

# PSI SOLIDARITY MISSION GUATEMALA

## 12-15 AUGUST 2013

### 1. Introduction

Hereby we present the main conclusions of the PSI solidarity mission to Guatemala and propose a way forward. The decision to organize a PSI solidarity mission to Guatemala was taken by the PSI Executive Board on 16-17 May 2013, on the basis of PSI's Programme of Action, PoA Sections 2C (Public sector workers' rights) and 4 (PSI's plan to defend and extend worker and union rights), and Resolution 15 (Against Impunity In Guatemala).

The delegation was led by Rosa Pavanelli, PSI General Secretary and included Anne-Marie Perret, EPSU President, Candice Owley (AFT), Juan Ayala Rivero (SUTGDF), Anders Jonssen (KOMMUNAL), Mauro Zica (CSPB), Herbert Beck (Ver.di), Jorge Yabkowsky (FEPRSOSA), PSI Regional Secretary Joselio Drummond and sub-regional and HO PSI Staff. We were also honoured to have a representative of LO-FTF, Victor Aguilar and Alex Praca (ITUC) on board. We hereby wish to express our utmost appreciation to all of the members of the delegation and our Guatemalan affiliates for their support and assistance that made this mission a success.

The delegation met with the President of Guatemala, Mr Otto Pérez Molina, as well as with the Ministers of Public Health and Interior, the Attorney General Mrs Paz y Paz, the Health Committee of the Parliament, Human Rights Attorney, the United Nations Human Rights Commissioner in Guatemala, the ILO representative in Guatemala, and the embassies of USA, France, Sweden, Mexico, Brazil, the European delegation and of course all PSI affiliates and representatives of the national trade union centers.

During our meeting with President Otto Pérez Molina, he acknowledged that, "It is very shameful for us that our country is the most dangerous country in the world for trade unionists today."

For PSI, defending the rights of our affiliate trade union members in Guatemala is our top priority – and it will remain so until the situation for trade unionists and workers in this country improves. Guatemala has taken the shameful place of the most dangerous country in the world for trade unionists today, with the highest number of murders and violent attacks against union leaders and members.

Not a single person has yet been sentenced in any of the cases of the 58 trade union leaders who have been murdered in recent years. We must remember that only this year three leaders of public service unions have been killed: Carlos Hernandez and Santa Alvarado of SNTSG (National Health Workers' Union of Guatemala) and Kyra Zulueta Enríquez Mena (Union of the Municipality of Nueva Concepción). The SNTSG is part of the Frente Nacional de Lucha, an association of unions and NGO's that act in defence of Public Services and natural resources in Guatemala.

Unfortunately, violence persists and the SNTSG remains a target for attacks and death threats :

On 2 October, Melvy Lizeth Camey Rojas, the Secretary of SNTSG Health Center of Chiquimulilla in the Department of Santa Rosa was in fear of her life for the second time, when armed men with nine-millimeter pistols on a motorcycle came looking for her at her workplace, probably with the intention to kill. According to witnesses, these people shared a lot of similarities with the murderers who killed Labour Advisor Attorney Ricardo Morataya Lemus with several gunshots, while seriously injuring Rojas last July.

On 6 October, Genaro Cruz Telón of Chinebal in Izabal region, former secretary and member of the SNTSG, was seriously wounded in a brutal attack. Jorge Benjamin Cuc Caal from Chinebal has been charged. Mr Cruz is in a coma due to his injuries.

On 6 October, the General Secretary of the Children's Hospital and Rehabilitation, Mauricia Garcia Ruiz received a death threat, and on 7 October the Organizing Secretary of the Executive Committee of the SNTSG, Dora Regina Ruano received death threats against herself and her children, via telephone.

On October 11, Juan Jose Ortiz, SNTSG member and Financial Secretary of the Health Centre of Barberena Santa Rosa, was kidnapped on his way to the city centre. For more than 24 hours he was held captive, threatened and tortured. On 12 October, he was bundled into a car for a short drive, his eyes were then uncovered and he was left in the centre of Barberena. Mr Ortiz does not remember much of what happened; he was apparently drugged and received cigarette burns on his eyelids and eyebrows. He fears for his life and that of his family.

PSI demands immediate support, security measures and state protection for the trade unionists who are being threatened today: Genaro Cruz Telón, Melvy Lizeth Camey Rojas, Mauricia Garcia Ruiz and Dora Regina Ruano.

We want to emphasize that these actions appear to be part of a concerted campaign of terror against trade union leaders – particularly targeting women leaders. It's a double shame that the law on femicide in Guatemala is grossly abused to target trade unionists.

By August 2013, women's organizations reported that 412 women were killed in Guatemala. At the same time, in an apparent perverse misapplication of what is otherwise a well-intentioned law, some 30 healthcare union leaders may have been imprisoned on charges related to the femicide law, including cases that are linked to patients' deaths that are due to the lack of medicines and other deplorable healthcare and working conditions. This means that a good law is not used to protect women, but to attack union activists. We pledge to expose this practice as part of an international campaign to end violence against women.

## **2. Fighting Crime and Ending Impunity**

Luis Lara, Secretary General of SNTSG, a union that suffers from harassment, attacks and murders committed against its members, stated that the fight against impunity begins with taking into account the 221 references that his union has submitted to authorities two years ago. This information included several cases of people that have been killed or threatened in the mean time. This dossier remains totally ignored until today by authorities. Currently, in 98% of all crimes committed there have been no investigations.

It appears that recently a number of legal and para-legal bodies have been created that are supposed to deal with crimes against human and labour rights, but they do not have sufficient power to investigate fully nor bring to term legal proceedings that would provide closure. This situation contributes to a climate of fear instead of providing security and peace. The government tends to multiply institutions without giving them the means to act.

We applaud the important work the Office of the Attorney General is conducting and the spirit of cooperation we have noted in connection with the special unit for the investigation of the murders of trade unionists. In this context, we made a strong request for an extension of this unit's mandate, and for more support for this work, both within the police force, the Ministry of Interior and with prosecutors.

Nevertheless, we must point out that in our contacts with the Office of the Attorney General there was still uncertainty with regard to the recognition of violence against trade unionists because of their activities in the union. Many of the crimes cannot be solved due to lack of evidence. However, this should not have an impact on the character of the crime committed nor its qualification. PSI joins the trade union movement in the strong conviction that the entire group of 58 trade unionists should be considered, and not dealt with on an individual basis.

It is positive that the Attorney General's office is actively engaged in capacity building and training of its staff. For example, through exchanges with Columbia. On the other hand, there is no investigating team within the National Police on trade union violence. If there would be police investigators working alongside public ministry investigators they could be more effective. The UN Human Rights Commissioner shared his concern with regard to the resources for the Attorney General's office, its real independence and stability of the judicial system (the Supreme Court is changed every five years, and some judge positions annually).

We also take note of the signature on 24 September 2013 of a cooperation agreement between the Public Prosecutor's Office and the International Commission Against Impunity in Guatemala (CICIG). We also note that in August 2013 an agreement has been signed between the Public Prosecutor's Office and the trade union organizations concerning investigations of cases relating to trade union violence.

### **3. Social Dialogue**

Urgent action is needed by the Government, in consultation with the social partners, to review and propose amendments to the Labour Code to address the long-standing recommendations of the ILO Committee of Experts in order to bring the national legislation in line with Convention No. 87.

In March 2013, an agreement was signed between the Minister of Labour and the International Labour Organization Workers' Group. The main objective of this agreement is to put an end to impunity and promote social dialogue. However, employers are not a signatory to this agreement ... and meanwhile, arbitrary dismissals, forced mobility, nepotism and the informal sector continue to expand. The criminalization of social conflicts and blacklisting of unionists must end. There is no real social dialogue and moreover, collective agreements that have been signed are not being carried out.

Ensuring best practices in the public sector is an essential part of working towards a solution. Not only will this show the commitment of the government towards social dialogue and peace, but also reflect on the quality of services provided to the population, which are essential for development and much-needed recovery. PSI offered its assistance to the Government of Guatemala to work towards better practices in public services.

One of the major issues is the lack of trust between social partners. This is still very much being built, including through the creation of new tripartite bodies, such as the Economic and Social Council and the Tripartite Committee on International Labour Affairs. We need to underline that there is still a very long way to go and lots of capacity building will be needed. All of the bodies created also have a merely consultative status with a limited field of action, which means they have no or very low impact. We do have to note that at all of our meetings with officials, it was clear that there is a recognition for the work done by the SNTSG and its leadership.

### **4. Labour Conflicts**

We have been informed that there is no free public legal assistance foreseen for labour cases, which makes it even more difficult for workers to defend themselves. As a result, in practice the state chooses the side of the employer. In this context, PSI affirms our support for the initiative of SNTSG to create an observatory to track the violation of human and labour rights in Guatemala.

The labour inspection system has an important role to play in the observance of the Labour Code. In addition to concerns regarding capacity and oversight, we are concerned by the inability of the labour inspection to impose administrative sanctions. Urgent action should be taken to adopt legislative provisions to enable labour inspection to fulfill its mandate for the effective enforcement of the labour law. It is also important to strengthen the capacity of labour inspectors, including action to ensure transparency with a view to deterring corruption. As long as the social security budget is low; less than 4.4% of budget goes to Labour Ministry, there is no capacity for labour inspectors to do their job. They don't have the capacity to sanction employers, public or private.

### **5. Labour Law Reform**

We also have to refer to the widespread use of outsourcing, sub-contracting and short term contracts. Such practices lead to further inequalities in the workplace and in society, in a country that is already among the most unequal in the world. Besides remuneration, this impacts strongly on the social security entitlements of workers. In effect, here again the state is deficient in terms of the protection and support it provides.

We have been informed of significant wage arrears in the public health system for contract workers and the truly deplorable fact that minimum wages are far below the subsistence level. In a country that is plagued by malnutrition and illiteracy, we see a direct link between a real minimum wage and social development. The major socio-economic differences between rural and urban areas are also a great cause for concern. Investment in education and health services is the key to addressing these challenges.

Before the summer, the Guatemalan government presented a package of draft laws to the Congress of the Republic of Guatemala without consulting social partners, which will reform the Labour Code, such as on a) Investment and Employment, b) hourly working time and social security, and c) deregulation of the power to impose penalties by the Labour Inspectorate. This package was recently withdrawn.

Instead of further dismantling labour legislation, the government should fight precarious work and promote inclusive measures. Gender equality and opportunities for young workers need to be implemented. The application of labour legislation needs to be strengthened - by raising awareness of the right to freedom of association and the rights of workers and the sanctions that may be imposed by the labour inspectorate.

## **6. Tax Justice**

To finance public services that are essential for development and recovery, a fair taxation system should be put in place so that the rich pay their fair share, and the poor are not burdened by regressive taxes. Public-public partnerships should be promoted to improve service design and delivery in water, sanitation and energy. Combatting corruption across the economy should be a priority.

The SNTSG defends not only the workers, but life as such, while others defend their own personal interests. Quality public services are crucial for Guatemala, to establish cohesion and equality among citizens, while there is still strong racial discrimination against 'indigenous peoples, informal work "occupies" at least 69% of the workforce without bringing anything to the state in terms of tax revenue, and 52% of Guatemalans still live below the poverty line (source: UNDP , 2012). In rural areas, 89% of women are illiterate.

The public health system is disorganized and lacks means to deal with malnutrition and child mortality, and access to care for all is a goal that seems very difficult to achieve. The "politicization" of the system and a fairer tax system would certainly yield more positive results. Forced mobility, unfair dismissals, insecurity and misery budgets are obstacles to overcome to make progress in public health. The SNTSG is actively campaigning for the Robin Hood Tax.

## **7. Trade Agreements**

PSI will use all available mechanisms to raise the issue of violation of trade union rights in terms of free trade deals with the European Union, and also with the United States in relation to the Central American Free Trade Agreement (CAFTA). We met in Guatemala with the Embassy of the United States, the European Union Delegation and the Embassies of Brazil, Sweden, France and Mexico to present our findings and the results of our mission.

Guatemala is a party to various international trade agreements, the government wants to give a more presentable image of the country which at present is still "the most dangerous country for trade unionists". Guatemala has signed several trade agreements:

With the United States, the DR- CAFTA, Dominican Republic- Central America Free Trade Agreement, signed in 2003 and ratified in 2005, which includes a section on workers' rights that Guatemala has committed to in 2008 following a complaint lodged jointly by the AFL -CIO and six Guatemalan unions to protest the non-compliance with labour rights and trade union rights by the Government of Guatemala, the United States requested that a committee be established for arbitration.

In 2013 the committee was transformed into a global roadmap broken down into 18 chapters corresponding to obligations that Guatemala must fulfill as a signatory of the Core ILO Conventions. Some progress has been made particularly with the recruitment of labour inspectors "supported" by the police for their actions in sensitive sectors such as the export-oriented "maquilas ". But the obstacles to the creation and the effective recognition of unions are far from being removed and the protection and safety of workers and their representatives are still far from assured.

With the European Union, in the framework of the cooperation agreement between EU and Central America, already in force for Honduras, Nicaragua and Costa Rica. Its application to Guatemala will only be effective beginning in 2014. The agreement also includes a section on rights and trade union rights that the international trade union movement intends to enforce.

We told the president that we will launch a campaign to convince European leaders to suspend the special incentive arrangement for sustainable development and good governance with Guatemala if workers will continue to be abused and murdered. Without justice for workers their communities, no commercial relationship can take place.

In the same vein, and following the murder of three trade unionists in the single month of March 2013, a letter from the European Federation of Public Service Unions (EPSU ) was sent on 10 April 2013 in Mrs. Emine BOZKURT MEP and President of the Delegation for relations with the countries of Central America.

For EPSU and PSI, the European Commission and all relevant institutions and bodies of the European Union must step up the pressure on the Guatemalan government to ensure justice and end impunity. In the last week of November a briefing and work will be held between the delegation of the European Parliament and representatives of PSI and EPSU.

## **8. Follow-up**

- This was the first PSI mission to Guatemala. PSI will return to Guatemala for a major regional meeting of PSI affiliates in March 2014, and will ask the government to report on its progress to end impunity in the cases of attacks on and murders of trade unionists, and the implementation of collective bargaining agreements and effective social dialogue.
- The connection between trade union rights and trade seems to be the most successful one. The government is indeed very dependent on its success to maintain working relations with the EU and the USA. We have to make clear that there can be no trade without trade union rights.
- Delegation members from Argentina, Brazil, Mexico, France, Germany, Denmark, Sweden, Belgium and the United States are following up with their respective governments to inform them of labour rights concerns, particularly in regard to trade deals between Guatemala and the European Union, and the United States.
- PSI will meet with Members of the European Parliament in late November to request that special trade status with Guatemala not be implemented until there is an end to impunity and full respect for international trade union rights conventions.
- PSI calls on its affiliates to support project work in Guatemala, to make sure that our campaign is effective at all levels.
- PSI calls on all its affiliates to write letters to their Governments and to the Guatemalan President, demanding results and real change. Draft letters attached.
- PSI calls for an ILO Commission of Inquiry.

- In Guatemala, The Office of the UN High Commissioner for Human Rights has agreed to provide training to PSI affiliate members on how to more effectively document and report threats and attacks against trade unionists. PSI is following up on this commitment.
- A major awareness-raising campaign on freedom of association and human rights should be launched nation-wide, since all too often, trade unionists are portrayed as being part of the problem instead of the solution. There is a real need to change public opinion and move towards a culture of dialogue instead of violence. PSI will work together with all other partners to achieve this objective.
- The mission has been successful in terms of media outreach. We will continue to develop media-oriented materials and prepare a short documentary on trade union rights violations in Guatemala, to be presented at the end of November 2013. We also urge all PSI affiliates to publicise PSI action on trade union rights issues.

#### Media resources and references:

Main page on PSI Solidarity Campaign Guatemala: <http://www.world-psi.org/en/issue/solidarity-guatemala>

PSI presentation to Guatemala's President: <http://www.world-psi.org/en/presentation-president-guatemala>

Fotos/Photos: [www.flickr.com/photos/psi\\_isp\\_iska/sets/](http://www.flickr.com/photos/psi_isp_iska/sets/)

Video: [www.youtube.com/user/PSIglobalunion](http://www.youtube.com/user/PSIglobalunion)

#### Radio:

- RadioLabour interview with SNTSG member Melvy Lizeth Camey Rojas, who survived an assassination attempt in August 2012 (EN): [www.radiolabour.net/rojas-130813.htm](http://www.radiolabour.net/rojas-130813.htm)
- FNL-SNTSG radio: <http://fnl.org.gt/radio>
- Radio Emisoras Unidas - en línea desde Guatemala: [preocupa-muerte-sindicalistas-internacional-servicios-publicos](http://preocupa-muerte-sindicalistas-internacional-servicios-publicos)

#### La coburta de noticias:

- Prensalibre.com: [Alarman muertes en el país](#)
- AGN: [Presidente de Guatemala ratifica ante ISP apoyo a libertad sindical](#)
- La Hora: [Sindicalistas extranjeros demandarán respuestas a Otto ...](#)
- Diario el Comercial: [delegacion sindical mundial visita quatemala en mision de paz](#)
- El mensajero Diario: [Misión de paz a Guatemala](#)
- Emisoras Unidas: [Preocupa muerte de sindicalistas a Internacional de Servicios ...](#)
- Terra Argentina: [delegacion sindical mundial visita quatemala en mision de...](#)
- Comunicarte: [Basta de Impunidad: La federación sindical Internacional de ...](#)
- AGN: [Delegación sindical mundial visita Guatemala en misión de paz](#)
- Terra Argentina: [Sindicalistas piden cese de la violencia laboral en Guatemala ...](#)
- Prensa Latina: [Expresan preocupación por muerte de sindicalistas en Guatemala](#)
- cb24.tv: [Sindicalistas piden cese de la violencia laboral en guatemala/](#)
- ARGENPRESS.info: [expresan-preocupacion-por-la-muerte-de.html](#)
- La Hora: [sindicalistas-extranjeros-demandaran-respuestas-a-otto-perez](#)
- El Sindical: [Guatemala:Asesinan a 58 sindicalistas](#)
- Alianza Sindical Independiente: [delegacion sindical mundial visita quatemala](#)
- Agencia CTA - Argentina: [Yabkowski en Guatemala](#)
- CSPB - Brasil: [Mauro Zica representa o Brasil em missão de ...](#)
- Mundo Gremial: [Guatemala: 58 sindicalistas muertos y una misión de pacificación sindical](#)

#### News coverage:



- Guardian World News: [Guatemala urged to investigate trade unionist murders](#)
- Silobreaker.com: [Guatemala urged to investigate trade unionist murders](#)
- In These Times: [Unions under siege in Guatemala](#)
- Equal Times: [Workers in Guatemala must be protected when they speak out](#)
- EPSU: [Direct from PSI Mission in Guatemala: report from the EPSU ...](#)

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