detained on December 18 in El Paso, and transferred to Alamogordo on December 23. He had been treated with antibiotics and pain relievers at a medical facility the morning of the 24th. He was released to the detention center where he developed a high fever, and was later confirmed to have contracted Influenza B.

This followed the December 8th death of Jakelin Caal Maquin, a seven-year-old Maya Q'eqchi' girl from San Antonio Secortez, Raxruha, Alta Verapaz. The child is reported to have died from septic shock and cardiac arrest while under US Border Patrol custody in New Mexico. Jakelin and her father had been detained on December 6 along with 163 other migrants who were crossing the desert and died 48 hours later after being taken to the Loudsburg Border Patrol station.

In May, 19-year-old Claudia Gomez, a Maya Mam youth from San Juan Ostuncalco, Quetzaltenango, was shot in the head and killed by border agents at a Texas border. The Border Patrol initially claimed the slight 19 year-old had attacked the agents with a stick, later statements did not contain that accusation. The FBI opened an investigation into her killing, but no results have been released. In mid-December, [two Honduran youth](#) who had applied for asylum in the USA were murdered in Tijuana while they awaited a response regarding the status of their application. Youth and children make up a large portion of migrants fleeing to the United States.

Read: [Who killed Jakelin Caal at the US Border?](#)

Read: Action Aid describes the impact of [palm oil plantations in Jakelin Caal's home town](#) of Raxruha, Alta Verapaz.

Read: On August 28, [BuzzFeed](#) reviews the facts of Claudia Gomez's killing and the lack of information about the FBI investigation three months after her death.

4. CGN nickel mine security guards open fire on community leaders seeking dialog

[Prensa Comunitaria reports](#) that on December 1 security guards from the CGN mining company fired shotguns at community representatives who sought to dialog with company representatives about the destruction of a spring that supplies drinking water to the neighborhoods of Barrio Nuevo, Barrios del Centro, La Union, Los Almendros El Marcadito and La Coroza of the town of El Estor. After an assembly in Barrio Nuevo, the Q'eqchi community representatives climbed the mountain to the mine compound and requested dialog, but guards opened fire. It is unclear if police or prosecutors are investigating the violence.

5. UN Special Relator concerned Bernardo Caal conviction is an attempt to silence and discredit legitimate legal defense against the Oxec dam

[In a December 19 statement](#), UN Special Rapporteur for the Rights of Indigenous Peoples, Victoria Tauli-Corpuz, expressed concern that Maya Q'eqchi' human rights defender Bernardo Caal was sentenced to 7 years and 4 months in jail in November 2018 in retaliation for his opposition to the Oxec hydroelectric projects in his hometown, Q'eqchi territory. Tauli-Corpuz called the conviction "*an apparent attempt to silence and discredit the legitimate exercise of the rights of the indigenous community.*" She went on to express concern regarding the role of the press leading up to his incarceration, "*The criminalisation of Mr. Caal Xól was preceded by virulent defamation campaigns in media, depicting him as a violent criminal acting against the interest of the nation.*" In the statement, Tauli-Corpuz urged protect for Bernardo Caal.

A leading expert on indigenous rights law, Special Rapporteur Tauli-Corpuz explained, "The project started without consultation and the consent of the affected communities and has had a detrimental impact on the environment, the natural resources, access to water and the health of the q'eqchi' communities." She went on to express that, "The conviction of Mr. Caal Xól to over seven years in prison on charges of illegal detention and aggravated robbery of a drill, a tool box and some fibre optic cable, appears grossly inflated and was primarily based on testimonies of affiliates with the Oxec company."

The Oxec hydroelectric dam is financed by the World Bank's International Finance Corporation via it's financial intermediary, Banco G&T. World Bank operational directives require compliance with the rights of indigenous people to free, prior and informed consent for the implementation of development projects that impact their communities.

Read: [The statement](#) released by Special Rapporteur Victoria Tauli-Corpuz.

6. Puerto Barrios judge deprives fishermen and journalist of due process, prolonging pre-trial detention and threats of arrest

On December 19, a hearing that had been scheduled to review the pre-trial detention of Q'eqchi environmental defender Eduardo Bin Pou was suspended because the legal representative for the CGN and Pronico transnational nickel mining companies, Iván Roberto Camey Aguilar, claimed to be sick on the day of the hearing. Though Camay Aguilar did not present any proof of the illness, judge Edgar Aníbal Arteaga accepted the excuse and suspended the hearing, preventing the possibility of Bin Pou's release to spend Christmas with his family. Bin Pouto, who lives from fishing Lake Izabal, has already spent five and a half months in pre-trial detention, and could have been granted conditional release at the hearing based on a petition presented by the Human Rights Legal Clinic.

On December 4 the same judge suspended the hearing of fishermen Cristóbal Pop, Vicente Rax, Tomás Che, and Prensa Comunitaria journalist Carlos Ernesto Choc. This was the fifth hearing to be suspended since February 20, 2018. The four men have requested the hearings to present themselves voluntarily before court since the judge issued an arrest warrant against them in August of 2017, charged with threats, instigation, illicit association, illicit protests and meetings, damages and illegal detention, stemming from protests blocking a highway. It is the right of the accused to present themselves voluntarily before the court, a measure which would make it difficult for a judge to order pre-trial detention. Carlos Choc has suffered health conditions that threaten his life, but he could not seek treatment in the public hospital system because of the threat of arrest and preventative detention. Choc's colleague Jerson Xitumul was arrested in November 2017, but it was not until July 2018 that the Public Prosecutor asked the court to release Xitumul for lack of evidence.

[Prensa Comunitaria reports](#) that the suspension of hearings to prevent pre-trial release of fishermen has become a common practice by lawyers representing the nickel mining giant. Fishermen and a journalist have been targeted for prosecution in response to denouncements of contamination of Lake Izabal that they attribute to the nickel mining operation. Prensa Comunitaria journalist Carlos Ernesto Choc has been blocked from voluntarily presenting himself to court by the suspension of hearings, while the president of the fishermen's association, Cristóbal Pop, has had five consecutive audiences suspended since 2017.

7. Appeal seeks to overturn exclusion of sexual violence charges in CREOMPAZ forced disappearance case

On December 14 the Appeals Court for Femicide heard the appeal of the ruling by High Risk Court A to exclude charges of sexual violence from the prosecution of military officers who oversaw the Coban military base between 1978 and 1987.

Lawyers with the Center for Human Rights Legal Action (CALDH) had presented survivors of and witnesses to the pattern of extreme sexual violence enacted against women detained on the base. The CREOMPAZ case focuses on the prosecution of officers who commanded the

base at the time when four mass graves were created in its installations. Forensic scientists exhumed the graves, uncovering the remains of at least 535 victims of forced disappearance between 1978 and 1987. This CREOMPAZ case is [the largest single prosecution](#) of forced disappearance in Latin America.

Retired military officers arrested in the CREOMPAZ case in January 2016 include Manuel Benedicto Lucas García, Ismael Segura, Byron Barrientos Díaz, Juan Ovalle Salazar, César Ruíz Morales, Augusto Cabrera Mejía, Gustavo Rosales García, Raúl Dehesa, Carlos Garavito Morán, José Vásquez García and Luis Paredes Nájera. A congressman at the time of the arrests, retired Colonel Edgar Ovalle is at large with an arrest warrant pending since March 2017. EFE reported that a residence in Guatemala was searched for Ovalle on December 7.

8. Constitutional Court Suspends CICIG Official's Expulsion Order

On December 18, the Guatemalan Exterior Ministry published a list of 11 non-Guatemalan investigators and litigators with the United Nations (UN) sponsored International Commission Against Impunity in Guatemala (CICIG), stating that their accreditation as functionaries of an international mission had been revoked and that they no longer enjoyed the related immunities. They were given 72 hours to leave the country. The UN was not appropriately notified according to diplomatic protocol and considers the the decision “without legal basis, and therefore is arbitrary.” While the officials in question have not left Guatemala the actions may impact their ability to advance investigations on sensitive cases they are pursuing.

On December 21, the Constitutional Court ruled to suspend the expulsion order, finding that the administrative action once again violated Guatemalan law and the international agreement with the UN that was ratified by the Guatemalan congress when the CICIG was created. On December 26, at the request of President Jimmy Morales, the National Solicitor General (Procurador General de la Nacion, PGN), presented an impeachment request to the Justice of the Peace, but it will eventually be reviewed by the Supreme Court. The PGN asks for the removal of the immunity of Constitutional Court judges Jose Francisco de Mata Vela, Bonerge Amilcar Mejia Orellana and Gloria Patricia Porras Escobar, all of whom had found the expulsion illegal, in order to initiate a criminal investigation against the judges. The PGN claims their rulings infringed on the authority of the president and thus accuse them of arbitrary decisions, violating the constitution, abuse of authority and emitting resolutions that violate the constitution.

Civil society organizations condemned the action in a press conference on December 27, saying that it “guaranteed his impunity and reinforced the coup d’état underway”, in which the Executive has not obeyed Constitutional Court orders, similar to actions taken during the auto-coup of Serrano Elias in 1991.

Read: Organizaciones internacionales condenan nueva iniciativa para debilitar la CICIG y la lucha contra la impunidad y la corrupción en Guatemala which GHRC, along with others, signed.

9. KCA Silver Mining Company Files \$300 Million CAFTA Suit in World Bank's Arbitration Mechanism

On December 11, Daniel W. Kappes and his Nevada-based Kappes Cassidy & Associates mining company [filed a complaint](#) against the Republic of Guatemala demanding \$300 million USD in damages under the arbitration procedures established in the DR-CAFTA agreement. The complaint will be reviewed by the World Bank Group's International Centre for Settlement of Investment Disputes (ICSID). The complaint is in response to a February 22, 2016 ruling by Guatemala's highest court, the Constitutional Court, which ordered operations to stop in KCA's El Tambor, aka Progreso VII Deriva. Communities impacted by the mine had presented an [injunction](#) on August 29, 2014 arguing that required community consultation had not occurred. The Supreme Court ruled to suspend mining operations pending a consultation in November 2015, and the Constitutional Court confirmed the Supreme Court ruling on May 5, 2016.

El Tambor is a silver and gold mine in San José del Golfo and San Pedro Ayanpuc, just north of Guatemala City. KCA continued mining for three months despite the 2016 court ruling, leading to the Public Prosecutor's Office opening a criminal investigation of illegal extraction of minerals by KCA. Communities opposed to the mine have been criminalized, threatened and protestors have been victim to attempted murder. Despite the violence against them, peaceful resistance to mine operations has continued since 2012.

KCA [first threatened a CAFTA suit against Guatemala in May](#). The previous week Guatemalan lawyers representing Canadian owned Tahoe Resources silver mining company, had [submitted an amicus](#) brief to the Constitutional Court. According to Guatemalan press, that brief informed the Court that a ruling to close Tahoe's Escobal project in the eastern Guatemalan department of Santa Rosa would lead to a CAFTA arbitration complaint. The closely timed amicus brief and arbitration complaint suggest coordination between the two silver mining companies.

Tahoe's right to mine is being challenged by indigenous Xinca and mestizo communities in a lawsuit similar to the one communities had successfully advanced against KCA. Guatemala's Supreme Court in July 2017 ruled that Tahoe's Escobal silver mine was operating without the required consultation of local indigenous Xinca and mestizo communities, and ordered the mine to remain closed until consultation was complete. The ruling was confirmed by the [Constitutional Court](#) on September 3, 2018.

The amicus brief was presented to the Constitutional Court in May by lawyers with the Quinones, Ibarguen, Lujan & Mata, S.C. law firm, but was authored by Don Wallace from the

International Law Institute in Washington, DC. In early September, the Constitutional Court [ruled](#) that the Escobal silver mine project in Santa Rosa was operating without required consultation of local indigenous Xinca and mestizo communities and ordered the mine to remain closed until consultation was complete.

In addition to Tahoe Resources and its wholly owned Guatemalan subsidiary Minera San Rafael, Quinones, Iburguen, Lujan & Mata also represents the Association for Renewable Energy, (Renace) which owns the World Bank funded hydroelectric projects Oxec 1 and Oxec 2 in Maya Q'eqchi' territory, and Naturaceites palm oil corporation that has expanded palm plantations throughout the Polochic Valley through questionable land acquisitions and with a significant impact on the ecosystem of Guatemala's largest freshwater lake, Lake Izabal. Oxec impacted community rights defender Bernando Caal was convicted to 7 years in prison in September in highly questioned proceedings in which influence trafficking to promote false prosecution is suspected.

Read: [Opposition to Tahoe Resources' Escobal Mine](#), an overview of the resistance to the mining in Santa Rosa, Jalapa and Jutiapa as well as a timeline of events including US and Canadian lobbying by GHRC, Earthworks, NISGUA and MiningWatch Canada.

Read: Full press release from the Peaceful Resistance at La Puya about KCA's announced arbitration [here](#).

10. Genocide Apologist Ricardo Mendez Ruiz Announces Presidential Candidacy

On December 17, Ricardo Mendez Ruiz [announced he would run for president in the 2019 elections](#). Mendez Ruiz's father of the same name was a general who commanded military operations in the Coban region during the genocide in the early 1980s. He will run with the Liberal Party. In an interview with Soy 502, Mendez Ruiz noted, "the left of Guatemala has caused terrible damage and it's very important for the Executive to neutralize the extreme left that doesn't allow Guatemala to prosper." Over the past decade, Mendez Ruiz has gained notoriety as president of the Foundation Against Terrorism for the advancement of malicious prosecution against human rights defenders and victims seeking justice for crimes against humanity committed by military governments in Guatemala.

Zury Rios, daughter of dictator General Efraim Rios Montt who was convicted of Acts of Genocide in 2013, has announced her candidacy in November. Around the same time Alejandro Giammattei, a former director of the Penitentiary System, also announced his candidacy. Giammattei was charged with crimes related to the operation of a death squad that executed inmates and escapees in 2006, purportedly to favor a rival drug network, though he was absolved in 2012. Former first lady Sandra Torres, ex-wife of former president Alvaro Colom, announced her second presidential candidacy, and Thelma Aldana, former Attorney

General, has indicated she may also run. The Supreme Electoral Court will officially convoke elections in January 2019.

Mendez Ruiz's father was part of the 1982 coup against General Lucas Garcia and became the Minister of the Interior during Efraín Ríos Montt's de facto government. Though he died of natural causes before arrests were made, he was also [implicated in the CREOMPAZ case](#).

As president of the Foundation Against Terrorism he has played an outspoken role in defending military officials being brought to justice for crimes against humanity. [He has been accused](#) of hate speech for columns he has published in El Periodico.

11. Tzutzuil authorities in Santiago Atitlan protest the presence of the military

Just two days after the 28th anniversary of the December 2, 1990 massacre of 13 Tzutzuales by the Guatemalan military, neighbors objected to the entry of Guatemalan soldiers into Santiago Atitlan. [Prensa Comunitaria reported](#) that the soldiers from the IV Infantry Battalion arrived on December 4 to build hiking shelters in the outskirts of town, violating the December 6, 1990 commitment from President Vinicio Cerezo to refrain from deploying Guatemalan military in Santiago Atitlan. Diego Sosof of the Santiago Municipal Council told Prensa Comunitaria that "The military for no motive has the right to enter the municipality or neighboring areas."