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making space for peace



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Land: women-the forgotten ones

Land tenure in Guatemala is characterized by inequality and injustice and continues to be a key factor that has gone unsolved historically in the country. As the Central American Network of Rural, Indigenous, and Campesino Women (RECMURIC) *points out the struggle for land was one of the main catalysts for the armed conflict and the Peace Accords of 1996 included a resolution for the agrarian problem as one of its main points. None-the-less, an explicit policy addressing the problem of extreme property concentration and recognize the social function of land has yet to be defined. After decades of agrarian policies put forth by subsequent administrations (...) land access continues to be profoundly exclusive, more so for women and indigenous populations*¹. In this sense, Telma Iris Pérez Oloroso, member of Campesino Central Coordinator New Day' Ch'orti' (CCCND) states that *the topic of land tenure for women is very complex. From the time of the Spanish invasion, throughout the different Guatemalan governments, we women are the forgotten ones in this topic*².

The Peace Accords include the need to consider and eradicate discrimination against women on the issues of access to land and credit

Agreement on Resettlement of the Population Groups Uprooted by the Armed Conflict

Section III Art. 8:

The Government undertakes to eliminate any form of de facto or de jure discrimination against women with regard to access to land, housing, credits and participation in development projects. The gender-based approach shall be incorporated into the policies, programs and activities of the comprehensive development strategy.

but the egalitarian practice of land distribution continues to be an unmet objective of the Accords.

Similarly, although there is a National Policy on Gender in Guatemala that guarantees women's access to *land ownership, co-ownership, tenure, use and usufruct*³ the ethnic and gender inequality still persist.

The important role of women refugees

Refugee women played an important role during the armed conflict. The organization Mamá Maquín, who has dedicated its efforts to fight for women's rights to land and participation, is a concrete example. The organization was founded in 1990 by Guatemalan women refugees in Mexico who chose the name in memory of Maya q'eqchi' leader Adelina Caal Maquín. Adelina was assassinated with many others in the Panzós massacre while she headed

a march for land rights. It was the refugee women who took on the first talks about women's land ownership in Guatemala. For this reason they are a central point of reference when you talk about the subject⁴.

The role women play in sustaining the family economy thus the survival of its members is unquestionable. However, there are many obstacles that prevent them from actively participating in rural development and the implementation of agrarian policies that directly affect their lives and the lives of their families. Like RECMURIC indicates *until a few years ago not even the law nor did the institutions protect women's rights to land. To an extent, thanks to the pressure of returned refugees women's organizations the law creating FONTIERRAS mandated that land titles be granted as co-owners to both spouses or partners, giving priority to women heads of household*⁵.

1. RECMURIC, *Tierra para nosotras. Propuestas políticas de las mujeres rurales centroamericanas para el acceso a la tierra*. Guatemala, El Salvador y Nicaragua, 2015.
2. Entrevista a Telma Iris Pérez Oloroso, 5 de mayo de 2016.
3. Política Nacional de Promoción y Desarrollo Integral de las Mujeres y Plan de Equidad de Oportunidades 2002-2023, p.31. Guatemala, 2009.
4. FIAN Internacional, *Mujeres toman el poder de la tierra: Acceso a la tierra como una estrategia de empoderamiento de mujeres indígenas en Guatemala*. Alemania, 2007.
5. RECMURIC, Op. Cit.

The Land Fund, State program with a focus on gender?

The Land Fund (FONTIERRAS) was created in 1999 as a result of the agreements in the Peace Accords. This is a State mechanism that allows access to land through on the market (buy-sell) by providing loans to purchase land from campesino to campesino. The fund was established by Decree 24-99 and in theory is the only State institution that allows for the acquisition of land, including a gender based approach to its work.

However according to the RECMURIC report the work of FONTIERRAS has been widely criticized by social and agrarian organizations. They denounce lack of quality land and high land prices for land that campesino organizations had to purchase, showing that *many landowners took advantage of the situation to get rid of their worst plantations for higher than market prices. The poor production quality of the lands, lack of infrastructure, and technical assistance prevent them from developing productively and cause a great problem of debt for the campesinos*⁶. This coupled with the lack of actions in favor of the rural population results in high levels of malnutrition primarily in children⁷:

Despite its obvious flaws, FONTIERRAS appears to be the only state institution that guarantees and recognized women's right to hold land titles as co-owners. As part of

their work and their efforts to include the gender perspective is reflected in the creation of the Special Program on Leasing Land. FONTIERRAS General Manager, Axel López, states that to date 58% of the beneficiaries of the Leasing Program are women⁸. This percentage shows that women who obtain land in Guatemala, only do so by leasing a plot as the Leasing Program does not allow them to be owners. The requirements for them to become owners are complicated, as Axel López explains *they have to have family responsibilities and that single women, women without children or without a profession cannot be owners*⁹.

Article 20 of the FONTIERRAS Law states the obligation to register land titles in the names of both spouses, whether they are legal married or in a common-law relationship. However, the requirements for

women to register land in their name as co-owners are considered non-inclusive because the forms state they must prove they are campesinos and be members of a campesino organization, cooperative or other type of organization with legal status and they must know Spanish¹⁰. The Spanish language requirement excludes most women as the majority who seek land are indigenous and speak languages other than Spanish. The United Nations Development Program (UNDP) estimates that 80% of indigenous women in Guatemala have a close relationship to land and agricultural activities in general. According to a UNDP report, *23.6% of total plantation lands are in the hands of indigenous people, approximately 6.5% are in the hands of women, and nearly 70% of land are in the hands of non-indigenous*

In the case of Ch'orti' territory, a lawsuit for the right to food has been filed against the State of Guatemala. Thus, the State of Guatemala had to pressure FONTIERRAS to give land to the women who filed the lawsuit for the right to food. Lack of land is the main reason for not having enough food. We cannot speak about food, education and productivity if we do not have they basic things that are water and land. The State of Guatemala and FONTIERRAS never solved this problem with ch'orti' women here in ch'orti' territory.

Telma Iris Pérez Oloroso



6. Ibidem.

7. Castillo, A., *Unicef: Guatemala ocupa el quinto lugar de desnutrición a nivel mundial*, La Hora. Guatemala, 28 de noviembre 2014.

8. Entrevista a Axel López, el 26 de mayo de 2016.

9. FIAN, Op. Cit.

10. Ibidem.

*men. Farmlands in the hands of indigenous people is less than half of the population, by virtue of the history of expropriation that the population has been subjected to*¹¹.

Legal framework and women's realities: unresolved contradictions

Right to land and equality between women and men are enshrined in both the Guatemalan Constitution and other laws. Article 4 of the Constitution establishes equal rights and opportunities for women and men and the Family Code guarantees the rights of women, married or in common-law relationships, to family patrimony. Thus on paper, women have the right to access or inherit land of their spouse. In practice and reality is quite different. For generations chauvinist patterns have been handed down which perpetuate the discrimination against women. This is also true as it pertains to land access and tenure. When the man, "head of household," dies, his male children are the ones who inherit his land not his widow who can stay on the property, but not as the owner as the new owners are her sons¹². However the articles of the Civil Code that deal with family representation recognize both members of a couple as heads of household and administrators of

conjugal property. This right until 1998 only recognized men, but after that date it was modified and extended to women. Despite this modification, the practice continues to only consider men¹³ as heads of households, *their name is registered as member of a cooperative and in legal documents names of women, girls and boys appear along with heads of household*¹⁴.

It is clear that there are contradictions between what the law states and what happens in actuality. Also, there are legal barriers that provide obstacles for women to access land, as stated in the Labor Code, article 139 which identifies women as helpers to men in formal agrarian work, thus placing them in a second plane next to men.

Socio-cultural obstacles

According to Ana Patricia Castillo Huertas, *the indigenous peoples have maintained a different relationship to earth, not only in the philosophical sense, but in the material sense. Land or territory is seen as the pillar for community reproduction –where their roots are– ancestors, life, work, health, wisdom, culture and the possibility for the future*¹⁵. For rural and indigenous women the link to the earth is very close and special. Lorena Cabnal speaks of the body-earth territory

*(territorio cuerpo-tierra) as a whole in the recovery and defense of land territory, it involves the body as the first territory of defense for women to achieve the recognition of their rights*¹⁶.

In rural communities cultural and social values do not recognize equality between women and men with respect to land and access to land. Women who work in the fields work *under family exploitation and traditional roles assign men most of the responsibility and women are considered secondary workers whose function is to complete the household income or they are made invisible as family workers without compensation or viewed as producers for self-consumption*¹⁷. In this sense the patriarchal model imposes its definition and divides roles according to gender. Moreover, in many countries women are not recognized as agricultural producers as all work done as a family unit are assimilated as an extension of domestic work. As a result, the agriculture subject is conceived as predominately male¹⁸.

The women interviewed stress machismo as an important obstacle to women's access to land. For María Corina Ramírez, member of Lutheran Church of Guatemala, ILUGUA¹⁹, the difficulty lies in that *machismo is always present in men. What they*

11. PNUD, *Informe Nacional de Desarrollo Humano 2002. Desarrollo Humano, Mujeres y Salud*, Guatemala.

12. Costas, P. coord., *Tierra de Mujeres. Reflexiones sobre el acceso de las mujeres rurales a la tierra en América Latina. Coalición Internacional para el Acceso a la Tierra*, Bolivia, 2011.

13. FIAN, Op. Cit.

14. Ibidem.

15. Castillo Huertas, A.P., *Las mujeres y la tierra en Guatemala: entre el colonialismo y el mercado neoliberal*. Editorial Serviprensa. Guatemala, 2015.

16. Cabnal L., *Acercamientos a la construcción de la propuesta de pensamientos epistémicos de las mujeres indígenas feministas comunitarias de Abya Yala*, en *Feminismos diversos: el feminismo comunitario*. ACSUR las Segovias. Madrid, 2010.

17. RECMURIC, Op. Cit.

18. Ibidem.

19. Entrevista a María Corina Ramírez, 5 de mayo de 2016.

(men) say is “she is a woman and does not belong to the earth”. They view us as an object and only use us for sex, domestic chores, to procreate and they do not value us as we deserve. Telma Iris Pérez Oloroso expresses a similar idea when she affirms that in many communities women are afraid, or ashamed to reclaim their rights. Women because they are women are to be at home, do chores, wash dishes and are never given a space for participation and education.

Despite the situation outlined in this article which does not paint a favorable panorama for women, there are spaces for optimism and hope. There are several examples. Axel López refers to the collaboration between FONTIERRAS and about 50 women’s organizations in the coalition, National Articulation Weaving Efforts for Good Living, which hopes to include the women’s perspective while developing programs to facilitate women’s access to land. Also, women receive training within a some campesino organizations like Telma Iris Pérez Oloroso states: *we women do not*



For me, earth is life –it’s sacred. It procreates us, loves us, gives us life, water, air. Because if we don’t have land we don’t have trees, water, air... we don’t have what we consume– maize, beans, fish, hens. For us women, the Earth is something special, like if it were our womb. Like the womb of a woman who bears children, the Earth procreates as well.

María Corina Ramírez

have a piece of land, but we are fighting for this-some (women) have recovered land and are working their plot to diversify production to feed themselves, their families and communiy.

For me, Earth is my mother. It is what gives me food, what hugs me every day, what feeds me, what cures me. That is why we call it Mother Earth. It is what sustains us from day to day, from it we get beans, maize, medicinal plants for our bodies, our herbs.

Telma Iris Pérez Oloroso

Product of exploitation: women and maquilas

According to the International Labor Organization and focusing on the Central American context we can say that the maquila is a system of production, which generally uses subcontractors to transform intermediary inputs or imported raw materials, (...) whose final products are marketed outside the country. To carry out these operations, the state exonerates the producer from a series of requirements that companies located in the country must comply with. These conveniences and exonerations

are mainly customs regulations and currency management¹. In Guatemala the most prevalent maquilas are in the textile sector, with most of their capital being foreign, mainly North American and Asian (primarily South Korean).

The maquila industry extended to all of Central America in the 1980s with the goal of opening those countries to exportation. In 1989 Guatemala adopted its first legal framework for the installation of maquilas in the country (Decree 29-89 to promote customs activity and maquilas). This

gave national and foreign investors a 10 year tax exemption status as well as the ability to import machinery, equipment, raw materials and semi-finished products without paying taxes. The same year the Zona Francas² Law (free-trade zones) was passed which the maquila businesses also took advantage of as it included special tax, customs and international commerce treatment. The existing maquilas in the country are concentrated in the free-trade zones, mostly in the department of Guatemala.

In 1984 the Caribbean Basin Initiative promoted by the United States, gave commercial benefits like the elimination of tariffs on textiles products that used North American fabrics and established quotas for their exportation. These benefits also attracted Asian capital. In the case of Guatemala it is estimated that 60% of the capital in maquila businesses is from South Korea³. Subsequently, the Dominican Republic– Central American Free Trade Agreement (CAFTA-DR) took effect in Guatemala in 2005, facilitating lower manufacturing costs for US companies by using maquilas operating in Central America and the Caribbean who assemble pieces⁴.



Foto: Facebook Mujeres transformando el mundo

1. Organización Internacional del Trabajo (OIT), *La industria de la maquila en Centroamérica. Informe para el Seminario Subregional de Empleadores de Centroamérica y República Dominicana*. Guatemala, 21-22 de abril de 1997.
2. The Real Academia Española defines a free-trade zone as “an area define by authorities in which tariffs are lifted for products deposited there or for certain industrial activities”. In Guatemala free-trade zones are regulated by Decree 65-89 Ley de Zonas Francas.
3. Palencia Frener, S.G.; Mendizábal Juárez, M.L.; Poroj Abac, M.de J., *Género y etnicidad: de las maquilas de confección a los call center en Guatemala, un estudio crítico*. Guatemala, 2011.
4. Peace Brigades International, Guatemala Project, *Impunity in maquilas in Guatemala*, Newsletter n° 17, Guatemala, March, 2009.

During these three decades the maquila industry has flourished in Guatemala, although there are no reliable statistics on how many maquilas are registered in the country. According to statistics from the Textile Industry Association of Apparel and Textiles (VESTEX), *this sector is one of the most dynamic in the national economy, contributing considerably to economic growth and development in the country*, however it represents a mere 4% of national production. The entrepreneurs of this sector justify that special tax breaks should continue for maquilas and free-trade zones, using the argument that they are creating jobs. For this reason, they came out in favor of the recently ratified Emergent Law on the Conservation of Employment (Law 5007) that maintains the tax

benefits for 10 years for both clothing and textile sectors as well as for call centers⁵. According to the Ministry of Economy⁶, the purpose of this law is to conserve the jobs that currently generate economic activity in the service sector and attract foreign investment. However, this law was highly criticized for legitimizing the fiscal privileges without having reliable statistics on the number of jobs created⁷. Civil society spoke out against the industry lobby to ratify this law as they did not take into consideration the grave labor rights violations that occur in this context⁸.

One of the objectives of the **Alliance for Prosperity Plan** –adopted by El Salvador, Guatemala and Honduras– is to boost the productive sector with the intention of halting immigration from these countries to the United

States. The textile sector is one of the strategic sectors mentioned in this plan that provides the necessary infrastructure to facilitate exportation, which are promoted in the free trade agreements. However, civil society considers that this Plan *disproportionately favors national and foreign investors at the detriment to programs and public policies that could reactivate local and rural economies, strengthen food security for families and create sustainable employment opportunities*.

The maquila industry's contribution to economic and social development is questioned by diverse sectors as it does not benefit the local economy. It does not integrate with other productive sectors and does not use local raw materials rather it uses foreign raw materials. Furthermore, production is geared toward the export market and does not generate tax income as this type of industry is exempt from all tax payments¹⁰.

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Women in maquilas

The majority of people who work in maquilas are women. Aside from having full time jobs, they are responsible for the overwhelming unpaid task of taking care of their homes and families. This is to say that they have to work double and sometimes triple shifts. According to Oxfam Intermon, in Central America

5. La instalación de call centers en Guatemala y otros países latinoamericanos ha tenido lugar durante las dos últimas décadas. Esta actividad económica, como empresa exportadora de servicios, también se ha visto beneficiada por el régimen de zonas francas (Palencia Frener, S.G. y otros Op.Cit).
6. Ministerio de Economía, Comunicado de prensa: *Ministro de Economía se muestra satisfecho por Aprobación de Ley emergente para la Conservación de Empleo*, Guatemala, 25 de febrero de 2016, <https://elperiodico.s3.amazonaws.com/wp-content/uploads/2016/02/ComunMineco.jpg>
7. Instituto Centroamericano de Estudios Fiscales (ICEFI), *Icefi rechaza la intención de aprobar la Ley Emergente para la Conservación de Empleo*. Guatemala, 17 de febrero de 2016, <http://icefi.org/comunicados/icefi-rechaza-la-intencion-de-aprobar-la-ley-emergente-para-la-conservacion-de-empleo>
8. Press release by Collective of human rights and women's economic rights defenders –CODHEM– and the Political Alliance of Women's Sector: *We denounce the pact between elites and members of Congress to continue fiscal privileges. We, women, demand no more impunity, say no to bill 5007*, Guatemala, diciembre 2015.
9. Gass, V., *¿Hacia un Plan para la Prosperidad más incluyente y sostenible?*, El Periódico. Guatemala, May 22, 2016.
10. Abrego, A., *Trabajo de muchas, ganancia de pocos; mujeres, derechos y discriminación en la flexibilización de los estándares laborales en las maquilas de vestuario y textiles centroamericanas*. Oxfam Internacional. San Salvador, 2004.

58% of people who work in maquilas are women, mostly associated with the clothing industry¹¹.

One factor that greatly affects the labor conditions of maquila workers are the production goals to comply with orders that vary greatly depending on the textile industry's demands at any given time. This involves times of great fluctuation in the need for labor leading to precarious employment. Short-term contracts are common and contribute to a lack of job security. In addition, workers denounce different violations to their labor rights including: being fired for becoming pregnant, unjustified firing often chalked up to be they did not pass the trial stage to avoid paying workers severance wages, differentiated minimum wage for maquilas and not paying benefits mandated by law¹². According to Victoriano Zacarías, representative of the Central Confederation of Guatemalan Workers (CGTG) another common practice is that business do not pay social security (IGSS) for workers even though the employer subtracts the amount from workers' salaries they do not transfer funds to social security. It is to say *they steal this portion*. This translates into a great disservice to workers as when they require medical attention they are not seen at IGSS facilities as the *employers is default on payment*¹³. It is also common that these business

people resort to using "underwater maquilas" which is the practice of subcontracting part of the production to small clandestine workshops where they do not provide any labor guarantees¹⁴.

According to data from 2014, the minimum wage for maquila activities was lower than the cost of basic food goods¹⁵. While verifying labor rights compliance, the Ministry of Labor determined that of 702 export businesses (maquilas) inspected, only 13% complied with paying minimum wage¹⁶. The poor labor conditions described coupled with the low level of qualifications required by maquilas do not allow for professional growth of workers or for workers to build skills through training. This translates into lack of possibility for social mobility and the possibility of job promotion

among these workers. The maquilas end up being the only or at times the best employment option in the formal economy, despite the low wages that do not cover basic necessities, the situation is worse in other sectors of the informal economy. This situation often inhibits workers from denouncing poor labor conditions as they are afraid to lose their source of income. For some sectors of the discriminated population, like trans women, maquilas are one of the few jobs they are able to attain.

Conversely, union representation in maquila workers is practically nonexistent, as there are only unions in two factories-Winners S.A. and Koa Modas S.A. Victoriano Zacarías laments that despite multiple attempts the Ministry of Labor does not authorize the creation of unions in this

Despite the employment opportunity that the maquila sector provides for trans women this makes up another, of many, places where the trans population is invisible and mistreated. The discrimination and violence that trans women suffer in all areas of society is reproduced at work, especially in a sector like the maquilas. One thing that organizations who work on maquila workers' rights point out is how trans women view the abuse that they are subjected to by people in positions of power as natural. They do not view them as acts of discrimination or aggression, they assume them as normal dynamics to be accepted into the group. Thus, normalizing these acts as part of the employment relationship. On the other hand, trans women who decide to denounce these situations, face unjustified firing and in compliance with the conditions stipulated in their contract¹⁷.

11. Itriago, D., *Derechos que penden de un hilo. Zonas francas textiles frente a cooperativas de comercio justo*. Oxfam Intermon, 2015.

12. Conclusions and recommendations from the V Congress of Women Workers in Guatemala, May 2016.

13. Interview with Victoriano Zacarías, June 8, 2016.

14. Interview with Maritza Velasquez, president and representative of the Association of Domestic and Maquila Workers (ATRAHDOM), June 2, 2016.

15. *Informe Alternativo al III Informe Periódico del Estado de Guatemala sobre la aplicación del PIDESC*, Presentado ante el Comité de Derechos Económicos, Sociales y Culturales de las Naciones Unidas en 52º período de sesiones por organizaciones de derechos humanos, civiles, sociales y redes de Guatemala. Guatemala, 21 de marzo de 2014. http://tbinternet.ohchr.org/Treaties/CESCR/Shared%20Documents/GTM/INT_CESCR_NGO_GTM_16821_S.pdf

16. United Nations High Commissioner for Human Rights report on Guatemala office activities January 12, 2015, p. 17.

17. La Prensa, *Guatemala verifica condiciones laborales de trabajadores de las maquilas*. Guatemala, 6 de octubre de 2015, <http://www.laprensa.com.ni/2015/10/06/economia/1914237-guatemala-verificara-condiciones-laborales-de-trabajadores-de-las-maquilas>

sector. Furthermore, many businesses fire unionized workers when a union is formed. The lack of union representation makes it difficult to effectively monitor labor conditions. Maquila workers denounce that work site inspections are unsuccessful. Government sources even admit that maquila companies do not respect labor rights and underline the need for verification that international organisms provide¹⁸. This in addition to the fact that the Ministry of Labor does not have the capacity to sanction or fine, as judicial bodies are those charged with this¹⁹. And the cases that are won in the courts do not receive any sort of compensation out of the difficulty in locating the businesses as this is one of the characteristics of maquilas in Guatemala the ease in which they are established opting for temporary status and they often change their names or close. This makes it difficult to have a registry of the real number of maquila businesses that operate in Guatemala.

Precisely the employer closure of maquilas and the responsibility of employers for owed payments is one of the cases reported as examples of noncompliance of the commitments the State of Guatemala holds in CAFTA-DR pertaining to labor rights²⁰.

After more than thirty years operating in Guatemala, the violation of fundamental rights persist in the maquilas, most affecting women and even more so trans women. The Guatemalan government continues

to put forth an economic model based on cheap labor, a practice that is made worse by free trade agreements and for this reason this tendency is likely to continue with the Alliance for Prosperity Plan. The main challenge for the State of Guatemala is to have effective compliance with labor standards it has agreed upon. This mission is something that maquila businesses, brands, and consumers can influence depending on our habits can encourage or reject an economy based on exploitation.

Since 2008, Guatemalan and U.S. labor unions filed a complaint before the Office of the U.S. Trade Representative due to the incompliance by the State of Guatemala in fundamental workers' rights under CAFTA-DR. Both countries agreed upon a plan that the government should implement but due to the lack of progress on behalf of Guatemala, the United States decided to take the country to international arbitration in 2014 for violation of work conditions². the panel has yet to give a statement on this dispute and the decision has been pushed back to September of this year²².

18. Interview with Maritza Velasquez, Op.Cit.

19. Gobierno de la República de Guatemala, Ministerio de Economía, Asuntos relacionados con las obligaciones establecidas en el Artículo 16.2.1 (a) del CAFTA-DR Posición escrita del American Federation of Labor, 27 de abril de 2015, <http://portaldace.mineco.gob.gt/sites/default/files/unidades/DefensaComercial/demandaeuguatemala/CAFTA%20DR/DEMANDA%20DE%20EEUU%20c.%20GUATEMALA/27abril2015%20%20AFL-CIO%20Submission%20Spanish%20042715.pdf>

20. Asociación de Trabajadoras del Hogar a Domicilio y de Maquila (ATRAHDOM), *Los Rostros ocultos en la Maquila. Situación general de Lesbianas y Transgéneras en la maquila, caso Guatemala*. Guatemala, octubre de 2012.

21. International Trade Union Confederation, *EEUU lleva a arbitraje a Guatemala por violencia antisindical*, 22 septiembre de 2014, <http://www.ituc-csi.org/ee-uu-lleva-a-arbitraje-a?lang=en>

22. El Periódico, *Se aplaza decisión para resolver litigio laboral*. Guatemala, 16 de junio de 2016, <http://elperiodico.com.gt/2016/06/18/economia/se-aplaza-decision-para-resolver-litigio-laboral/>

Lolita Chávez and Helen Mack reflect on hate speech

For a few years now hate speech can be found in different Guatemalan media outlets. For Attorney Edgar Pérez the objective of this discourse is to *undermine the dignity of the most deprived people in the country and silence those who have had the opportunity to be plaintiff voices of historical atrocities*¹. This hate speech has primarily been directed at human rights defenders who demand the right to justice and collective rights over land and territory.

While in Guatemala freedom of expression is enshrined in national legislation, it is important to mention that the respect for the dignity of people puts a clear limit on the exercise of this right². Hate speech is a way to cross this boundary and for this reason it is important to understand how it affects people and the context and social fabric where it takes place. In 2013 the Human Rights Ombudsman Office (PDH) handed down a moral sentence against Ricardo Méndez Ruiz and the Foundation Against Terrorism (FCT) for the use of hate speech, defining

it as *discriminatory, abusive and aggressive, attacking the dignity of these people, discredits the work of defending human rights, equating it to illegal and detrimental actions that aim to degrade, intimidate, promote prejudice or incite violence against individuals based on their membership to one sex, ethnic group, nationality, religion, sexual orientation, gender identity, political and ideological positions, socioeconomic status, occupation or image*³. It is important to note

*that these kind of communication strategies not only attack people, but also harm the harmony, security, and tranquility of society as a whole and the foundation for a plural democracy*⁴.

To illustrate and understand the impact and grave consequences of hate speech on the lives of people who defend human rights, we have spoken with two nationally and internationally renowned defenders: Lolita Chávez y Helen Mack.



*Lolita Chavez is the founder of Council of K'iche' Peoples (CPK) for the defense of life, Mother Earth, land and territory. She is also a delegate to the Council of Western Peoples (CPO)*⁵. She knows the cost of working on defending human rights and territory as she has had various threats against her life. The Inter-American Commission on Human Rights granted her precautionary measures in 2005 to present.

1. Interview with Edgar Pérez, Member of Human Rights Law Firm, May 1, 2016.

2. International Covenant on Civil and Political Rights, New York, December 16, 1966.

3. <https://www.scribd.com/doc/163618013/MendezruizPDHResolucion2013>

4. Ibid.

5. The CPO is made of communities from the departments of El Quiché, San Marcos, Huehuetenango, Quetzaltenango, Retalhuleu and Totonicapán.

How do you perceive hate speech?

L.C.: Well, in my experience and how it has played out in my town-you have to first differentiate between the person, negatively characterize some people to be rejected, this is how this speech becomes a situation of no recognition of one and other, generating not only personal rejection but also collective (rejection).

H.M.: Hate speech is defined in different international instruments. Both the Inter-American Commission and the United Nations provide criteria for when it goes beyond freedom of expression. We defend freedom of expression, but there comes a point when it (hate speech) goes beyond that right, when throughout the speech you can identify certain characteristics that make you say “this is result of a strategy”. We think that much of this hate speech is obviously based in discrimination, in this case due to ideology. Due to the nature of our work, hate speech has focused on human rights defenders and social leaders because we are the ones who denounce and expose those whose interests we are affecting.

In your opinion, what is the goal of this type of discourse?

L.C.: Born as a result that there are people who recognize our history, our identity and our future. We are fighting for our rights and this is something that does not suit many people due to their privileges. This



Foto: Helen Mack

Helen Mack, president of the Myrna Mack Foundation⁶, has been a business woman prior to her sister Myrna Mack's⁷ murder by the Presidential Guard (EMP) on September 11, 1990. Myrna was a social anthropologist who conducted field research on the displaced population as a result of the armed conflict. After her sister's murder, Helen Mack started her long battle against impunity.

makes them generate rejection and hatred in others which does not allow us to continue advancing our path in defense of life, defense of collective rights and in defense of Mother Earth. For our people this speech is very delicate and very dangerous because the people who make (hate) speech have historical privileges and political, economic, and military power. They want that people no longer participate in assemblies and the consultations that we do.

H.M.: One must understand that the people who are promoting hate speech are precisely those who violated human rights in the past and continue with a counterinsurgency mentality—for this reason they declare one an internal enemy. They seek to maintain the status quo of control over the population, control of the territory, and control of power. They do not want to be held accountable for the atrocities they committed in

the past and for this reason they need to feed on hate speech. Not only do they foment hate speech, they also file legal actions against you in the courts. So for us, the criminalization (of human rights defenders) is a consequence of hate speech aimed to wear down human rights defenders and social leaders and to start talking about (political) interference-discourse against foreigners accusing them to be terrorists. At the end of the day, the foreigners who are witness to what is going on and this they don't like either.

On a personal level, how do you think hate speech has affected you?

L.C.: They have told us that we are people who should not exist, that we are a hindrance to development, that we are violent, ignorant people. In my case it has affected me because people start rejecting me, pointing me out, stigmatizing, persecuting and also take violent

6. Entity created in 1993, by her and a group of Guatemalans committed to fight against impunity and contribute to the modernization and democratization of the administration of justice in Guatemala.

7. The Myrna Mack case is emblematic as it was the first case in the history of Guatemala that opened a judicial process for a political crime that included not only a human rights violation but also the active participation of state agents in the same execution. In November 2003, the Inter-American Court on Human Rights condemned the State of Guatemala for the extrajudicial execution of Myrna Mack.

actions against me. People have shouted at me on the street, they have thrown things at me and they have verbally abused me on many occasions, they have tried to kill me and they wanted to banish me from my town. Many people drift away from our struggles because they feel that being involved in the fight is something that is not valued by some people.

H.M.: Yes, it affects us –because they are dilapidating your honor and dignity – even though at the start ones says to themselves why am I going to pay attention to them. But when you realize that it is constant and that five years later they are still saying things. In a fearful, conservative society and who listens at the urban level, you realize that it runs deep in the social imaginary. Sometimes they put forth the argument that could be real, like the topic of dignified reparations and they use it to say *you all are freeloaders, you only want to make money and justice is not important to you – you only live off of our tax money.*

Have you developed a strategy to mitigate the effects of this discourse?

L.C.: I practice self-healing to not carry the hate because if one internalizes it this generates self-hate. So as human rights defenders we have to liberate ourselves from this. We constantly have to evaluate what we are doing and recognize that what we are doing is not bad as they want to convince people that defending rights is a bad thing. Also, I read a lot of literature that gives me strength and recognizes the love for life to contrast the hate because when hate is projected toward a person – hate is projected toward life in general. We also have to recognize

within ourselves, admire the beauty that we each have and collectively analyze when there is an expression of hate to decide what action to take because they want us to respond with violence but we decide to respond with love and we use strategies like music, art, healthy food – and that is how we free our self on the energetic, physical, mental and spiritual levels.

H.M.: All this time, their repetitive discourse – full of hate, has discredited them and overtime it has become clear that they are a small group with extremist ideas and specific interests. On the other hand, we are trying to open a debate on this discourse that is polarizing Guatemalan society, only creating conditions for more violence.

Do you think that the international community has a role to play in regards to hate speech?

L.C.: I think the international community plays an important role in witnessing, accompanying and denouncing this. Some movements or towns have less access to international entities, so the international community is our voice. We are the voice to defend air, mountains, water and we are permanently fighting. They act reciprocally as we are defending the rights of everyone. It is important to recognize the mechanisms to defend those who defend rights, file complaints, promote harmonious coexistence and demand states to guarantee our full right to life and not to accept hate speech.

H.M.: The idea is to show the challenge to international experts, to open the definition of the concept of hate speech so that it not just be associated with religious or ethnic hate speech. We are not just human

rights defenders but there are other minorities that also are vulnerable and exposed to violations to their right to life. On the international level there is a strategy to open the debate, but it is not enough that independent rapporteurs give their opinion on what troubles them about criminalization because suddenly we are killed and there is no preventive action like what happened in the case of Berta Cáceres' murder. So what we want to see is that in this international debate we can obtain preventative measures and hold states responsible for this hate speech or lack of tolerance. Germany punishes people for negation of the Holocaust–something like this should happen in Guatemala as long as it does not violate the right of freedom of expression. For example, the OHCHR could start a debate and the advisor to Ban Ki Moon could send a note to the State of Guatemala holding it responsibly for the consequences of hate speech...

How does the State react? How do you think the State should react to hate speech?

L.C.: I think the first thing is that they need to recognize that there is diversity and plurality. When it is recognized that there are many worlds within a world and that there are different life models then we will start seeing that there are other people that don't necessarily have to think like me. Hate speech needs to be analyzed like a crime that can be punishable by law. The executive branch should acknowledge the need to raise and generate awareness through tolerance and acceptance and recognize our cultural diversity. The media also has a role in this as many times the (hate) speech are made public via the radio, television

or print media—the media allows and foments this. The state should be the guarantor of rights and create norms to not permit this discourse.

H.M.: I think that it is difficult and that there needs to be political will on behalf of the state.... Then there would have to be a responsible state. Truly it is the President who should react, but he doesn't speak out on the topic of human rights and his political party is the one in this hate speech. So, in the case of Guatemala the State encourages and promotes hate speech through its different representatives.

Do you think there are differences when hate speech is directed towards a woman or a man?

L.C.: When hate speech is directed at women there is another layer of weight, which is the patriarchal weight—the weight of *machismo*—the weight of violent men and violent societies toward the life of women. It appears that hate speech directed toward women is more acceptable,

as that term leads to sexual violence, gender based violence, and this coupled by patriarchal pacts within society that have been internalized and seem natural to the oppressors. The way in which they treat women makes women themselves feel shame, they say *I prefer to live with violence rather than they treat me like that because if I start fighting for my rights they will start pointing fingers at me.*

H.M.: When you look at how they attack women compared to how

they attack men—there is a great difference. Against women it is worse, men are treated with more respect, but we women are attacked horribly. It is their own misogyny, as they are military (people) they say *we are the warriors because of us Guatemala was saved from the claws of communism*—it's the macho culture that they have. To say to women victims of the armed conflict that they were prostitutes⁸, is a lack of respect on their part. They violate your dignity and honor.

PDH sentence against Ricardo Méndez Ruiz, August 27, 2013⁹

The PDH sentence handed down on August 27, 2013 recommends that Ricardo Rafael Méndez Ruiz Valdés abstain from making statements to criminalize the work of human rights defenders in Guatemala and reflect on the social damage that comes from massively spreading this type of content, which not only hurt people, organizations or movements, diplomatic representatives and international missions yet also encourage hate and social confrontation.

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8. On February 26, 2016, in Guatemala a historical sentence was handed down in the case of Sepur Zarco. For the first time in Guatemala, sexual violence against indigenous women during the armed conflict was addressed and recognized as a crime against humanity. After the sentence has handed down the lawyer for the accused slandered the victims who gave their testimonies during the trial by saying they had worked as prostitutes at the Sepur Zarco military base. This was an attempt to delegitimize the judge's sentence and the victims' testimonies.
 9. The Ombudsmen on Human Rights, Jorge de León Duque, publically presented a moral sentence against the president of FCT for human rights violations. The resolution was product of an investigation carried out by the PDH after a series of complaints of attacks and threats on human rights defenders in Guatemala. These complaints were filed by the Guatemalan Human Rights Convergence, Centre for Legal, Environmental and Social Action (CALAS), The Association for Pluricultural Legal in Guatemala and other social organizations: http://www.pdh.org.gt/archivos/descargas/Sala%20de%20prensa/Comunicados/comunicado_resolucion_denuncia_de_defensores_de_derechos_humanos_270813.pdf

News of our work

During the first half of 2016, one of the most important events to take place in Guatemala was the March for Water, for this reason we dedicate this section of our newsletter to this topic.

Approximately 80 indigenous and *campesino* organizations, members of the Social and Popular Assembly expressed their preoccupation for the ever growing drought that is affecting their territories. They demanded that the state recognize their rights to Mother Earth including, the right to water and the legitimacy of the defense of their territories to guarantee life.

From two directions, from the south from Tecún Umán, San Marcos and from the north from Purulhá, Baja Verapaz (and a third group parted La Mesilla toward Huehuetenango) thousands of Guatemalans walked for twelve days to arrive in Guatemala City on April 22, Earth Day. PBI accompanied the march the last two days arriving to Guatemala City.



Water is Life – Not a Commodity!

On April 11, two-thousand people started the march in defense of Mother Earth and Life. They walked in the hot sun making stops in communities to inform them of the consequences of the private use of water by mining companies, hydroelectric plants, monoculture farming and tourism projects. Along the way they observed polluted rivers, the decrease in water

stream consequence of the abusive use of water by palm oil monoculture, rubber, and sugar cane farming. They registered more than 100 complaints related to the poor or abusive use of water sources. Groups defending land and territory who are opposed to extractive projects attended the march. They are from the following areas Ixcán, Uspantán, Cobán, Cahabón, Monte Olivo, Semacoch, Cajolá, etc.

During the march and its course through communities, villages, and cities, there were many displays of solidarity – both moral support as well as donations of food and water. After

Before, we walked for hours to take water home, at least we knew that the water was there – now we always walk a lot (to fetch water) and there is a chance we won't find any (water).

Maximo Ba Tiul¹

1. Ba Tiul, K.M., *Marcha permanente por el agua*, Centro de Medios Independientes (CMI), Guatemala, 26 de abril de 2016, <https://cmiguate.org/marcha-permanente-por-el-agua/>

Demands:

- A law to regulate water, including water treatment and distribution.
- Recuperate water sources that have been polluted and diverted by different companies.
- Honor community consultations.
- Stop the criminalization and persecution of campesinos, indigenous, social and popular leaders who are defending Mother Earth, territories and life.
- Change the capitalist, extractive economic model.



Congress, and the National Palace to deliver their demands which were also received by Vice President Jafeth Cabrera. The activity concluded with a Mayan ceremony.

Various organizations that PBI accompanies participated in the March for Water. The Campesino Central Coordinator New Day' Ch'orti' (CCCND) joined the march in El Rancho, El Progreso. CONAVIGUA launched messages

of solidarity in the media. Members of the Peaceful Resistance of La Puya provided drinks and tamales to marchers. A delegation from the Council of K'iche' Peoples (CPK) joined the march at the San Carlos University, where they were accompanied by PBI. All of these organizations and movements encounter daily problems due to poor water use caused by businesses.

walking between 15 to 30 kilometers a day, participants found shelter at night in private homes and parishes. Medical support was provided by the Red Cross, fire rescue workers, and female healers that accompanied the march. People joined the march along the route to reach a total of more than twenty thousand participants by the time they reached Guatemala City. On the last day they were joined by university students, school children, and some teachers. In the same way, people and movements that came together last year made their voices heard in demonstrations against corruption.

On their way to the Central Park, the march passed by the Supreme Court,



PBI is an international non-governmental organization (NGO) which protects human rights and promotes non-violent transformation of conflicts. At the request of threatened social organizations, it provides international accompaniment and observation. The presence of international volunteers backed by a support network helps to deter violence. In this way, PBI creates space for local activists to work for social justice and human rights.

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.

Mandate and Principles

Contribute to improve the human rights situation in Guatemala, and hereby strengthen the social and political processes that promote the enhancement of democracy and participation in the country and the region. Therefore **PBI** employs an international presence to create and maintain open political space for human rights defenders, lawyers, union members, campesino and indigenous organizations, and civil society groups that are suffering repression due to their work supporting human rights.

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

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