

No.1  
YEAR I  
JULY 2011



# wachb'il

INFORMATIVE ORGAN OF MSICG



With the  
support of:



Generalitat de Catalunya



**Wachb'il , Informative organ of MSICG**  
**[www.movimientosicg.org](http://www.movimientosicg.org)**  
**[www.facebook.com/movimientosicg](https://www.facebook.com/movimientosicg)**  
**[movimientosicg@gmail.com](mailto:movimientosicg@gmail.com)**  
**[prensa@movimientosicg.org](mailto:prensa@movimientosicg.org)**

**Edition, design and graphics:**  
**INESICG**

# Summary

## Editorial

New Ways to Reach the Same Goals: Trade Union Self-reform a Necessary Strategic Rethinking in Guatemala  
MSICG

02

## Tribune

ILO Points at the State of Guatemala's Anti-Union Politics With a Special Paragraph  
MSICG

05

More and Better Jobs: The Best Bet for Guatemala's Development  
Jonathan Menkos Zeissig

14

Feudalism in Guatemala in the Twenty First Century  
Aniceto Montiel - CCDA -

19

Violence, Privatization of Security and Labor Exploitation in Guatemala  
CUT-Guatemala

23

## The Little Boss

Anti-Union Policies in a Concrete Case: The Public Ministry  
MSICG

26

## Semblances

Interview with Maria Olimpia Cruz López Secretary General of SITRACAPGUA

31

## Coffee, Cabral Style

Marlon García ...Painter

38

Poem: They Told Me There Was Peace  
Efrín González

47

## MSICG to Action!

48

# Introduction

WACHB'IL is a word of the kakqchikel Mayan language, derived from two voices: "WACH" (face, visage, it is also a reference to the fruit) and "IB'IL" (likeness, equality). It is usually used to refer to the companion, to that person who's there when he or she is needed, that lives and struggles at one's side. It's a word that makes reference to a sense of equity, identity, pertinence and solidarity.

MSICG is An essentially socio-political union central, deeply committed with all the struggles of the Guatemalan people in a multicultural and multilingual scenario, heir to a painful history but whose constant feature has been the permanent struggle for reaching the ideal that the word WACHB'IL (or Rchi'l, it's equivalent in quiche Mayan language) expresses and which is the base for the struggle to eliminate exclusion and build a society where all of us can make this idea of equity and solidarity, imposed by the commitment with such ideal, come true, since all inequities are what put humanity and its habitat at risk. The greed and indifference towards the pain of others that individualism generates has been and will be mankind's and nature's main risk.

Consequently, WACHB'IL is the name that we have chosen for the informative organ of MSICG, through which we will inform of the work we are making but, beyond that, WACHB'IL is an instrument to denounce, to debate and for ideological reproduction; it is also the challenge to have the courage to do what's right, to say what must be said when it must be said, to question and change must be changed; it's an instrument for denial and for the discovery of new truths.

WACHB'IL will be a window towards the process of union self-reform in Guatemala, a provocation to go beyond, to add up in search for solutions to the structural problems in the country.

Among WACHBI'IL's sections there is a section oriented to retake cultural struggle, that is to say, culture and art are ways of expression that lead us to new discoveries from the spiritual sensibility

implied in art and culture; we are not talking about mercenary art, but about art that is committed with those changes that are necessary here and now.

Sadly, after some advances in this field and during the edition process of WACHB'IL's first issue, Guatemala was the scene of the murder of Facundo Cabral, that songwriter that, through his work and life managed to match commitment with esthetics, to find among the trivialities of everyday life the nice surprise of deepness, of seeing in human pain not a reason for tears but for changing things, so this section will attempt, rather than remembering him, to learn from those that share such a sensibility; of those that, through art, have raised a tribune to state things that often go unnoticed to those of us that greatly need to learn from such sensitivity. In this sense, Wachb'il's cultural section will be called "Coffee, Cabral style".

WACHB'IL will be published ordinarily every three months and, extraordinarily, every time the occasion calls for it and it is our hope that in its pages all of us will be able to find at least one reason to recognize ourselves in the mirror of nature, as similar visages, as beings that are essentially the same, as companions, as solidary beings committed with the changes that humanity is demanding.

We thus wait that the meaning of the word WACHB'IL will turn into a way of living and that this first number will be one of many ways to achieve this.

MSICG  
Julio 2011

## EDITORIAL

### New Ways to Reach the Same Goals: Trade Union Self-Reform a necessary Strategic Rethinking in Guatemala

Por: MSICG

**B**esides all the fund issues mentioned in the report presented to ILO's high level Mission that visited Guatemala on the month of May this year, MSICG showed the existence of an anti-union politics kept from the year 1964 to present date and whose results have been, among others, dispersed union movement, with a membership of just 2.04% of the Economically Active Population<sup>1</sup> -PEA in Spanish- and 2.12% of the Total Employed Population<sup>2</sup> -PTO in Spanish- (equal to 118,017 trade union members inscribed) and where union federations add up just 11,142 union members, equal to 9.44% inscribed unionists.

In the face of the 84,862 union members inscribed in independent unions and 22,013 unionists inscribed in independent federations, this implies that second or third degree unions without membership represent 1.47% of the PEA and 1.52% of the PTO, the unions with memberships of the second degree but not of the third represent 0.38% of the PEA and 0.40% of the PTO while unions with third grade membership, that is, members of inscribed union federations represent 0.19% of the PEA and 0.20% of the PTO.

Often, we've settled with invoking anti union politics and strategies as a cause for this weakness

and these of course have a deep impact on the weakening and destruction of the unionist movement; however we must not overlook the fact that during the armed conflict, in which this repression worked within the frame of counterinsurgent politics and was brutally violent, unionism kept a higher membership than nowadays, it had a better support and credibility among society and had much more incidence than currently, which limits itself to the cases of organizations that are coopted by the government when they comply with the executive power's mottos.

Since the State's anti union politics and the entrepreneur's anti union culture are quite clear and reflected on the special paragraph granted by ILO's Norm Application Commission -CAN in Spanish- against the State of Guatemala for violating Agreement 87, the Agreement on Union Freedom and the protection of union right granted on the frame of the 100th International Labor Conference and in the process followed within DR-CAFTA by the Government of the United States of America against the State of Guatemala for the systematic violations of labor and union rights we will just limit ourselves to make some reflections on some of the inner problems that also influence the crisis of the Guatemalan union movement.

The weakening of trade unionism must lead us internally to be self-critical, to review our concepts of organizational development, based upon a self-diagnosis that objectively allows to identify and seek solutions for those weaknesses that have incidence both on a lack of organization growth as on the image this projects upon society.

We've always said that unions are the only mass organizations universally known as struggle tools for workers, and that the economic and social character of such a struggle is not limited to the very labor conditions. But has a much wider ambit that extends to countless issues whose attention exceeds the working place.

Guatemala seems to have lost this perception; aside from the very restriction imposed by the

organization model established by the Labor Code, union struggle has been restricted to a more and more guild like focus and, consequently, what trade unionism offers has concentrated in collective negotiations, which in current Guatemalan conditions are less and less frequent, profitable and socially achieving.

This trenching has limited the social projection of unionism and has created conditions to implement mechanisms oriented to dilute the union offer, ranging from slowness in judicial processes, third parties or any other measures that renders union affiliation ineffective. Sporadic, uncertain results, focalized on a work center with which the workers have no ties may not be an attractive offer.

But not only this limits the appeal of trade unions; in Guatemala the population is made up mostly of women and young people. According to data

obtained by MSICG from the Union Records of the Labor and Social Prevision Ministry for the month of June 2011, from all the trade unionists inscribed, 42% are women, however, at federal levels only 17% of positions on the respective Executive

Committees are occupied by women, and on most cases these work as acts secretaries.

While it is true that there is no current record allowing us to establish an age average for union members, it's obvious that representation positions in federations has no balance reflecting the distribution of the members and of society itself, as it happens with women, therefore, it would seem that trade unionism is aged and aging.

This also has incidence in the appeal of trade unions, since the limited participation of young people and women in decision taking spaces make trade unions very discourse and proposals to not fulfill the expectations of this major group of potential affiliates and of the population groups that are quite precarious in their work conditions.

Trade union is not an unchangeable recipe it develops within an evolving reality that creates new scenarios, new needs and the must of evolving towards more transparent management models, towards specializing and renewal of

## “The weakening of trade unionism must lead us internally to be self-critical”

leadership, towards new ways of expression, towards a bigger and better image projection, towards proposals that come together with concrete proposals, a rising of the quality of debate and, above all, towards real self-sustainability, among many urgent needs. It is no longer about historic leaderships, but about effective, efficient ones, it's about pulling trade union democracy out of its boasting and turning it into a life experience that can be perceived as such within and out of the organization, it is also a matter of trade unionists seeing concrete answers to their demands as workers, and to the demands of their families within society.

Today, trade unionism faces global challenges, globalizations and its logic of eliminating frontiers in America for the capital but not for the people adds new problems to a trade unionism that still has not managed, at least in Guatemala, to achieve basic things like full respect of union freedom, and has not been able to position itself as an interlocutor with influence within society.

In Guatemala, certain paradigms like decent jobs are tied to structural problems that have produced conditions of exclusion and misery for great masses of people; changing this reality requires the existence of a strong social dialogue, of organized social power, of an organizational weaving that generates the trust and credibility that are needed to have a conditioning power, able to change the political will of the dominating elites, which has raised as law and as State policies since 1954, when mass organization for social struggle was prohibited, and the dissolution of all existing unions was decreed.

As an instrument to create this organized social power, trade unionism is still the most valid instrument, but it needs a deep re-statement, not of its objectives but of the ways it should follow to achieve them, it is a matter of opening doors and windows so new airs and lights may come in, to revitalize and regain the determinant role that unionism must have in a democratic society.

Hence, for MSICG, the statement of the unions' self-reform must go beyond a new word to be

included in the unionist speech; it's about a strategic re-statement that must be done urgently and whose thrust in the everyday is fundamental to oppose to the agenda of the capital globalization, a minimum common agenda for human dignity, as is the case of the Labor Platform for the Americas, that tends to aspects that, with more or less crudeness are shown in the reality of all the American countries.

It must be born in mind that nowadays, the developed world, and mainly Europe, are going through a series of structural adjustments that will put to the test the resistance and the ability to defend the welfare states of such societies, and this process must generate an alert in all the American countries because if such adjustments are made in Europe, surely America will thrust forward other such ones that will maintain the asymmetries that already exist.

The unionist self-reform is no longer a matter of decision, but an urgent one, at least in Guatemala; we are at a point in which we either change to generate this strength or we lose the struggle of so many years; we are aware that there

will be those who, irresponsibly and totally ignorant of the events that have brought us to this moment will state that trade unionism will exist forever in Guatemala, in an attempt to deny reality; well, 2.04% of the PEA is a lesser percentage that which was held during the years of most repression; it's not a matter to recur to the past anymore, it's about making changes at the level in which they should be made or to wait that this crisis will extinguish the only mass organization called to struggle for human dignity.

Us workers in all levels must be clear that if we want a decent job, if we want health, education, social security, recreation, an integral nutrition, respect for our environment and for nature, in other words, wellbeing for ourselves and our families we most agree in organizing ourselves in trade unions, we must take the union structures, make them democratic, transparent, self-sustainable, define their agendas and proposals and speak for the workers in every representation space in which trade unionism is

**“It is no longer about historic leaderships, but about effective, efficient ones, it's about pulling trade union democracy out of its boasting and turning it into a life experience that can be perceived as such within and out of the organization...”**

currently negotiating life and labor conditions for society.

Decisions as that of fixing a differentiated wage for female maquila workers who thus earn less than their male counterparts that perform the same work, raising retirement age for workers, raising the number of fees and reducing benefits (forgetting the millions that employers and State owe to the Social Security), creating failed spaces of dialogue such as has been made clear at an international level in order to keep delaying structural changes in the country, and taking the demands of workers out of the public agenda, negotiating collective agreements that reduce the rights of workers as are set in labor laws and international agreements etcetera, are all a product of the negotiation of financial elites with union leaders that have lost the defense of the

interests of the working class, thus, we reaffirm the urgent need for workers to take over trade union structures and turn self-reformed trade unionism into their instrument to struggle for social justice.

It will surely be a difficult road, all change processes generate resistance and wearing out, it's not a matter of raising flags without poles or followers, it is about transforming society and such changes must observe self-transformation as its starting point.

1) According to the National Employment and Income Poll -ENEI- for its initials in Spanish- for the year 2010, Economically Active Population -PEA in Spanish- consisted of 5,769,262 people. Data on the number of existing unions and its members are updated to June 2011.

2) According to the National Employment and Income Poll -ENEI- of the year 2010, Total Employed Population -PTO in Spanish- consisted of 5,566,386 people. Data on the number of existing unions and their members are updated to June 2011.

# TRIBUNE

## ILO Points at the State of Guatemala's Anti-Union Politics with a Special Paragraph

Por: MSICG

*“The fundamental principle of union and association freedom and of the right to collective negotiation is an expression of human dignity. It guarantees the workers' right to associate and act jointly to defend not only their economic interests but also civil rights such as the right to life, security, integrity, personal and collective freedom. They constitute a guarantee of protection against discrimination, intrusion and harassment. Likewise, since it's a part of democracy, it's a key element for the practical application of all the other fundamental rights inscribed in ILO's declaration.” (IB Report form ILO's General Director, Organizing for social justice, presented on the frame of the 92<sup>nd</sup> International Conference of the year 2004).*

**B**oth at a world level but mainly in a society like the Guatemalan society, in which richness, its means of production, reproduction and welfare have always been concentrated in a few hands and the State has been an instrument to perpetuate this statu quo, the possibility of generating social inclusion and decent life conditions for the great excluded majority will not be possible without a

strong union movement.

This is so because, unlike solidarity organizations, civil associations, foundations NGO's, election committees, political parties, sectorial organizations, etcetera, which are of a personalist character of limited reach, founded to satisfy the interests of their associates which, regardless of

their invoking social ends, are defined independently of the needs and hopes of their beneficiaries and are managed from an administration that is out of their reach. Union organizations are democratic mass organizations called to fight against social injustice, inequity, misery and depriving of the great majority, that is all the workers around the world. To manage this, union organizations have a nationwide, region-wide and worldwide juridical, political and institutional infrastructure, and mainly they have collective negotiation as their mechanism to directly redistribute richness and welfare.

An important piece of information in the history of Guatemala which confirms the relationship between the union action of workers, the strengthening of democracy and the deepening of social justice is found in the period between 1,944 and 1,954. During those years the only politics, laws and actions aimed to achieve decent life and labor conditions for workers and their families in the history of our country were implemented. Among them we should highlight:

- The separation and Independence of powers, municipal autonomy, university autonomy and freedom of teaching, dignifying the teachers through the implementation of the teachers scale, the creation of federation type schools.
- The State of Guatemala is once more a part of the International Labor Organization -ILO- and the greatest number of Agreements benefiting workers are approved in a short time, among these, fundamental agreements like Agreement 87 on union freedom and the protection of the right to unionize, Agreement 98 on the right to unionize and of collective negotiation and Agreement 81 on the Labor Inspection. (Other agreements that were ratified are Agreements 77, 78, 79, 80, 81, 86, 87, 88, 89, 90, 94, 95, 96, 97).
- There was an attempt to modernize labor relationships, leaving behind the feudal model through the creation and approval of the labor Code,<sup>1</sup> to institute universal social security and to ensure this, the Institute of Social Security of Guatemala -IGSS for its initials in Spanish- was created, state nurseries were institutionalized.
- In order to modernize the economic system, an integral agrarian reform was set in motion

(Approval and implementation of Decree 900), a process of energetic autonomy was propelled (building of the hydroelectric project called Jurun Marinalá), the recovery of sovereignty and the modernizing of roads and ports was promoted (creation of the Port of Santo Tomás de Castilla and of the road to the Atlantic), the creation of the Ministry of economy and of labor, of the Bank superintendence and of the Bank of Guatemala, etcetera.

A strong classist power organized in unions made the implementation and defense of these politics and laws possible, and without its strength they never could have been possible. Since the granting of the right to unionize on May 1<sup>st</sup> 1947, by June 1954 there were 117 unions with 104,000 members, mostly in a dependency relationship, with by that time represented 14.76% of the economically active population.<sup>2</sup>

As it was to be expected, the most conservative elites that operate in Guatemala and that maintain their economic advantages at the expenses of social injustice reacted, we were soon awakened by an invasion and these elites, through the army, took the State under their control, holding it up to this day although their shape has mutated once in a while to include some other actors.

Added to this, a whole series of measures and strategies aimed to disarticulate and destroy the union movement was implemented by the vast majority of entrepreneurs that operate in Guatemala, actions that have been protected, supported, propelled and implemented as State Policies.<sup>3</sup>

In reality, it doesn't matter if the worker is male or female, from the rural or the urban areas, a part of the State or the private initiative, young or elder, indigenous or non-indigenous, from the formal sector or working on their own, more or less precarious, poor, extremely poor or descending into poverty, etcetera, what really matters is that to keep the privileges of a few, workers cannot organize in unions as they did in 1947 because their strength and social changes for the economic and social development of the country and the welfare of the majorities come from this organization.

The previous account has historic proofs, because, from having 104,400 affiliates in June 1954, which



represented 14.76% of the EAP, to having 118,017 affiliates in July 2011,<sup>4</sup> which represent 2.046% of EAP, and 2.12% of the Total Occupied Population -TOP-. Of this union rate, 104,993 are workers in a relation of dependence (including workers of the State and the private initiative) and 13,024 workers are independent (including guild unions without employers, people who work on their own and independent peasants). Out of the 104,993 affiliates to unions in a dependence relationship, 91,890 are workers of the State through their centralized, decentralized, and autonomous entities as well as state companies, while only 13,103 unionists are workers in a dependence relationship to the private initiative.<sup>5</sup>

Among the legislation measures directly implemented from the State to destroy and disarticulate any attempt of workers to organize in union structures are: the implementation of the Decree Law 48 through which dissolution and prohibition of all union organizations was decreed, Decree Law 21 which cancelled the inscription of all union leaders, Decree Law 548 which prevents the exercise of workers' free unionizing, within the new national security doctrine which was also propelled during the de facto government of Efraín Ríos Montt, the coopting of unionism was also propelled, even through supporting the first pro government union central in the year 1983<sup>6</sup> which in turn would be a distractor for the international monitoring on the extermination politics driven as part of the counterinsurgent measures within the logic of the national security doctrine, the issuing of Legislative Decree 71-86 of the year 1986, through which the free unionizing and right of strike of the workers of the State is regulated, and conditions are established for union dispersion, the reforms introduced to this very nominative body on the year 1,996 through Legislative Decree 35-96 which made impossible to exercise the right of strike for state workers, worsened existing conditions and left workers unprotected to being fired during processes of collective negotiation, the emission of the Law for State Hiring in the year 1992 and the reforms introduced to it in the year 1997, which opened the door for the State to disguise labor relationships through which the creation of unions is obstructed, and we could keep going with a long list.

Among the gravest employer habits which were implemented and institutionalized as State policies to disarticulate the union movement are: the

the intrusion of the State in union businesses, grave obstacles to constituting and inscribing union organization, the destruction of union organizations in formation process, employer intrusion with the avail of the State to interfere and prevent the forming of unions, the imposition of sanctions and the criminalization for exerting union rights, the initiation of labor and civil processes against workers that have pretended to exert their union rights, acts of anti-union violence expressed through murders, kidnappings, rape, threats, persecution and intimidation of unionists, union leaders, their advisors and their families, the trespassing and attacks of union headquarters and unionists' homes, the firing of unionists as discrimination measure and the lack of compliance with firm sentences to re-install workers, (In Guatemala, re-installment of fired unionists take between 7 and 10 years), the scarce and non-complied number of collective conventions, the circulation of discrimination lists, the systemic failure of labor, judicial and administration justice, the deficit and instrumentalization of social dialogue, among other no less grave examples.<sup>7</sup>

A weakening of the union movement of this magnitude and in the conditions in which happens during 54 years should have been visible at all levels both in its structural causes as in its effects, not only because the weakening of unionism implies the weakening of democracy, but also because several researches and studies have shown that respect to union freedom and the right to collective negotiation have incidence in an important way in the strength of the economic development, propelling the distribution of growth benefits and fomenting productivity, adjustment measures and labor peace.<sup>8</sup>

That the structural causes of the weakening of the union movement sustained as State politics to guarantee the re-concentration of richness and its means of production and reproduction and the re-concentration of welfare have remained without transcendence is owed to several factors, one of the largest being the lack of interest of the Guatemalan union movement, that drowned in its most essential objective: "the defense of union freedom as a habilitating right to the full enjoyment of the respect to human dignity and all other fundamental rights".

Indicators that reveal this statement at an international level are the ones derived from the

control organs of the International Labor Organization -ILO- specifically regarding the performance and incidence of the Guatemalan union movement in the defense of union Freedom and the rights to collective negotiation which are the cornerstone of all ILO's normative systems and whose most important norms are Agreement 87, On union Freedom and the protection of union rights, and Agreement 98 on the right of unionizing and collective negotiation, both ratified by the state of Guatemala on February 13th 1952.<sup>9</sup>

ILO is a tripartite specialized organism (made up by union organizations, employers and States) of the United nations organization system and it is the main authority in labor and social politics issues at an international level. Its main mandate is to contribute to the construction of social justice, which can not be achieved while all workers do not have a decent job and a dignified life.

Nelson Mandela referred to ILO's Mandate in the Message that he sent to the International Labor Conference in 2007 as follows: "Decent labor is obtained due to the affirmation of personal dignity, to the existence of democracies that are at the service of people and to economic growth, which gives productive labor and business development opportunities (...) decent labor symbolizes the right not only to survive but also to proper and to achieve a dignified and satisfactory quality of life. All people should enjoy this right. We trust that ILO will continue the struggle so decent labor will be a world reality."

To accomplish its mission, ILO has created and continues creating a whole system of norms that are set through the Agreements and Recommendations, which are in turn supported by a control system that is unique in the international ambit.

ILO's control system allows regular monitoring of compliance of its norms in its member states through follow up of the measures adopted to turn the agreements and recommendations into effect by law and in practice. This control system is divided in two, the regular control system and the special procedures.

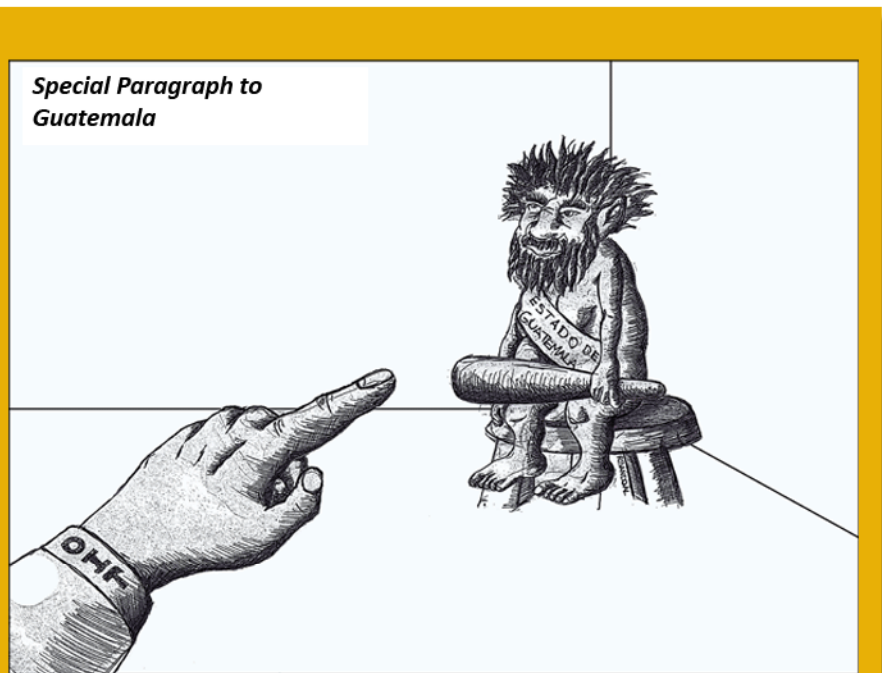
The regular control system foresees a

monitoring of the memoires presented by member States on the measures that this have adopted to execute the Agreements which they have signed, or those applicable to them as ILO's member states. These memoires are also evaluated to the light of comments presented about them or to the validity of the agreements made by union organizations. Two organs do this regular monitoring: The experts' commission on Agreement and Recommendation applications -CEACR for its initials in Spanish- and ILO's Commission for the Application of Norms -CAN-.

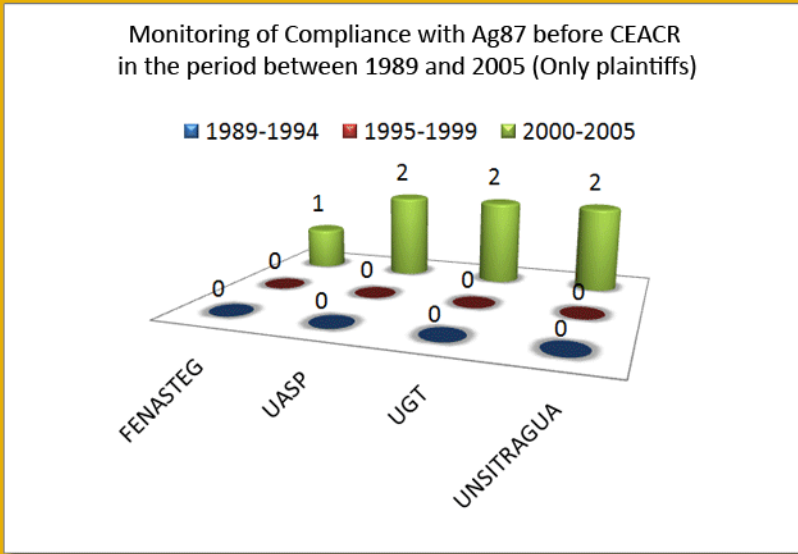
On the other hand, among the special control procedures are the procedure of claims regarding the application of ratified agreements, the complaint procedure regarding the application of ratified agreements and the special complaint procedure for violations to union freedom, known by the Union Freedom Committee.

Analyzing the intervention and impact of the Guatemalan union movement in the regular and special procedures ambit relative to agreements 87 and 98 of ILO, basically the intervention before CEACR and CAN, and the Union Freedom Committee until before the year 2007, which is the year in which MSICG appears, we confirm their share of responsibility in the lack of visibility of the structural problems regarding union freedom in the country.

CEACR was created in the year 1926, to examine the memoires of governments on agreements they

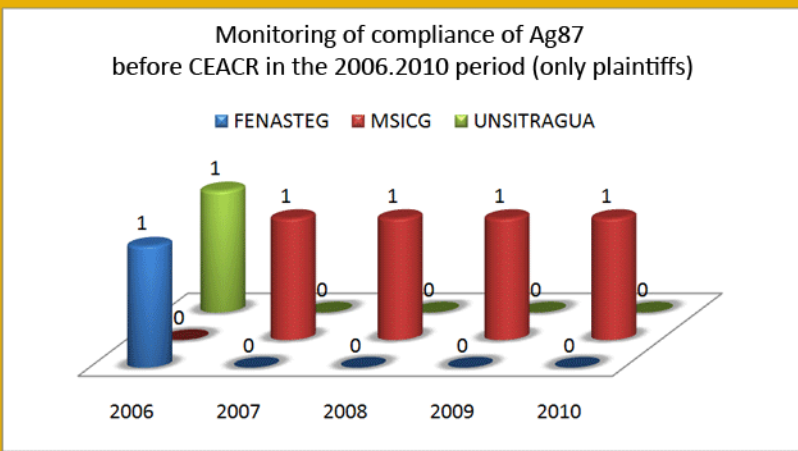


Graphic 1



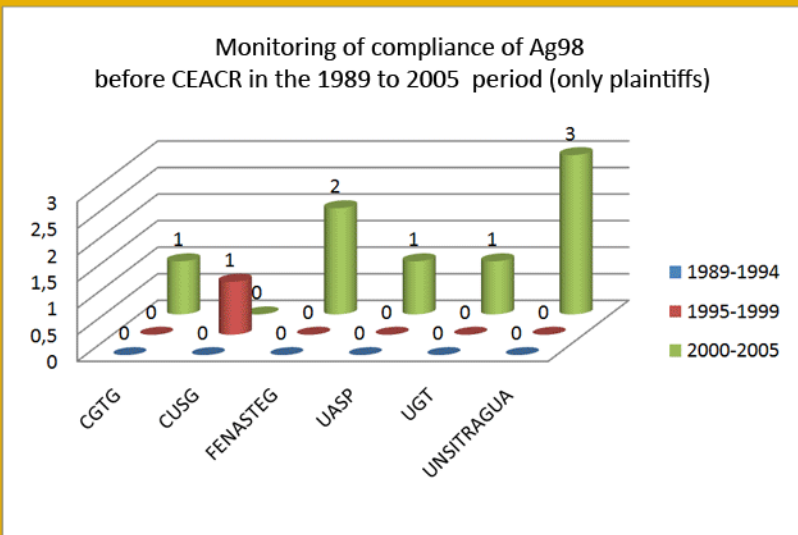
Own elaboration with ILO's information, ILOLEX database

Graphic 2



Own elaboration with ILO's information, ILOLEX database

Graphic 3



Own elaboration with ILO's information, ILOLEX database

ratified, taking into account comments to them or validity of the Agreements between union organizations and employers. Currently, it is made up of 20 law experts from different regions of the world, appointed by the Administration Council. Its main goal is to make an impartial technical evaluation of the state of application of international labor norms in a given country.

As it's made clear from the graph, the Guatemalan union movement was fully absent, without making any denunciations of the lack of validity of union rights contained in Agreement 87 before CEACR for many years. A more detailed analysis allows to confirm that between 1989 and 2002 there was no intervention at all, none in thirteen years.

After these thirteen years of absence there were very concrete interventions on specific cases from certain unions affiliated to some union structures, but without approaching the structural problem posed by the State's anti-union politics. Such is the case of UASP,<sup>10</sup> which during the 16 year analyzed period makes a comment in 2003 and another one in 2004, FENASTEG<sup>11</sup> which during the same period made a comment in 2003 and another one in 2006, UGT<sup>12</sup> made a comment in 2003 and another one in 2004, finally UNSITRAGUA<sup>13</sup> made a comment each year in the years 2003, 2004, 2005 and 2006. The rest of the country's union organizations did not take part in the aforementioned mechanism.

The creation of MSICG gives the country's union struggle a different logic with its interest to visibilize the union freedom situation as a principle to solve the problems and this is made evident in the actions of Guatemalan unionism in the period between 2006 and 2010, in which the Guatemalan case for violating Agreement 87 is strengthened before ILO's control organs; the following graphic illustrates this procedure.

Taking these five year period as a reference is important because, during the years 2006 and 2007 the State of Guatemala was on the verge of being appointed before the Commission of Norm Applications of ILO to answer for violations to Agreement 87, which in practical terms carries the presumption that in Guatemala all workers enjoy the right to union

organization and the possibility to enjoy our life and labor conditions.

As the graphs show, the Guatemalan union movement had the same disinterest regarding defense of union rights contained in Agreement 98 before CEACR.

A more detailed analysis reflects a devastating situation, since 1989 only in 1998 the union movement appeared in this important control organ of ILO, CUSG<sup>14</sup> presents this communication regarding the Civil service law, this being its only intervention as such since 1989 to 2011 in the matter of ILO's Agreement 98 before CEACR, that is, its only intervention in 22 years.

Also, in 2001 UASP presented a comment, this also being its only intervention, in 2003 and 2006 FENASTEG sends a communication, Unsitragua presented one in the years 2003, 2005 and 2006 and UGT and CGTG<sup>15</sup> presented a communication in the year 2004, this being its only intervention as such before the aforementioned mechanism for Agreement 98 since the year 1989 to present day. A different panorama can be seen between 2006 and 2011, in which MSICG acts before this organ to prove the Guatemalan State's anti-union politics.

Following this brief analysis and reviewing the intervention of MSICG before the Union Freedom Committee we can see that out of the 10 active cases before the Committee up to May 2011, 50% of them correspond to complaints presented by MSICG of which 60% have been signaled as grave cases and have received urgent callings, this due to the constant follow up that the same have received.<sup>16</sup>

As can be seen in this information, not until 2007 did Guatemalan unionism begin to have incidence and constant denounces before ILO's control organs, that, as the graphs prove, were undertaken and sustained by MSICG and not casually, it obeys a strategy developed and implemented to get decent labor and life conditions for Guatemalan workers. In its work, MSICG has full conscience that such conditions will not be attained without, among other things, full respect of union rights, especially the workers' right to build independent union organizations without having to pay for it with their lives, their livelihoods or exile.

As an action strategy within the decent labor axis

of MSICG's plan, there are several issues. First one of them is to unveil, at the national and international levels the anti-union politics of the State to benefit a larger concentration of wealth, of

## SOME OF THE ACTIONS TAKEN BY MSICG AT AN INTERNATIONAL LEVEL

### PRESENTATION OF REPORTS

- Guatemala: The paradigm of absence of union freedom, the systemic failure and lack of political will. English and Spanish versions presented in the Frame of the 100th International Labor Conference, Geneva, June 2011.
- The State of union freedom in Guatemala, Report presented to the High Level Mission that visited the country in the month of May 2011. Spanish Version
- Guatemala: Union freedom and the protection of union rights. Presented in June 2010 in the frame of th 99th International Labor Conference, English and Spanish version.
- Second report Guatemala, the Cost of Union Freedom, presented in October 2010 in the frame of the World Journey for decent Labor. Spanish version
- Guatemala, the Cost of Union Freedom Period between 2005-January 2010. Presented in February 2010. Spanish version

### DOCUMENTARIES AND PHOTO EXHIBITS

- Documentary: Guatemala, the unstoppable violence. English and Spanish versions.
- Photo exhibit: Guatemala, the human face of agro exports.

Both of them presented on different dates on the year 2010 in different instances and countries, among them, the Congress of the Republic, the Netherlands, Spain, Switzerland, Canada, etcetera.

- Documentary: Guatemala, democracy and Empire of the law...without union freedom?
- Documentary: Sitrapetén, when the resistance of some is the freedom fight of all.

## PRESENTATION OF PROPOSALS AND LAW INITIATIVES

- Law for the regularization of labor relationships.
- Law to dignify the workers representatives in boards, commissions and other representation spaces.
- Reforms to the Commerce Code.
- Reforms to the Law of appeals for law protection, habeas corpus and appeal for constitutional protection.
- Reforms to the Law for unionizing and regularization of the strikes of the State workers.
- Reforms to the Law of Civil Service.
- Reforms to the Municipal Service Law.

## PROPOSALS FOR PUBLIC POLITICS

- Proposal for an Integral Tax Reform.
- National Program for decent labor.
- Proposal for facing the crisis with decent labor.
- Proposal of the Union, Indigenous and Peasant Movement of Guatemala in the frame of the consultation procedure for CAFTA-DR.

Note: Most of these actions were undertaken with the support of sister organizations like FNV -The Netherlands, CNV, the Netherlands, CCOO -Spain, AFL-CIO, CSI, CSA, FSM. The proposals and other actions mentioned here can be downloaded from the web page [www.movimientosicg.org](http://www.movimientosicg.org)

the means of production and reproduction and of welfare in few hands in detriment of the great majority of socially excluded people which are the workers.

To achieve this goal at a national level we made, presented and divulged denounces before the Labor Ministry, Courts, Supreme Court of Justice and Court of Constitutionality, reports were made and divulged showing the state of the issue, proposals for public politics, mobilizations, campaigns, photo exhibits and documentaries, all this actions have put the system to the test, showing its inefficiency and partial nature.

At an international level actions were taken in several directions, there was a process of permanent denounce started before the Committee for Union Freedom -CLS for its initials in Spanish-, before the Commission of experts in the Application of Agreements and Recommendations, before ILO's Commission for Application of norms and there was an action in the Inter American commission for Human Rights -CIDH for its initials in Spanish-. Also there's been incidence in the defense of union freedom and labor rights in the frame of DR-CAFTA.<sup>17</sup>

From the graph information and those cases taken to CEACR, Can, CLS, CIDH, the following is clear:

- MSICG has been the only plaintiff against the State of Guatemala from 2007 to 2011 before the Commission of Experts in the Application of Agreements and Recommendations -CEACR- for violations of agreements 87 and 98;
- MSICG is the organization with more active cases before the Committee for Union Freedom against the State of Guatemala for violating union rights;
- MSICG is the only organization in the history of the country that has designated with independent resources a delegation to defend union and labor rights of Guatemala's workers, denouncing anti-union politics of the state before the Commission of Application for Norms of ILO's 2009, 2010 and 2011 conferences.
- MSICG is the only Guatemalan organization acting in CIDH, etc.

The State of Guatemala has tried to stop all these actions of international denunciation in several ways; one of them is to deny accreditation of MSICG's delegation before ILO; directly opposing to MSICG's denounces before ILO's control organisms,<sup>18</sup> and excluding MSICG from all spaces of workers' representation, among others. Some organizations that pretend to generalize their inaction before union freedom violations have added up to this hindrance strategy to MSICG's work.<sup>19</sup>

As a result of all this work there is certainty that one of the most important steps to start advancing in the struggle for a full respect to union freedom

and the Guatemalan workers' rights has been taken.

Finally, after 57 years of total international impunity regarding labor rights violations, the State of Guatemala has been questioned by ILO through two of the gravest accusations that their regular control organisms can make: A double foot page with special calling from CEACR in its 2011 report for violating Agreement 87, it is important to highlight that this had never happened before in the country's history; and a special paragraph granted by the Commission for the Application of Norms -CAN- in the 100th International Labor Conference celebrated on June 2011. CEACR's statement comes from an organ integrated by experts and CAN's signaling comes from workers, employers and States from all over the world.

Both questionings during this year, both from CEACR and Can are the acknowledgement of the international community represented in ILO and of the world's employers to the lack of union freedom in Guatemala and of the lack of political will of the Guatemalan State to guarantee and promote it.

The impact of this minimum act of international justice with Guatemalan workers lies especially in that from now on the international community must bear in mind the role that they are called to play to fully implement a union politics of defense and development of Guatemalan unionism when they engage in commercial, diplomatic cooperation and any other sort of relations with the State of Guatemala.

Likewise, the States of the world and the employers themselves will have to evaluate the impact that holding commercial relationships with a State like Guatemala, where production is based upon flagrant violations to workers' human rights, has for the democracy of their own States and for the rights or the workers of their own countries.

This grave international sanction against the State of Guatemala, far from damaging the image of the country as some union and employer organizations have pointed out, must be seen as a great chance to strengthen the empire of the law, democracy and social justice in Guatemala.

Now the State of Guatemala has the chance and the duty, if they don't want to keep being signaled by workers, employers and governments of the

world as one of the States with greater violations to human, union and labor rights, must immediately take the measures that ILO's control organisms have asked of them, among them:

- Harmonizing legislation and practice with Agreement 87 and union freedom.
- Guaranteeing that workers can exert their union rights in a fear, violence and threat-free environment.
- Trying, sentencing and executing the sentence of material authors and masterminds of crimes against unionists and union rights defenders.
- Guaranteeing a labor justice system that's prompt, dutiful and efficient, which means guaranteeing full independence of the justice system.
- Immediate application of all orders to reinstall unionists.
- Strengthening the labor inspection, the Public Ministry, the Police and the courts.
- Guaranteeing a simple recourse to guarantee the suspension of juridical, economic and social effects of the violation of workers' rights, which will develop the protection referred to by article 25 of the American Convention on Human Rights.
- Others.

MSICG is willing, as it has always been, to support the State in implementing this and other measures which have been asked by ILO's control organs, by request of MSICG and undoubtedly the entrepreneur sector must also be willing to support its implementation because its very modernization, economic development and keeping of the social peace depend on this.

Despite the small progress made, MSICG is fully conscious of the existence of bigger and new challenges going from the need to keep, strengthen and extend monitoring to propelling the implementation and consolidation of a union model that will lead unionism to regaining the power and social legitimacy that they require to be once more in Guatemala a force for democratic change and the only social warrantor for the

generation of decent labor conditions that will put human dignity before the excluding interests that have turned development into a factor of asymmetries, inequity and discrimination.

1) The Labor code was issued through decree 330 of the Congress of the Republic, it was published on February 20th 1947 and became valid on May 1st 1947.

2) Information from EAP used in 1950, Total: 704,612.

3) See the statements of the National Civilian Police Director in the documentary: Guatemala, la violencia que no cesa. 2010, and the reports of the Commission for Historic Clarification.

4) EAP and TOP were taken from the ENEI 2010, data regarding unionism is part of a research made by MSICG through its technical organism, and was obtained directly from the Ministry of Labor and Social Prevision.

5) It must be stated that the internal causes of weakening of the Guatemalan union movement, which in a lesser way have a role in the current union rate, are not dealt with in this article, since that is not its purpose.

6) Figueroa Ibarra, Carlos. Protesta popular y cooptación de masas en Guatemala, Revista venezolana de Economía y Ciencias Sociales 2004, volumen 10, number 1, (January-April) pages 134-136.

7) What is set here may be corroborated in the Observaciones de la Comisión de Expertos en la Aplicación de convenios y Recomendaciones de la Organización Internacional del trabajo para el Estado de Guatemala sobre los convenios 87 yb 98, especial the ones of the years 2007, 2008, 2009 and 2010, the reports of the committee for Union Freedom of those years, the conclusions of the High level Missions that visited Guatemala to monitor in situ the validity of Agreement 87 in the month of May 2011, of April 2009 and April 2008.

8) La libertad de asociación y la libertad sindical en la práctica: lecciones extraídas: informe global con arreglo al seguimiento de la Declaración de la OIT relativa a los principios y derechos fundamentales en el trabajo (2008); Organizarse en Pos de la Justicia social: informe global con arreglo al seguimiento de la Declaración de la OIT relativa a los principios y derechos fundamentales en el trabajo (2001), Su Voz en el trabajo: informe global con arreglo al seguimiento de la Declaración de la OIT relativa a los principios y derechos fundamentales en el trabajo (2000).

9) The principle of union freedom lies also in ILO's Constitution, 1919, in the Philadelphia Statement, 1944, in ILO's statement regarding fundamental principles and rights at labor (1998). Also in the Universal Declaration of Human Rights, 1948, among other instruments.

10) According to the publication "El sindicalismo en America Central: Desafíos a la Luz de la Memoria Histórica" ACTRAV-ILO Costa Rica, Year 2007, the UASP was born in 1988.

11) Ibid, FENASTEG was born in 1987.

12) Ibid UGT was born in 1996.

13) Ibid UNSITRAGUA was born in 1985.

14) Ibid. CUSG is born in 1983.

15) Ibid. The Central General Confederation of Guatemalan workers -CGTG for its initials in Spanish- was born in 1987, it adopts the shape of a civil association in 1994, being recognised through Ministerial Agreement Number 122, dated April 19th 1994.

16) Reports number 355, 354, 353, 358, 357, 356, 361, 360, 359 of the unión freedom Committee.

17) All comments to the validity of agreements and documents used while preparing the case before CAN can be downloaded from the web page [www.movimientosicg.org](http://www.movimientosicg.org)

18) Communication addressed by the State of Guatemala to the Department of Norms of ILO in the year 2009-2010.

19) See conclusions of the High Level Mission that visited the country in May 2011, published in the frame of the 100th International Labor Conference.



**WORLD DAY FOR  
DECENT WORK**



ITUC CSI IGB

join!



# MORE AND BETTER JOBS: The Best Bet for Guatemala's Development

Jonathan Menkos Zeissig

Economist specialized in development with emphasis on social and fiscal policy. Since 2006 is in charge of the investigation area of public budgets and human rights in the American Institute of Fiscal Studies - ICEFI -

**L**abor is a right. All persons have a right to earn a living through a job freely picked and in safe, healthy and dignified conditions. In Guatemala, Article 101 of the Constitution of the Republic says that “work is a person’s right and a social obligation. The country’s labor regime must be organized according to social justice principles”.<sup>1</sup>

But besides the ethical ambit in which labor is the basis that will guarantee human dignity and a full development of the life project of each and every one of the persons, there are also political and economical reasons that justify the need of societies to generate enough job sources, from public and private ambits.

Politically, recent manifestations in the United States and Europe due to high levels of unemployment that have brought together with it the loss of the patrimony of those affected, generating a wave of indignation that runs through the streets and that, little by little, is raising the conscience of society and of politicians about the urgent task of generating job sources and of better distributing the richness which these nations generate. The same Dominique Strauss-Kahn, then director of the IMF, acknowledged before the finance and economy ministers of the G-20 countries (which concentrate 80% of the world GIB), that in order to improve current political and economic conditions in the world, it would be necessary to face the great problems of inequity that affect our society.<sup>2</sup>

In the case of Guatemala, a country in which people do the best they can in the informal sector, research on political challenges to

consolidate democracy warn about the importance of promoting the existence of dignified labor sources in which both young people that are just starting their work lives and adults will find a place. For the former, a formal job represents the chance to start shaping their dreams and goals; for the later, in most cases, a job means the opportunity to consolidate their personal goals and comply with their family commitments. The frustration of must unemployed or under employed people reflects in their negative opinion over the effectiveness of democracy and in a relatively higher tolerance to authoritarian leaders.<sup>3</sup>

In the economic context, wages obtained through work allow to multiply economic activit, translating into the purchase and acquisition of goods and services, in tax payment to provide public goods and in savings that may be used for investment. Some measurements tell us that per each ten job positions created, the generation of other 12 job positions is stimulated. This is not magic, it’s simple arithmetic. If there are more people with resources for consumption, then businesses must increase their production, so they will have to hire more personnel and increase their productivity.

What has happened in Guatemala? The latest job statistics show that in the country wages are low, job sources are scarce and a good deal of men and women of working age see their hopes frustrated and have to insert themselves in the informal survival market. Out of the economically active population -EAP-, that in 2010 consisted of approximately 5,769,262 people, only 2,131,026, that is, 37%, were fully



employed, other 202,876 were unemployed and the remaining 3,435,360 people approximately, (59.5 per cent of EAP) were underemployed in a visible or invisible manner. Most of the

underemployed population are men, between 18 and 44 years of age and have studied between 3.7 and 6.3 years in all.<sup>5</sup>

## Some key concepts in the labor world

**Economically Active Population –EAP-**: It includes those people that contribute with their work to produce economic goods and services during a specific period of time. It includes both employees and unemployed people, but it excludes housewives and people that take care of others without receiving payment for it.

**Employee**: It's the person that, during a reference period, performs work in exchange of a wage or remuneration, or is paid with goods, or that is temporarily away from work due to illness, vacation or labor conflict.

**Unemployed person**: It's the person over a determined age (10 years for Guatemala), without a paid work and doesn't work on it's own but is available and has made taken concrete actions to find a paid work or to work on its own.

**Visible sub-employee**: It's the person that has worked for an amount of time lesser than that considered normal in a specific activity and who wishes to work longer journeys, even when this not been possible.

**Invisible sub-employee**: It's the person that receives as payment a very low income in relation with its productivity, or that does tasks that need a training lesser than theirs. This category reflects the low income, the sub-utilization of qualifications and the low productivity, and quite directly affects women labor, as a result of cultural discrimination issues.

**Wage**: It's the retribution that an employer must pay to a worker in exchange of compliance with the work contract or the valid work relationship among them. Save for the case of legal exceptions, any given service provided by a worker to its employer must by paid for by them.

**Minimum wage**: All workers have a right to earn a minimum wage that will cover their normal needs of material, moral and cultural nature and that will allow them to satisfy their duties as heads of family.

Source: Own making, based on ILO's glossary of terms and, for the definition of employee, wage and minimum wage, Labor Code of Guatemala.

Regarding wages, the last available statistics, dated October 2010, provide an accurate idea regarding what is the average income with which most Guatemalan households subsist, and how gender and territorial ethnic exclusions and inequities prevail too, in all ambits of life. The national average wage of a public employee was Q2,973.12 a month (approximately US\$372), while in the private sector this wage was only of Q1,526.41 a month (US\$191). Statistics confirm that average wages in urban sectors, in the public ambit, and for non indigenous and males are superior to wages reported for their rural, privately employed or working on their own, women and indigenous counterparts, although in all cases the average wage did not cover the cost of the Basic Market Basket for an average household which, in that same month of October, was or around Q3,812.41 (US\$477).<sup>6</sup>

Four conclusions can be drawn from these statistics. First of all, differences in the way to repay people, according to certain traits, whether they be personal or from their surroundings, keep perpetuating the terrible breaches of inequity and poverty; but these traits also reflect differences in access to education, health and training, transcendent elements in job opportunities and remuneration improvement. Second, even when there's very little talk about it, public work in the rural areas has allowed for the generation of non-agricultural work (teachers, nurses, policemen, among other) which, in the average, double the income that private work offers to rural families. Third, while the public average wage manages to be above the valid Minimum Wage and the cost of the Basic Food Basket, the national average for the private wage is less in both variants, mainly influenced by the low private wages in the rural ambit (agriculture) and the scarce income provided by underemployment.

Low wages weaken the possibility of Guatemala's human and economic development, not allowing the generation of welfare levels that foster a virtuous cycle between the demand of more education and

savings, the generation of a higher economic activity and the need for more and better jobs. On the contrary, precarious jobs and low retribution currently foster, among other phenomena related with poverty, child labor, which produces school desertion and as a result of this, the insertion of youth in the informal sector from which they will hardly leave; a low demand of goods and services, which reduces investment and employment, phenomena that finally have been translated into levels of social dissatisfaction that open the door to illegality and strenuous moments of ingovernability.

It is inadmissible to think that Guatemala can be a place in which Guatemalans would want to live and watch their children grow, when what is socially produced among everybody ends up in so few hands. While 70 percent of the population with lesser resources, -where most workers are concentrated- has less than 15 percent of the total income, 10 percent of the wealthiest population keeps 40 percent. And statistics confirm that between 2002 and 2006, the slice of the cake has reduced for the 40 percent of the poorest population.

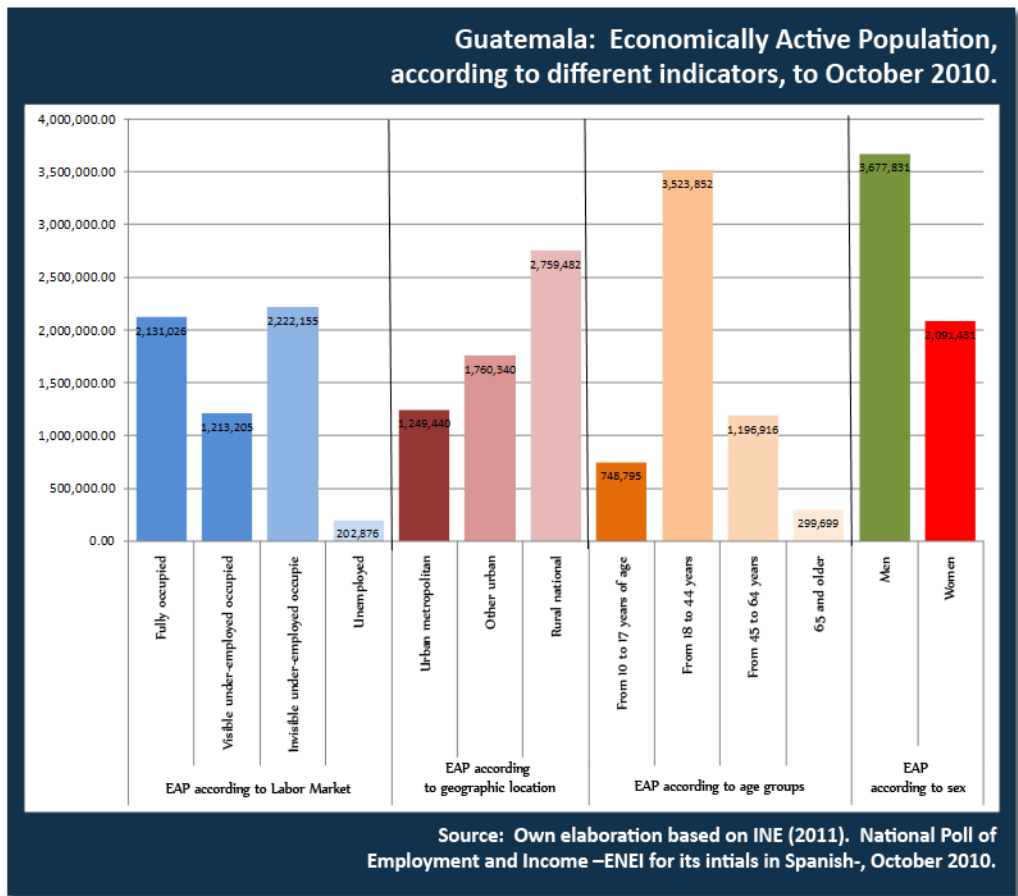
If we take a look at the statistics on Guatemala's gross internal product, from the income point of view, that is, trying to register the way in which the fruits of social labor are distributed in different forms of income, that is, it turns out that in the last years, between 2005 and 2009 the remuneration to wage workers has gone from representing 31.9 percent of the GIP in 2005 to 30.6 percent in 2009. Contrasting with this is the profit excedent, that is, the utilities of private businesses and, therefore, the income of those select families that own these businesses has gone from representing 39.1 percent of the GIP in 2005 to 40.7 percent in 2010.

This figures seem to warn that, on one side wage workers that each year are more, proportionally share each time less resources. And, on the other

**Basic Market Basket:** Is the set of essential goods and services to meet the basic needs for household welfare (food, clothing, housing, furniture, health and education, transportation and miscellaneous goods and services).

**Basic food basket:** Is the set of products that can meet minimum food energetic and protein needs of a home.

Fuente: INE



hand, the increase on the weigh of the profit excedent (company utilities), warns of the continued process of wealth concentration and confirms the widening of the breach between the rich and the poor.

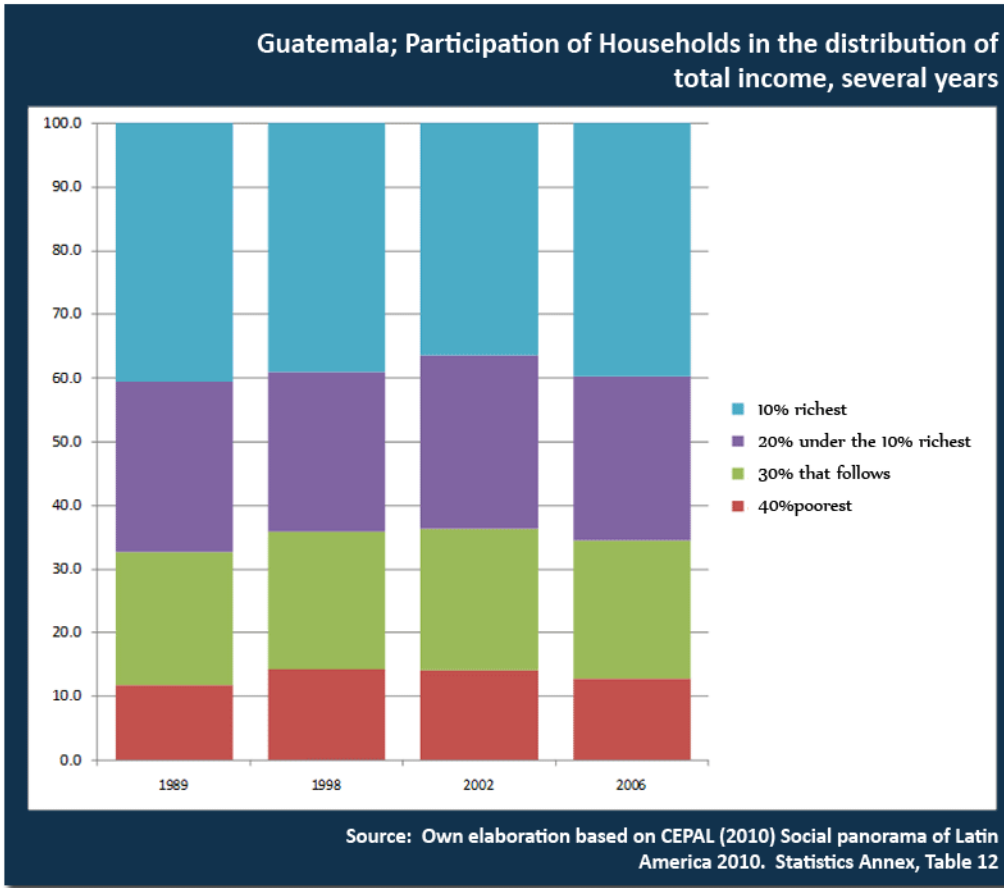
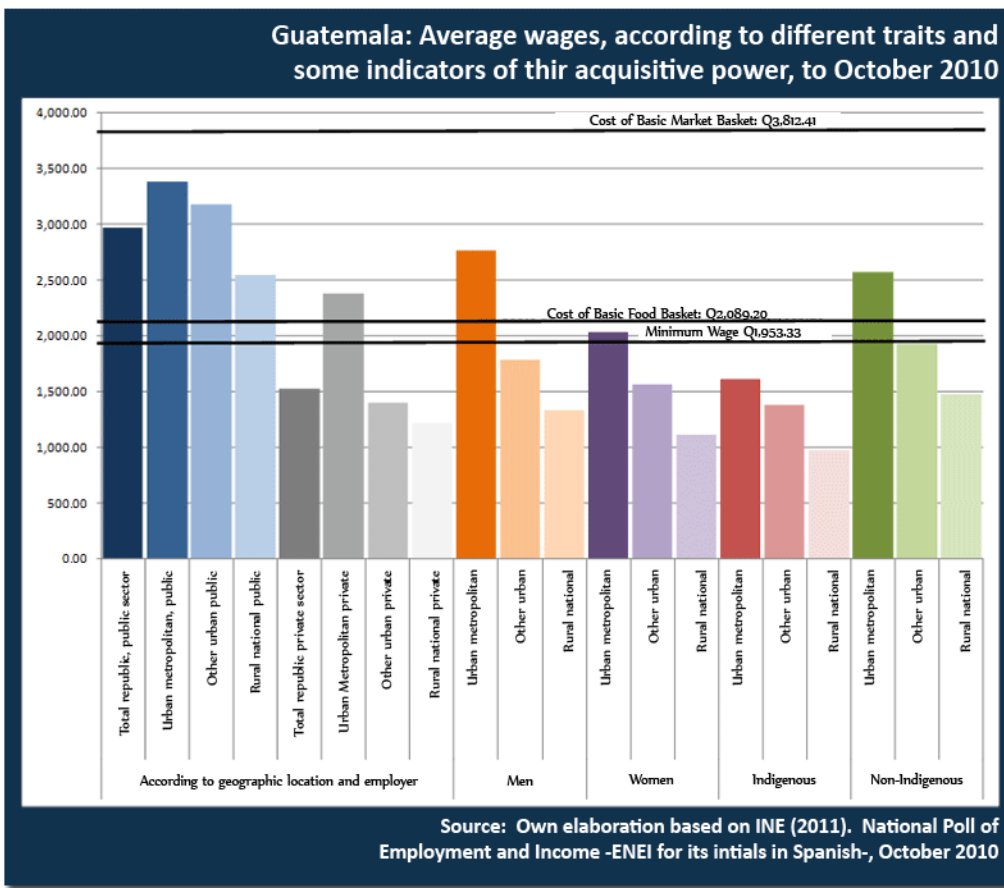
The lack of ambitious politics to generate dignified jobs and of economic measures to maintain the acquisitive power of wage, explain the increase of this breach of richness and welfare, but it is also important to note that there is some blame in the tax policies -one of the instruments that, together with salaries, help in the distribution of richness-which is also not doing its work.

On the tax side, 70 percent of taxes perceived by

the State of Guatemala come from consumption taxes, -paid by all society-, while the remaining 30% comes from direct taxes over rent and whose goal is that “they who have more, should contribute with more”. To this we must add that tax payment, the main source of State financing, is very low (close to 10.8 percent of the GDP, in 2011) and insufficient to maintain public programs that will raise the welfare of all the population.<sup>7</sup>

In the last 25 years there has been no possibility to finance public politics to make the access of all Guatemalan childhood and youth to a quality education system universal, or to develop a public health and social security system where all will be attended according to their needs and respecting their culture, much less an economic infrastructure (roads, ports, markets, among others) and a social one (schools, health centers, justice of the peace courts). To this lack of resources for financing must be added the problems in execution transparency and the very little evaluations of effectiveness of public policies, for which, without a structural change in tax politics it is almost impossible to reduce social differences of opportunities and results, factors that fuel income inequity.

As a conclusion, if we rethink Guatemala in function of generation more and better jobs, there will be an opportunity for development. More and better jobs mean not only creating work sources but looking for the political and economic mechanisms that will ensure dignified wages that will suffice



for the wellbeing of families and universal access to social security. There are many ways to achieve this and the following paragraphs will present some proposals to reflect about and discuss, very succinctly and without pretending to be exhaustive.

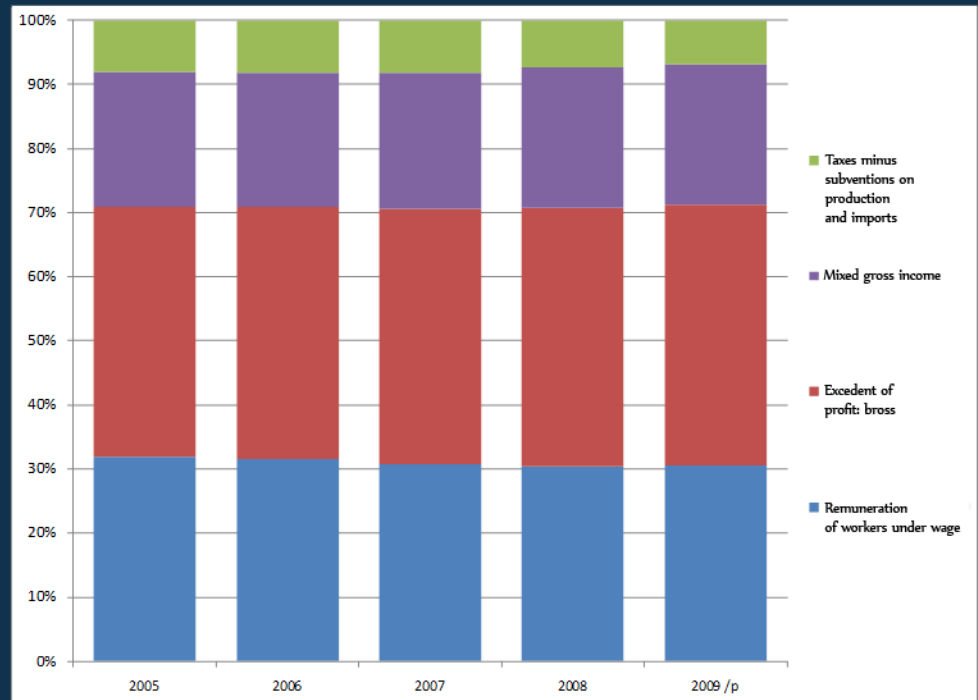
The great needs of dignification and increase of public work in the education, health, security and justice sectors could be a starting point to the later multiplication of work in the private sector, which could generate an important share of jobs if it was tuned to a national development plan that would force it to understand that the primordial ends of work is not productivity or the maximization of personal profit, but social wellbeing and the development of all people.

On the other hand, respect to labor rights, including paying minimum wage, together with the massive creation of training could mean the opportunity to increase economic activity, mainly in the rural areas of the country. Generating non-agricultural jobs in rural areas would manage to decrease the number of people looking for jobs in these areas, increasing wages for agricultural activities and decreasing the need for migration and for surviving in the outskirts of urban centers.

A clear politics that would allow for increase the purchase power of wages, together with an improvement in the production of basic consumption agricultural and non-agricultural goods would manage to increase the welfare of the great majorities, benefiting private economic activity and somehow remedying the great asymmetries between the rich and the poor.

The bet for more teachers and nurses would have produce as a result in the mid term the possibility of universalizing and improving the quality of education and health, which would allow for the creation of citizens that would have more spaces to push their own life projects forward, with better job possibilities but, even more importantly, it would

Guatemala: Arrangement of gross internal product, focusing on income, 2005-2009



/p = preliminary

Source: Own elaboration based on statistics from the Bank of Guatemala

allow to clear the way so that all people, regardless of race, sex or financial condition, would have a similar starting point, with access to the same opportunities and to the search of the same results. Another bet to dignify workers and their future welfare, as well as guaranteeing consumption and economic activity in the long term are those programs related with non-contributive pensions, like the elder adult program, accompanied by changes on the rules of the game for access to social security, added to the universalization of the later, in a contributive manner but taking into account the contribution possibilities of all workers, both formal and informal.

There are many options to turn labor into the so desired piece Guatemala needs to develop. However, political structural agreements are necessary in order to prepare the way, which will only happen with the concurrence of mature union forces that have and keep a clear vision of the society they want to have in the future, and with the technical and political capacity to exert pressure and negotiate with entrepreneurs, political parties and governments.

Within this mature vision, union and unionists are

called to support the construction and the strengthening of the Guatemalan State, which implies recognizing the importance of public goods and the necessity for their financing. To put into practice the idea of a different country will require a different tax politics, which will mean for unionism supporting spaces in which the organized civil society will promote the need for a totally progressive tributary system of the “who earns more shall pay more” type, a transparent and accountable public spending and a strategic management of public debt.

1) Constitution of the Republic of Guatemala, 1985, Title II, Chapter II, Section 8.

2) ICEFI (2011) *Lente Fiscal Centroamericano*. Number 3, March.

3) See the reports of *Latinobarómetro*

4) Navarro, Vincenç (2011). Conference pronounced in the journeys of the “Social and Economic Alternatives in the face of the crisis”. June.

5) INE (2011). *National Poll of Employment and Income –ENEI for its initials in Spanish-*, October 2010.

6) INE (2010). *Report from the Price Index to the Consumer*. October 2010.

7) For a more thorough explanation, see ICEFI (2011). *Guatemala: condicionantes financieros para la transición política 2011-2012. Diagnóstico de la situación de las finanzas públicas a junio de 2011 y en ICEFI-UNICEF (2011). ¿Cuánto estamos invirtiendo en la niñez y adolescencia guatemalteca? Análisis del presupuesto del gobierno central, 2009-2011.*

## Feudalism in Guatemala in the Twenty First Century



**J**ulio Castellanos Cambranes (*Territorios Magazine* #1, 2006) refers the issue, like this -Paragraph dedicated to the contributions of the historian- “To legitimize with documents old longings of landless men to recover their ancestral estates, snatched away from them in that dark moment in which the so-called “agribusiness” surged in the XXI Century and the agro exporting oligarchy issued expropriation laws through their political representatives, turning peasant communities into victims of the looting and enrichment”...(continues).

The pattern of colonialists and neocolonialists has always been to steal lands, to take over the labor forces that will make these lands produce, to profit from the blood, suffering and efforts of rural men”.

Since colonial times, Guatemala has been characterized for propel its development through export oriented land programs that have gone from cochineal, indigo workings, cotton, coffee and bananas in the XIX century, first organizing towns of Indians and ladinos, and the institution of large

estates and smallholdings after the liberal Reform, leaving coastal lowlands to business men and the highlands to indigenous people, with the condition that this would be a sleeping and survival place, alternated with labor stages in the great farms.

To abolish this way of feudal serfdom implemented by the liberal reform, on the fourth decade of the twentieth century, under the revolutionary governments of Juan Jose Arevalo Bermejo and Jacobo Arbenz Guzman, who implemented the Agrarian Reform, Decree 900 of June 17th 1952, which favored more than 100,000 families, from which 972,256 “manzanas” of land were once more taken away from them after the decree was abolished. Afterwards, Decree 559 or Agrarian Statute, which was the basis of the agrarian politics set during the latter half of the fifties and which lasted until 1962, was decreed. This had three variants: Agrarian development zones, micro-plotting and agrarian communities, benefiting 22,870 families. 5,265 families with 25 “manzanas”, 4,524 families with 3.7 “manzanas” and 12,081 families with 6.2 “manzanas”.

Decree 15-51, the Law of the Institute for Agrarian Transformation, INTA for its initials in Spanish, instituted the modality of agrarian cooperativism through the ECAS, motivating an individual entrepreneur sense, and also the cooperatives in Ixcán were promoted as mixed family patrimonies that made the services collective, but not the lands, that is, the joint sale of the agrarian product and whose validity was extended up to 1998. Laws like the Fund for the Fomenting and Development of Petén, FYDEP for its initials in Spanish, whose goal was the colonization of El Petén with peasant families from the west of the country, mostly benefited militaries and wealthy families instead of peasant population.

In other words, the economic history of Guatemala has been marked by emphasis put in agrarian production and in the implementation of mechanisms to obtain cheap labor, through “encomiendas” and “repartimientos” during colonial times, through the vagrancy laws and the road bill during the liberal era and then, during the 1954 counterrevolution, through precarious work, which has been building up steadily, subtracting efficiency from the empire of the law, preventing free unionizing and propelling more and more precarious hiring mechanisms.

The Peace Accords, among which was the Agreement on social and economic aspects and agrarian situation, didn't modify this landscape a lot, due to the lack of will from the State and the country's economic elites, precisely to facilitate access to the means of production and improving redistributive conditions. On the contrary, their goals were denaturalized and this produced the Land Fund Trust which, in practice, has meant the handing out of tired, under productive land, in which supposed beneficiaries work to rehabilitate or improve it and then, through the generation of agrarian debt, that currently ascends to approximately 333 million quetzals, is again taken away from them, only this time in much better productive conditions, ready to be concentrated.

These situation submit peasants to conditions that resemble forced labor, since both them and their families have to work exclusively to pay the debt and the interests generated by it.

According to a recent report, presented by the Agrarian Secretary, in Guatemala there are more than 1300 land conflicts, which clearly shows the existence of a land reconcentration process, which is violent in many cases, like the Valle del Polochic one, and that resemble the conduct patterned shown in the massacre of Panzos.

The motivations for this concentration process lie in the mining projects, mega projects and the substitution of alimentary farming for eminently industrial farming, which adds the development of a severe alimentary crisis to the precarious labor situation facilitated by the lack of subsistence alternatives to precarious labor, and whose effects are being perceived in several areas of the country. In the same way that, during the armed internal conflict and especially in the Area of Alta Verapaz massacres matched the beginning of nickel mining projects, current violent evictions correspond to mining exploitation or exploration zones, to the implementation of industrial monocultures or zones in which electricity generation or road mega projects are planned to be established.

Even though Alvaro Colom's government approved a Politics for Integral Rural Development, which is stated in a Government Agreement, it is contradictory that the budget that is assigned for the Ministry of Agriculture, Cattle and Aliments, -MAGA for its initials in Spanish- has been reduced in the present period to 630 million quetzals,

which implies a reduction of this budget which is equivalent to 240 million quetzals with regard to the 2010 budget.

Another aspect that has limited this alternative, and which weighs in the worsening of this precarious situation of life and of labor conditions in the agro are the natural disasters that have affected the main zones of alimentary production, causing losses that add up to 10,500 million quetzals and that, even though social programs assign specific amounts to recover this zones, in reality the investment adds up to less than 5% of the losses, and the resources from these programs have been distributed in zones with a higher number of voters.

In the center of all this situation lies the possession of the means of production. The GINI coefficient for land distribution is 0.84, close to 1 which, as we all know, means total inequity... This inequity is expressed in the fact that, based on the 2003 agriculture and livestock census, 92.06% of small producers only used 21.86% of the surface, while 1.86% of commercial producers used 56.59% of the surface". (Territorios #1 Gauster, Susana and others).

This is a tendency that, far from being reverted, has been strengthened". Over the base of contradictory premises from governments and international financial institutions that recommend us to disagrarize the field. Based on arguments like "land is no alternative to poverty" or "peasants must leave agriculture behind to escape poverty" while, on the other side, "agro industrial and extractive companies, both national and transnational, with national and international financial support, are involved in a new cycle of land hoarding and concentration of agrarian properties, in order to establish monoculture and agroindustry plantations": (Hurtado, Laura, Dinámicas Agrarias y Reproducción Campesina en

la Globalización. El Caso de Alta Verapaz).

Some numbers, as an example. African Palm: It is estimated that, by the year 2012, there will be 3,333 "caballerías" (150,000 hectares) planted with it. Inversiones Promotoras del Desarrollo S.A: -INDESA for its initials in Spanish- has obtained 111 "caballerias" (5000 hectares) in the Polochic valley, Alta Verapaz, between 1998 and 2008.

For sugar cane, the estimation is of about 4,000 caballerías (for the year 2007), concentrated between approximately 34 sugar growing families and five sugar plantations with around 75.5% of the production. The Chawil Utza'aj (Good Cane in Q'eqchi language) sugar plantation, owned by the Widman family- had 178 "caballerias" (8,000 hectares) in March 2008, also in the Polochic Valley (Information: Sugar Cane and African Palm, Fuels for a New Cycle of Accumulation and Domain in Guatemala. Alonso Fradejas, Alberto. IDEAR CONGCOOP, 2008).

Also, the possession of the means of production determine also what they are destined for and, in this case, it is naturally the production of monocultures, eminently oriented commercially, putting at risk the very alimentary security of the country, not forgetting that crops such as cane and African palms attract other additional problems, derived from the amount of water they require to be productive and the way they war the land off.

In previous times, the population of a finca was considered a part of its assets; that is to day, when it was sold, the price included the people living on its premises as finca labourers, however, the new monocultures and the changes in contracting practices in order to reduce labor costs, have turned the inhabitants of the fincas into a problem affecting the portions of land that can be worked upon and, consequently, the option is to evict them since what the owners now want is the land, not

**Structure of land ownership**

Description	Producers	(%) Producers	Area (M=0.7 Ha)	Land%
Less than 1 manzana (infrasubsistence)	375,708	45.2	172,412.75	3.2
1-10 manzanas (subsistence)	388,976	46.8	989,790.71	18.7
10-64 manzanas (1 Cab.) (Exceeding)	50,528	6.1	1,145,318.60	21.6
64 and more (commercial)	15,472	1.9	3,008,316.31	56.6
<b>TOTAL</b>	<b>830,684</b>	<b>100.0</b>	<b>5,315,838.37</b>	<b>100.0</b>

the labor. This has produced a force displacement even greater than the one that happened during the armed internal conflict.

This has caused a proliferation of dormitory towns, in which the workers who will be precarious and occasionally hired to do work in this crops spend their nights, or towns made up of internal immigrants, carried away in inhuman conditions at harvesting season and exposed to accidents like the one that recently happened at the curve known as "vuelta de El Chilero."

This crops' very need of expansion produces in turn a process of spoil of the most fertile lands, whether through financial suffocation (making it impossible for micro production to allow subsistence) or through force, forcing people to sell their lands through violence and direct threats. This situation is worsened by the conditions created in the Penal Code with the reforms introduced during the Government of Alvaro Arzú, by which the police or the General Attorney can undertake evictions invoking a judicial prevention to flagrant crime, born from the very presumption of legitimate ownership of lands by a person.

This is translated into precarious labor conditions in the agro, which is where Guatemala's main export products come from, and the first employer, due to the creation of growing army of workers that have no alternative means to make a living and who are forced to accept the working conditions offered to them, regardless of how precarious they turn out to be.

The process of land reconcentration operates as a mechanism that guarantees control over a country's agricultural and livestock production, appropriation of natural resources and insuring of the labor force willing to give up the safeguards of decent work in order to survive, since this situation also leads to the existence of internal migrations that widen the belts of poverty in urban centers.

Mechanisms such as the one used by the land fund, in which land is given out to work on it and improve its general conditions, just to reconcentrate it through agrarian debt induced by lack of support, infrastructure and resources to make it productive, thus prolonging the quasi feudal and quasi slaver production system which prevails in Guatemala.

Hence, the proposal of the Law for an Integral Rural Development Systems produces a statement that propels development since, it offers in an integral manner, solutions to the country's agrarian problems, whose solutions without which it will be impossible to look forward to generating decent labor conditions.

Despite this and despite the government's commitment to implement this politics and to drive the approval of this law bill, the sectors who are more benefited by this order of things together with the lack of determination and social commitment of the party in power have caused that, even having a favorable resolution the law still goes unapproved and hasn't been set into validity by the nation's congress.

Far from solving the core issues, the offer of the State, regardless of the party in power, is to generate more precarious labor sources, whether in maquilas or private security companies, through a marked weakness of the institutions in charge of monitoring compliance with labor laws or driving initiatives whose effect will be to create more and more precarious labor situations.

In other words, the semi feudal and semi slaver situation of the Guatemalan agro is part of an integral whole that induces more and more to an economic and social polarization, and a worsening of redistributive asymmetries and a greater need to attend and solve the structural problems of Guatemala.

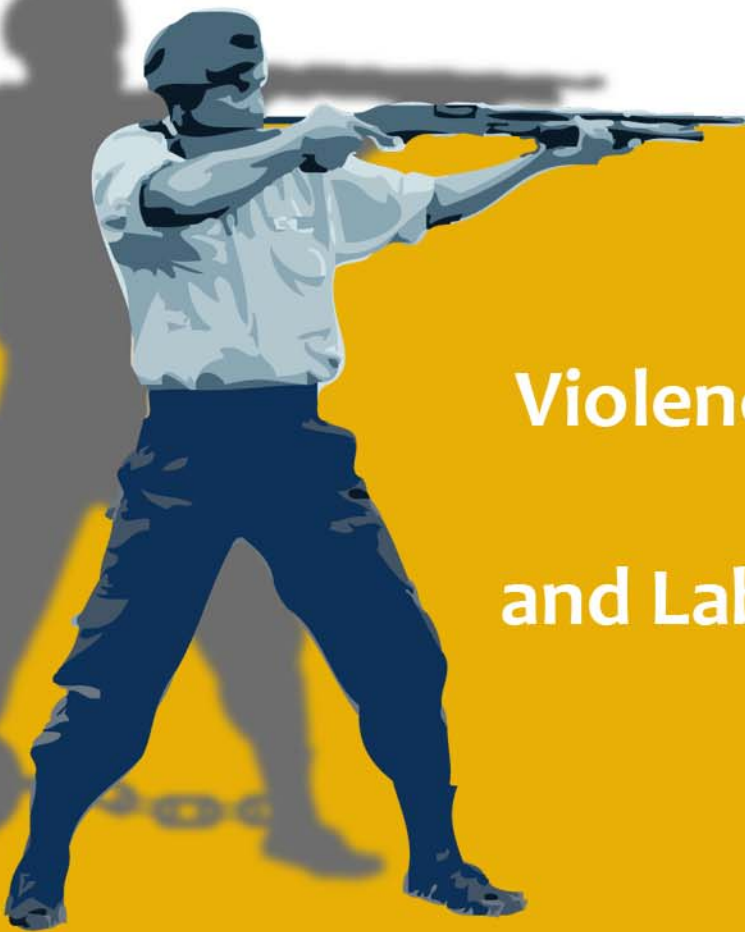
**MSICG**  
ON THE WEB

[www.movimientosicg.org](http://www.movimientosicg.org)

@MSICG

[www.facebook.com/movimientosicg](http://www.facebook.com/movimientosicg)





# Violence, Privatization of Security and Labor Exploitation in Guatemala

Por: CUT-Guatemala

**T**he problem of violence in Guatemala is a historic one, institutionalized as State policy to guarantee that the country will not approach the structural problems of inequity and social injustice, however, it is not the goal of this article to approach the matter of violence itself or its causes and implications, but lightly approaching the multi-million business that it constitutes to private security businesses based on the overexploitation of workers.

In Guatemala, private security is a multi-million business. Although there are no updated information to this day, the latest statistics provided by the Chamber of Security of Guatemala -CSG- to a local newspaper, (ElPeródico, 02-21-2010) indicate that during the year 2009, private security companies registered two thousand one hundred and eighty five million quetzals, and employed an estimated of over 150,000 workers.

The magnitude of this work market can not be considered a factor that propels local development, essentially because the work offer that it generates is quite precarious and uses the

highest indexes of exclusion and the general poverty of the Guatemalan population to guarantee the high profits of the companies that form it and also, because the kind of work they offer provides no development expectations for the worker, among other things because it gives no more training than the essential one to carry out the activities that are done, and because their very structure do not admit the possibility of promotions or professionalization.

On the other hand, and just as the textile industry companies do, private security companies manage their human resources politics over the basis of a strategy whose goal is uprooting the workers with the intention of avoiding any possible reaction from them that may attempt against the perpetuation of labor exploitation relationships that happen within this growing sector.

In this sense, it is a common practice for these companies to offer vacant positions in strategic places of their rural areas of the country, to be carried away in the capital city. Once hired, the workers are carried to the city, where some companies give them a place to sleep within their

facilities and where this uprooting process is completed, far away from their home towns and earning a salary that is insufficient to go back; pressured by the lack of decent work sources in their own places of origin the workers are completely vulnerable to accepting these work conditions that are below the minimum established in national and international laws, in order to survive.

Analyzing in more detail the precarious labor conditions of this sector, through an investigation made by MSICG about the data base of both the Ministry of Departmental Government and of the Labor and Social Prevision Ministry, we were able to make several important findings. From a random sample of the denounces made by workers of private security companies before the General labor Inspection during the period comprehended between the years 2005 and 2010, it was determined that 38% of the workers earned wages below the minimum legal valid during the year when each denounce was made, while 62% exceeded minimum wage in an average of only Q178.65 a month. The wage average corresponding to the year 2010 added up to the amount of Q1,586.90 a month, that is, 40% of the cost of the vital food basket for the same period.

This piece of information can be better interpreted if it's analyzed taking into account the work days that the workers have to undertake: According to the same polls, private security company workers spend an average of 12 to 16 hours a day working, seven days a week. "In the end we only sleep four hours when we are on our shifts and we don't get paid extra time" stated a worker that preferred to remain anonymous out of fear of being fired.

This information was confirmed when, after asking security companies, they offered the services of agents on twelve per twelve daily shifts, which means work days exceeding in four hours an ordinary working day; after analyzing wage payment and the statements of the workers, extra hours are not paid.

The low wage level of private security agents in a cost-benefit relationship reflects how highly profitable these companies are, at the expense of minimizing labor conditions. Through the same polling, it could be verified that the monthly cost that the companies charge for the services of a

private security guard is between Q4,000.00 and Q6,000.00, depending of the prestige of the company that is hired, which means utilities of, according to each case, from 100 to 200% per each agent in serving.

One more trait of the precarious labor conditions of private security business workers is its lack of labor stability, a circumstance that prevents them from setting personal and family development goals for themselves on a short, medium and long term, such as their and their children's education, buying a house, their own daily food and any other acquisition that implies a permanent responsibility, since, having no stability can not turn them into subjects to credit. In this sense, the analysis of the denounce sample we have refered to reflected that 52% of labor relationships ended by direct dismissal and the average of time they lasted was one year and nine months; 26% lasted less than six months in their positions and only 6% lasted more than five years.

Regarding respect to union freedom, private security businesses constitute one of the most repressive sectors in Guatemala's economy. The internal discipline to which the workers are submitted, which has more resemblance to military quarters than to a work center, carries them away from calling out on their rights through union organization and often, makes them part of repressive actions against other organization attempts. An example of this is the attack that the SITRAPETEN companions suffered when they were badly beaten with pipes and shotguns by their fellow workers the private security agents during a peaceful manifestation before the company's facilities; and another one was the use of private security in strong eviction operations implemented by private actors and by the State itself, whose victims are the workers of the agro; on May 21st 2011, in the community of Agua Caliente, for example, thirty security guards from the private company of a sugar farm took part on a violent eviction using fire arms against unarmed agricultural workers.

Likewise, their business model implies the rendering of more and more integral services, that do not limit themselves to surveillance, transportation and watching over goods, but they have extended to recruiting and investigating personnel, which involves the making up and

application of the so called discrimination lists that prevent hiring unionists or workers that have sued their employers. Many of these companies, like Wackenhut Guatemala S.A., Grupo Golán and Vigilancia y Protección Delta S.A., among other ones, offer polygraph services that can be illegally and forcefully applied to workers of any sector when they want to be forced into resignation or before they are hired, to insure that the company will not hire any worker that has been unionized or has ever sued an employer.

Historically, private security businesses have also been the ones that, as part of their offer, have elaborated anti-union strategies like the “Sacapa Plan” (Wackenhut de Guatemala) and the “Ostrich Plan” (Grupo Golán).

On the other hand, private security in Guatemala is one of many financial sectors that has no union membership. The registries of the Labor and Social Prevention Ministry inform that in fifty four years, the only private security workers’ union that has been inscribed is the Union of Workers of Golan Company, S.A., which obtained its juridical personality in the year 2002 and was disassembled almost instantly when the 29 workers that took part in its constitution were fired.

All these exploitation, serfdom and repression conditions are possible basically due to the concerted action between the business sector and the State of Guatemala. On one hand, the General Direction of Private Security Services, that depends upon the Ministry of the Interior shows an evident

lack of efficiency when it comes to verifying compliance with obligations imposed by Decree 52-2010 of the Republic’s Congress to private security companies, such as demanding basic education for a position that requires using a fire arm, acquiring life insurance for their workers, giving adequate technical training to their agents and making them grant all labor benefits guaranteed in the Constitution and other laws of labor nature.

On the other hand, the General Labor Inspection does not comply with its monitoring duties in guaranteeing dignified labor conditions for these workers, and instrumentalizes its conciliatory role, as it does with the workers of other sectors, to guarantee that workers will give up their non-renounceable labor rights to benefit security companies. According to the analyzed sample which is the basis for this article, all the money that the denouncing workers earned was equivalent to 26% of the total that they demanded and of what legally corresponded to them.

Analyzed statistics also confirm this agreement between the State of Guatemala and the business sector. According to data from the General Labor Inspection, in Guatemala city, during the period between the years 2005 and 2010, 1,951 denunces were presented against private security companies, of which only 155 managed to obtain a conciliatory agreement.

Another important piece of information about this systematic culture of private security

### PRIVATE SECURITY COMPANIES WITH THE HIGHEST NUMBER OF DENOUNCEMENTS IN THE GENERAL LABOR INSPECTION (PERIOD 2005-2010)

#	COMPANY	DENOUNCEMENTS	CONCILIATED	NO CONCILIATED
1	CONDOR, SOCIEDAD ANONIMA	265	0	265
2	AGENCIA DE SEGURIDAD ISRAELI, SOCIEDAD ANONIMA	121	3	118
3	V.I.P. SECURITY, SOCIEDAD ANONIMA	110	0	110
4	GRUPO ESCORPION S.A.	103	59	44
5	ALARMAS DE GUATEMALA, SOCIEDAD ANONIMA	96	0	96
7	CUERPO PROFESIONAL DE SEGURIDAD, SOCIEDAD ANONIMA	96	1	95
8	SISTEMAS INTEGRALES DE SEGURIDAD, SOCIEDAD ANONIMA	92	3	89
9	GRUPO GALIL S.A.	47	10	37
10	SEGURIDAD Y VIGILANCIA EL EBANO SOCIEDAD ANONIMA	47	1	46
11	WACKENHUT DE GUATEMALA, SOCIEDAD ANONIMA	43	0	43

Source: Official statistics of the Ministry of labour Denuncements on the General Labour Inspection (period 2005 to 2010)

entrepreneurs violating the workers' rights is that between the years 2005 and 2010, 105 out of 150 companies registered up to February 2011 in the Ministry of Interior were denounced in the Public Ministry. In other words, 70% of legally authorized companies have been denounced before the General Labor Inspection for violating labor rights.

Another worrying aspect is that sectors like the textile industry and private security are acting with total impunity in the labor relationships field, with the approval and complicity of the State of Guatemala, despite the fact that, as a common element, they share a specific legislation that makes them subject to complying with labor laws

under threat of suffering specific sanctions or having some of their privileges withdrawn.

As it usually happens in Guatemala's labor relationships, the levels of precariousness in labor are directly related with the vulnerability of workers due to a lack of union organizations that will see to the compliance with their rights and to the improvement of their social and economic conditions. In this sense, it is vital to promote the union organization of private security company workers as a must, and the State of Guatemala is obliged to it as the national legislation and the international agreements establish.

## THE LITTLE BOSS

# Anti-Union Policies in a Concrete Case: THE PUBLIC MINISTRY



*Claudia Paz y Paz Bailey  
General Attorney and Chief of  
the Public Ministry*

**A** few days ago, General Attorney and Chief of the Public Ministry, Claudia Paz y Paz Bailey, violating union freedom, agreement 410 of the Board of the Guatemalan Institute of Social Security –IGSS- and going against what the Committee for Union Freedom asked of the State of Guatemala, fired without expressing cause companion JAVIER ADOLFO DE LEON SALAZAR, Secretary General of the Union of Workers of the Direction of Criminalistics Research of the Public Ministry -SITRADICMP for its initials in Spanish- and member of the Political council of the Union, Indigenous and Peasant Movement of Guatemala -MSICG-.

This firing es the crown of a mainly anti-union politics by the state of Guatemala, executed through the Public Ministry against an autonomous union that has been persecuted since its very origins, a

persecution that has been worsened by the current Attorney General. Along the way, the Attorney has pretended to justify this unjustifiable violation of a human right like union freedom under argumentations as preposterous as those expressed by her representative, Javier Monterroso (who is currently a candidate to Congress for URNG) according to which De León was part of a small group of “cleansable people” and that had no more than 14 members, reason for which the General Attorney was subpoenaed by SITRADICMP and MSICG to prove such statements, bearing in mind that there are registered union listings. As was expected, to this day there has been no answer from the Public Ministry. In similar manner, also in an attempt to destroy the union she has used arguments such as attribute to the SITRADICMP members the quality of former members of the Presidential Staff.

These traits of doing things the wrong way and justifying a bad performance by using arguments that have no more to them than their own rhetoric seem to be a bias that generates more similitudes than differences in sectors that, in other times, the now General attorney questioned, and puts her in a main site among human rights violators, with the aggravating circumstance that in other times she claimed to defend them.

In the case of SITRADICMP, the existence of an anti-union institutionalized politics, a lack of political will and an animus to surprise are manifest, very much the same way than the ones derived from the granting of a special paragraph to the State of Guatemala for violating ILO’s agreement 87, done by the Commission of Norm Applications from the 100th International Labor Conference.

On March 29th 2007 the workers started to form the Union of Workers of the Direction of Criminalistics Research of the Public Ministry -SITRADICMP-, which was inscribed on May 24th 2007.

On July 6th 2007, SITRADICMP’s Executive Committee and Consulting Council was inscribed, whose members would last for two years in their offices from the date of the inscription in the due registry and who, according to article 22 of the Collective Labor Conditions Agreement, valid in a general manner in the Public Ministry, applicable to workers in all that would favor them according

to the norms by article 50, literal b) of the Labor Code, have labor immobility, which entails, according to the same article, the impossibility of variation of labor conditions without the consent of the worker, which includes the place in which the work is undertaken.

On July 9th 2007, through offices headed personally to the members of the Union’s Provisional Executive Committee, among them companion JAVIER ADOLFO DE LEON SALAZAR, they were informed that according to Agreement Number 03762-2007, their work places were moved to very distant areas, where they should go the next day at eight in the morning. It must be stated that this communication was not shown to them, a copy was not handed out to them and this information was given to them in the afternoon of July 9th 2007, in order to prevent them from using the impugnation mechanisms provided by the Organic Law of the Public Ministry, on the other hand, there was no fair amount of time provided for this transfer, and also the order did not comply with the obligation established by article 33 of the Labor Code.

On July 10th 2007, over the basis of articles 5 and 12 of the Political Constitution of the Republic of Guatemala and 72 of the Organic Law of the Public Ministry, an appeal was pledged against the Agreement ordering the transfer.

On July 17th 2007 the resolution of the Public Ministry’s Council, denying to know of the appeal, is notified.

After using this internal procedure, a legal action known as Appeal for Legal Protection number 2369-2007 was presented before the Seventh Labor and Social Prevision Court, constituted in constitutional court of appeal for legal protection, which granted the provisional appeal on July 20th, 2007.

On July 23rd 2007, through the Agreement Number 0411-2007, dated July 23rd 2007, issued by the Attorney General and Chief of the Public Ministry, the transfer order was rendered void and modified the disposition contained in this sense by Agreement 0376-2007 of the Republic’s Attorney General and chief of the Public Ministry.

Through the resolution dated August 24th 2007 issued by the Court of Constitutionality within the

File 2184-2007 the provisional appeal for legal protection was confirmed.

With a provisional valid appeal and after rendering the transfer order void, the Public Ministry went ahead with the execution of juridical effects of Agreement 0376-2007 of the Republic's Attorney General and Chief of the Public Ministry, starting an ordinary labor trial asking for permission to sanction the union leaders by firing them for noncompliance with the aforementioned agreement.

On November 24th 2008, within appeal for legal protection number 25-2007, the Second Court of Appeals for Labor and Social Prevision, constituted as Constitutional Appeal Tribunal, granted the definitive appeal that was requested.

In resolution of date April 29th 2009, the Court of Constitutionality, within Accumulated Files 234-2009 and 242-2009, revoked the granted appeal, consequently, it wasn't until this resolution was notified that the provisional suspension of the juridical effects of Agreement 0376-2007 of the Republic's Attorney General and Chief of the Public Ministry ceased, so only from that date it was juridically valid to take actions to apply its juridical effects, suspended from July 20th 2007 to April 29th 2009.

So, the demand that started the ordinary labor trial against the union leaders was promoted in violation of what a constitutional tribunal had ordered, suspending the juridical effects of Agreement 0376-2007 of the Republic's Attorney General and Chief of the Public Ministry.

Despite such conditions, after an audience where all the time the court denied a copy of the act and where the Public Ministry's advisor expressed several anti union statements, the Second Hall of the Appeal Court for Labor and Social Prevision revoked the first grade sentence, which was in agreement with the law, which has made it necessary to recur to an AMPARO within the file known by the Supreme Court of Justice under number 909-2011.

Even if the Supreme Court of Justice resolved adjusting to law and revoking the second grade sentence, it should be taken into account that currently one of the Magistrates of the Court of Constitutionality is a lawyer that was before the

head of the Public Ministry's Personnel Department, under whose orders these processes against union leaders were started, contravening the constitutional resolution that suspended the effects of the agreement that ordered the transfers, and that was later rendered void by the then Attorney General and chief of the Public Ministry.

The ineffectiveness of the Guatemalan justice system, signaled with precision by the government of the United States of America in the case against Guatemala in the frame of the CAFTA, can be proved once more, ratifying the inexistence of conditions in the country to exercise union freedom.

The anti-union animus and the disrespect towards labor laws, both national and international, on behalf of the Attorney General was ratified on July 15th 2011, when companion Javier Adolfo de León Salazar, Secretary General of SITRADICMP and member of the Political Council of MSICG was fired without invoking a cause and while he was suspended by the Guatemalan Institute of Social Security -IGSS- even when Agreement 410 of the Board of IGSS explicitly forbids dismissal under these circumstances.

Even though an appeal has been addressed to the Council of the Public Ministry, this body has regularly lacked the necessary independence to comply with the attributions assigned to it by the Collective Agreement of labor conditions which is still valid in the institution.

Questioned by WACHB'IL, companion Javier Adolfo De León Salazar stated:

**“WACHB'IL:** Do you think that SITRADICMP is being subject of anti-union persecution?

**Javier:** Well, I think some things are evident, like the fact that only three days after the union was inscribed all of their leaders were transferred to places of high risk. More than 20 affiliates were fired, and processes to destitute us were started, contravening a judicial resolution granting us an appeal for legal protection against this anti-union action and that during the term of current Attorney General, Claudia Paz y Paz, the two directives were transferred again, especially the transfer against me as Secretary General of SITRADICMP more than 500 Km away from where I've worked for more

than 11 years, with which the union was meant to be left headless and its actions neutralized. To this we must add that processes to fire union leaders continue. I was recently notified of the illegal dismissal that the Attorney General was planning against me, which was notified to me in my home, in an act of labor harassment and disrespect to my family, without taking into account the fact that I was suspended by IGSS.

**WACHB'IL:** What do you think is the reason for the persecution against SITRADICMP and against you as a member of the union leadership?

**JAVIER:** SITRADICMP was born as a union with a different model; or better put, trying to start doing again what unions should do and make a difference with the institutions general union. There was a struggle for the institution to respect the labor and union rights, among them the right to health and labor security of all workers of the Direction of Criminalistics Investigations of the Public Ministry.

When the union starts, companions slept in the same rooms where they dried up evidence (clothing pieces and other elements), contaminated with bodily fluids, many times already decomposed, a situation that put at risk not only the pureness of evidence but also the health of the companions. Seeing this, we stated our discontentment for the health risk that this represented, as well as our preoccupation for the contamination of the evidence itself, due to the risk of evidence traces transference from different crime scenes, which gravely affected the investigation and laboratory analysis; we also ate in the same places, there were no beds and we slept in mats, and when there were not enough of these, over pieces of cardboard. This situation improved thanks to the pressure made by the union.

We have also questioned the imposition of labor modes comparable to forced labor, the DENIGRANTE way some officers treat companions...And that struggle, which we undertook together with the need to improve the efficiency of the directions functions, which up to this day have been nonnegotiable, have caused SITRADICMP to be uncomfortable for many people and naturally we have been attacked; at first, with the intention of destroying the union and its credibility, all of its leaders we were offered raises, which we did not accept unanimously, clearly stating then our position and commitment to do a

kind of unionism different to that which has been going on at MP during the last years, and that has meant giving up some vital guarantees in the negotiation of the Labor Conditions Collective Agreement on behalf of the general Union, among many other things.

More recently, SITRADICMP has denounced and supported denounces for violating human rights by the then Director of DICRI, Mynor Alberto Melgar Valenzuela, same denounces that motivated the Union, Indigenous and Peasant Movement of Guatemala -MSICG-, to support us, issuing a veto before the nomination commission to pick the new Attorney General and Chief of the Public Ministry, possibly being the reason why the nomination Commission withdrew his file from the eligible candidates to Attorney General, it must be added that he is one of the candidates that was withdrawn for being involved in processes related to human rights violations. The fact that the Attorney General named him Secretary General, that is, the person who will substitute her if she's absent, has not only been regrettable, but it also evades and defies the process of the nomination Commission.

Currently, I am a member of MSICG Political Council and as such, I have taken part in actions against some of the measures taken by the government which violate workers' rights. Casually, this new wave of repression happens a few days after an unconstitutionality action against reforms introduced to IGSS's handicap, old age and survival plan and against the discriminatory minimum wage fixed for maquilas and export activities, in which I appear as one of the plaintiffs.

So, I believe that the attacks that we are suffering, and which have intensified in my personal case, is a result of the anti-union politics that we have denounced several times and will continue doing, there is an attempt to coopt the leaderships and when this happens, regretfully, they are attacked. You are free to exert your union freedom, as long as you really don't exert it or try to do so.

**WACHB'IL:** Beyond this union conflict, have you seen any changes with the new attorney?

Not in general terms, I see what I've always seen in the Public Ministry, the Attorney General changes and the new one wants to bring his or her people. With the current Attorney it is worse, because she

is substituting people with an experience that should be taken advantage of, because they have many years on their positions, and the newcomers don't, and to do a good job they will have to go through a learning process which is long and which generates a cost to the State and to society, a high cost. As citizens, we need to trust the empire of the law and it is regrettable that the entity in charge of making sure that the law is not violated turns out to be the main violator of the country's laws.

We as a union are concerned with the position of certain sectors, flocked around civil associations where the current Attorney comes from, who are now in charge of selling an image of a change that is not existent and that damages the very Public Ministry because we really need questioning and constructive critique to correct our deficiencies, not complacency and illusion building, whether it be by affinity, by personal friendship or simply because they have put their cadres inside the MP structure.

And when I say that change is unreal I say so simply because we are following the same tendency; a justice system without a total respect for human rights is unthinkable, just like democracy or civilization itself is unthinkable without such lack of respect, and this lack of respect is shown internally, the Attorney seems to have forgotten that union freedom is also a human right and that, out of respect, if she really wants a change, she should listen to the problems that burden the more than 3,000 workers of the Public Ministry, so they become more efficient.

And respecting union freedom does not mean negotiating with the compliant union and closing the doors to the union organizations that exert criticism and that have been formed and that she cannot claim that she can't listen to them because they're a minority, because this union organizations are guiled, like the case of SITRADICMP and the union now in the forming, STRASEGMP, in which the Public Ministry's security guards are organized to minimize abuse from management and lack of will from the Attorney General Claudia Paz y Paz to listen to what's going on with her staff. The workers are not merchandise or pawns, there is a dignity and there are rights that must be respected. And it's as simple as listening to most security guards; they haven't had vacations for more than five years, contravening

the country's labor laws.

It is indignant that the current Attorney, as a way to minimize the wearing out of her image before the international community, only limits herself to saying that she is in a corruption cleansing process (although in all the cases she points out there are accusations but no sentences), people prefers to accept the violation of their labor and human rights rather than being subject to CALUMNIAS, which will have a very high cost for the person, because in the administration procedures, the even invent the reasons to fire workers that at some point have spoken disagreeing with the abuses of the current administration.

### WACHB'IL

The case of SITRADICMP is, undoubtedly, a paradigmatic case where antiunion politics and impunity are manifested in all their magnitude and the human rights are only a speech, without any supportive practices inside the institution, where these are constantly violated on behalf of a vision that denaturalizes justice and conceives it exclusively as a repressive value, not heeding the fact that the main principle to reach it is respect to human dignity and the rights through which the laws recognize it.





## SEMBLANCES

# Interview with Maria Olimpia Cruz López



*“My mother, mi grandmother, all the mother and grandmothers of my friends in town and of my relatives, and all my friends and me have been workers at private households although our employers, with scorn, call us servants, “choleras”, maids and generally all of us are named as “Marías”.*

*All of us started working between 5 and 10 years of age and we get along, when one of us gets sick we try to put money together to take her to the health center or the hospital, when one of us dies, well it’s hard because we can seldom buy a coffin but we find ways to do it, collecting the money among ourselves or even going door to door asking people.”*

**M**aría Olimpia Cruz López is a Guatemalan woman, born in the village of San Cristobal el Ahumado, in the municipality of Chiquimulilla of the department, of Santa Rosa. At 7n years of age she was forced to migrate to several places in the country do the the extreme poverty conditions of her family, to work in private households, a labor sector where she still works.

Olimpia is the Secretary General of the Trade Union of Private Household Workers -SITRACAPGUA, for its initials in Spanish-, (the only organization of this sector that is articulated in trade union form in Guatemala, and which is exclusive for women), that is affiliated to the unitary Federation of Guatemalan workers -CUT-Guatemala for its initials in Spanish- and to the Indigenous Unionist and Peasant Movement of Guatemala -MSICG for its initials in Spanish.

In this interview, Olimpia takes us with her into the exclusion and over exploitation conditions to which more than 172,000 workers of particular households are subject in Guatemala and shares with us the importance oc the approval of agreement 189 and Recommendation 201 in ILO’s 100th Conference, which took place in June 2011, as well as the plans and projections of the union she represents in order to improve life conditions of private household workers in Guatemala and their families.

**When and why did you start working in private households?**

I started working when I was 7 years old, because we were 8 siblings at home, I'm the fifth sister, my mother also worked in households and my dad was a farmer at a finca. Although they both worked hard more than 17 hours a day and barely got any sleep, they couldn't feed all of us, least of all send us to school, so we all had to work since we were small, my other sisters also worked in households.

I remember that my first job was babysitting, when I was 7 years old, I also did household duties such as washing, ironing, sweeping, mopping and the likes.

As I started working in different homes, wherever I went I had to take care of their children, whether they were older or younger than me, one day my back was hurting and I had a lot of fever, While I was doing laundry I saw the children that I was taking care of playing and I wondered how come I couldn't play, go to school, eat meat even once every few months or every day like the children I was taking care of. I remember that when they threw away great amounts of food and meat, sometimes I didn't throw it away, I ate it secretly, always thinking that I wished instead of throwing it away that I could give it to my mother or siblings.

Thank God they never caught me eating the food because they could've put me in jail or fired me, that almost happened to a friend recently, she's a fifteen year old girl and she told me that her employer threw away a make-up kit that she didn't use and that she wanted to paint herself but her employer found out and she wanted to kick her out because she shouldn't take what they threw away.

**How many private household workers are there in Guatemala?**

We are approximately 172,200 workers, of whom 168,500 are women and 3,700 are men, that is, more than 97% are women.

The fact that most private household workers in Guatemala are women is related to the discrimination that is a trademark of Guatemala's labor market in which,

Regarding the statistics that concern the number of indigenous people working in private households, we believe that they are much more, trouble is that when the poll is done, it's the worker the one that has to say it they are indigenous or not and many times, although they are, they deny it due to all the discrimination we have in Guate.

**Could you describe to us the life and labor conditions of private**

- According to official statistics produced by the National Statistics Institute -INE for its initials in Spanish- contained in the ENCOVI 2000, 2006 and in the ENS 1989, the total of workers of private households in Guatemala for the year 2006 was of 173,265, of which 169,610 were women and 3,655 were men.
- According to an estimate of the Guatemalan Social Security Institute -IGSS for its initials in Spanish- published in January 2011, for this year in Guatemala there are around 183,000 private household workers.
- According to the abstract presented by INE on the results of the National Employment and Income Poll for 2010 (ENEI 2010 for its initials in Spanish) to this date, average schooling in Guatemala was of 5.59 years, with a strong difference between the urban metropolitan area, in which the average are 8.35 years, the rest of the metropolitan area, in which they are 6.36 years, and the rural areas in which it barely is 3.84 years.

the more precarious labor conditions are in an area, the more women work in it.

On the other hand, 42% of the workers are young women between 10 and 17 years of age. Out of 172,000 workers, 28.22% are indigenous and more than 35% come from the rural area. Most of us can't read or write, never went to school, least of all to a health center or a hospital. But I want to make it clear that now that we are discussing this situation in the union and also within our union central, we have realized that this is not rare, it obviously has to do, as our union central companions told us, with the unequity and uneven distribution of richness in the country and that is what must be changed and what we must fight for.

**house hold workers in Guatemala?**

Well, I don't even know where to start answering this question, we have so many problems, all of them grave, that I don't even know how to list them. I think the gravest thing is that most private household workers in Guatemala start working when we are very small, so we don't have the chance to study or anything, not even to be girls, because from then on we are marked for life. We never play, we never laugh, we don't cry either because at the end of the day we are so exhausted that we have to choose between crying or sleeping even a little bit to be able to start over the next day. Being working children for need also implies that since we were born we didn't have enough to eat, we couldn't drink milk or eat chicken, meat, fish, among other necessary

foods, so from then on our capabilities of having an integral development as people are affected.

A work mate once told me that her employer hit her with a belt when she was 9 years old because she hadn't helped his children with their homework. She didn't say anything but she thought, how am I going to help them if I can't read or write?

In MSICG we are propelling the Guatemala chapter of the world campaign for decent jobs, called upon by the International Union Federation -CSI for its initials in Spanish- and by the American Workers' Union Federation -CSA for its initials in Spanish- and we have designed, within it a strategy and actions aimed to divulge the lack of decent jobs for private households in Guatemala and thus have incidence in improving these conditions. One of this activities is the promotion of the ratification of ILO's Agreement 189 and Recommendation 201.

We are also researching and discussing, through workshops, some key aspects of decent labor, such as wage, and we have determined thanks to polls among our affiliates, that the average wage of private household workers in Guatemala is of Q450.00 (USD 57.92) in the rural areas up to a maximum of Q600.00 (USD77.22) a month, and in urban areas,

especially in the capital city, the lowest wage is of Q700.00 (USD 90.09) and the highest one is of Q1,200.00 (USD154.44) a month.

What we have presented here shows that what the workers of the sector get is not a wage corresponding to a decent job. What surprises us even more is that there are union organizations and NGOs in Guatemala that are now promoting a specific minimum wage for private household workers, arguing that we must earn less than what is currently established in the law, which isn't even complied with and is by far not enough to cover the cost of the basic food basket, or also, the promotion of legal reforms to the labor code to make our jobs even more precarious.

To conclude with this wage issue I want to say that even though the law makes acknowledgement of our right to receive a Christmas extra payment, a 14th bonus and the Q250.00 bonus order by Portillo's government, in reality these benefits are rarely paid, as happens with compensation per labored time in case of unjustified dismissal.

Another important right is the one related to the labor kays, weekly breaks and holidays. Due to the discrimination and over exploitation that we are subject of and that is included in the very law, private household workers in Guatemala

must work for 16 hours a day, two of them being used for eating, this labor days often are extended for longer periods because the employer gets back home early in the morning and the worker must open the dor for him and tend to him, if there's a party the guests must be taken care of, if someone gets sick that person must be also taken care of and it is the worker who is in charge of all this and more, at high hours in the night, and the problem is that all this is included in the very law that says that we are not subject to the regular work days or to the limitations to these.

I would also like to talk about food consumption; most workers must eat while standing up, next to the concrete washing basins or in the kitchen because we are not allowed to eat while sitting, least of all in the dining room, we even have to eat in separate plates.

Regarding weekly breaks and holidays established by the law, according to the very legislation we are not entitled to these. In this matter, according to the law, we only have a right to a 6 hour break on Sundays and holidays, which can be fractioned as the employer wants. Aside from the discrimination that this law contains, many private household workers in areas outside the capital city barely have 3 hours to rest on Sundays, in the capital, even though most employers grant

99.1% of Guatemala's private household workers do not earn a wage according to the cost of the basic food basket -CBA for its initials in Spanish- which, according to INE includes only consumption of 26 raw food supplies, at a cost which up to March 2011 was of Q2,224.80 (USD 2,862.90) a month, which is equal to Q74.16 (UDS 9.54) a day.

100% of the sector's workers do not earn a wage according to the cost of the basic market basket -CBV for its initials in Spanish- which includes minimum food supplies, basic services of water, electricity, transportation, food, etc. Up to march 2011, the Cost of the CBV was fixed on Q4,059.85 (USD 522.50) a month, equal to Q135.33 (USD 17.42) a day.

98% do not earn the minimum wage fixed legally which, for the year 2011 for this sector which within the law is considered as non agricultural, is of Q2,187.54 (USD 281.53) a month, an amount that is not even enough to cover the cost of the basic food basket, much less of the basic market basket.

## BIO

■ Olimpia Cruz is a struggling woman with a long history defending the rights of private household workers in Guatemala. Since the year 1994 she started training in the Center for Private Household Workers of Guatemala -CENTRACAP for its initials in Spanish- to exercise the defense of her and her companions' rights. There, she got more and more motivated and every day she learned more about the struggle of pioneers in the defense of private Household workers, like Chilean Eugenia Arangui and Guatemalan Gloria González.

This urge for justice led her to start studying when she was 19 years old. At this age, her main illusion was learning how to read and write. She's studied as far as ninth grade, she's learned some computing. Since she had to support her siblings and mother she had to quit her studies but she wishes to go on, to finish her high school through the per maturity system and in her own words, "get in the University, I want to be a lawyer to better defend my companions".

■ In 2006 she helped assembling and was a member of the national board of the Association for the Rights of Private Household Workers, single mothers, rural women -ASOCASA for its initials in Spanish-, an NGO of which she is still a part.

■ She is Secretary General of SITRACAPGUA and works in coordination with CENTRACAP, ASOCASA and several other organizations in search for decent job conditions for Guatemala's private household workers.

■ She's propelling and developed workshops, forums, national and regional encounters to inform of the rights of private household workers in Guatemala, she has made diagnosis of the life and labor conditions of her sector.

■ She's made public and denounced violations to the rights of private household workers, both at a national and international level before several international human rights instances, and in several countries of the world like Brazil, Mexico, the United States, Nicaragua, Paraguay and others.

■ She's taken part in the making and promotion of several proposals to reform the Labor Code and initiatives of specific labor laws for private household workers.

■ She's taken active part in the discussion and making of the contents of the Agreement and Recommendation on decent labor for domestic workers, together with CONLACTRAHO among other sister organizations.

the full Sunday, or Sunday afternoon, in reality they deny this right because they tell the workers that they shouldn't go out because something could happen to them.

Regarding vacations, even though the law grants us the right to them, in rare cases we get them.

Another very important right for us is social security. Before the PRECAPI was set, only 0.5% of the workers had any social security. I

want to explain that this is so because, according to the Constitution, the employer must inscribe his or her workers at IGSS.

I would like to talk about the case of a companion from Quetzaltenango, who works in a house here in the capital city, at her work they allowed her to live with her daughter that was still a toddler; one day, the woman was sent on an errand but did not let her take her little girl with her; when she came back, the girl

had had an accident, she had pinched her eye with a wire that was sticking out of the bed where they both slept. Right away her employers fired her, didn't even pay her her labor benefits and her daughter lost her eye.

On the other side, we do not enjoy the right of having children, and if we get pregnant we are immediately fired, and if we already have children or are pregnant it's difficult to find work and in case we do, we don't get our pre and post birth or lactation periods.

Even though there are many things about which we don't talk about for many reasons, now at the union we have been talking about them and I want to briefly mention them.

When a worker gets to know her rights starts learning about her rights and demanding them, she is immediately fired without paying her wage or benefits, and if they denounce this before the labor authorities, the employers accuse them of robbery or some other crime and kick them out late at night, exposing them to all kinds of dangers, especially those companions that come from distant villages and have no acquaintances or a way to contact their families.

Also, in many cases the companions are sexually abused, harassed and even impregnated as a result of all these abuses, and then they are kicked out, totally fooled. Personally, I have suffered sexual abuses harassment many times.

Many times they also beat us and treat us like animals, inflicting all sorts of psychological violence, a situation that is worse in the case of the companions that live in the rural areas of the country, since they often can't read or write, or don't speak Spanish, which makes

communication with their families impossible, they don't know the city, they can't move on their own to run away or anything.

For all these reasons we have organized our own union because we cannot be silent anymore. We must defend ourselves. Besides, we're a very important sector of the country's economy, the country has even more private household workers than maquila workers or private security agents. We are now receiving training at MSICG, discussing our problems, looking for ways to publicize them, that's why I am grateful for this interview.

**Was it easy for you to unionize?**

Well no, it hasn't been easy. At first, we didn't want to unionize because we had really bad experiences, on many occasions we even approached several union centrals so they would help us form our union, but no one paid any attention to us, maybe because we're women and we couldn't pay the price they asked us to make our union and its statutes.

Also, trade unions are not well looked upon because sometimes we want them to defend the workers' rights, and what happens is that they reduce or try to reduce them on the very unions' initiative, this is happening now, when the Guatemalan Workers' Union -UGT for its Spanish initials- is trying, among other things, to reform the Labor Code to partialize our work day, this has a very negative impact for our sector and for maquila workers, especially because this would eliminate all lawful benefits that are calculated upon the basis of full work days, because it would make social security even less accessible for us and would make us subject to real work days that would be longer than the already

strenuous ones that we now have, and we would all earn even less than what we earn now, among other graver consequences.

Likewise, UGT is struggling to fix us a minimum wage that would be inferior to the ones that legally corresponds to us now as non agricultural sector workers, despite the fact that current minimum wage isn't even enough to cover the cost of the basic food basket, that is, what we need to buy the twenty six raw food supplies that it contains. But that also happens to all the workers, because it was the very representatives of this organization the ones that imposed on us the raise to the social security fees for retirement, who raised the retirement age and all those things that affect us as workers.

Finally, we evaluated the situation and saw that there was a different option, a movement that is truly defending the working class and the working class only, that is independent from the government and is in no deals with business men. This is how we approached the Union, Indigenous and Peasant Movement of Guatemala -MSICG-, because even before, they had supported us in order to stop these reforms to the labor code that we have mentioned, which gravely damage us, and thanks to their aid we managed to stop them, they did not charge us anything for that and they have supported us, although the government is setting all sorts of obstacles for us to process our request, but we will not stop until everything is working well.

In the end, unionizing us was the best thing we could do, because a union is not as personal as an NGO, thus allowing us to take democratic decisions, to create a true social force over the basis of transparency and of a mass movement.

**Has PRECAPI contributed to improve the situation of social safety coverage for private household workers in Guatemala?**

Since this saw the light, we have made statements in the sense that this was just mockery towards our sector's workers, through which we were used to pretend that there was improvement in our coverage, which never happened. I'm saying this because the program only pretends



*The companion, Olimpia Cruz, giving a training workshop in year 2009*

to give limited coverage to those aspects that are related to maternity, with child control up to five years of age and accidents, therefore not covering important issues like old age, SOBREVIVENCIA, handicaps, common diseases, among other rights to which the rest of workers are entitled, so from the very beginning we stated that this was discriminatory

On the other side, for a worker to be inscribed, she needs to present a letter signed by her employer, an electricity bill from the house where she works, photocopy of the employers ID and other requirements demanded by IGSS which make it impossible to get.

I wonder, if 98% of the sector's employers do not pay the minimum wage established by law, will they comply with a regulation of an agreement that also regulates that it should be voluntary and force them to pay Q40.00 a month? This violates the principle of mandatory social security granted by article 100 of the Constitution.

In the line of this denounce that I'm making here before you regarding us being mocked at with this PRECAPI thing, I want to set the record straight as it is: How can it be that we now pay IGSS Q20.00 a month when the service we will receive is the same given to us by any other public hospital in the country?

For our rights to be mocked at like this, even alleged representatives of the workers, from union centrals, played a role, that is why we want to make a different kind of unionism, like the one done by MSICG, of which we now are a part of. A trade unionism that truly responds to the interests of workers.

**If ILO's Agreement 189 on decent labor for domestic workers and Recommendation 201, how would this affect or benefit the sector's workers in Guatemala?**

This Agreement and Recommendation, approved in the frame of ILO's 100th international labor conference is very important for us, that is why we are propelling it as MSICG in the frame of the chapter Guatemala of the world journeys for decent labor called upon by CSI and CSA.

Before moving along, I would like to acknowledge all the struggle that our sister unionists around the world have done to make this Agreement come to life, especially the work done by the Latin American and Caribbean Federation

of Home Workers, -CONLACTRAHO for its Spanish initials- from which we accompanied actions regarding these two instruments for several years now, its approval in ILO's 100th Conference is doubtlessly a show of force of the international unionist movement.

I think the agreement has no negative repercussions, on the contrary, should it be approved, ratified and applied, it would give us benefits like the recognition of an eight hour work day when it's daily work and a maximum of 44 hours a week; six hours a day if it's a night job adding to a maximum of thirty six hours a week and a work day of no more than seven hours a day if it's a mixed job, which will not exceed forty two hours a week; the payment of extraordinary work days; the effective granting of weekly breaks and holidays in equal

conditions to all other workers; enjoying the right to compensation like any other worker, a right to a collective negotiation, in which the State would be obliged to take part with the sectors' representative unions, both of workers and of employers and a full warranty of the right to free union; it would warranty us access to education and opportunities to have access to a higher education or professional training, which should not be affected by our work; the State would be obliged to take measures to warranty a life that is free from all forms of abuse, harassment and violence for us, it should also guarantee physical, psychological, social and labor security of the thousands of private household workers that travel to other countries of Europe and to the United States to seed those decent jobs that do not exist in this country, and thus provide a dignified life for their families.

On the other hand, if the agreement is ratified, the lodging of the worker at her work center must be done through a previous arrangement with the employer, an that will not mean that she will be at his or her service during break time, if she works during her break time, this must be paid as an extraordinary work day, the abusive habit of many employers that fix the lodgings and feeding of the worker as a part of the salary must also be eliminated; w should enjoy maternity and social security like any other worker, our access to labor justice should be guaranteed and the General Labor Inspection must enter our work center as the Guatemalan laws order it, in order to monitor our labor conditions and the respect to our rights, among other benefits that this agreement and recommendation will bring to us.

As members of MSICG we have

### WHAT IS PRECAPI?

It is a special program for the protection of private household workers that seeks to grant minimum social service coverage to workers in this sector in Guatemala.

It was created through Agreement 1235 of the IGSS Board and approved through Government Agreement 236-2009 published on September 9th 2009 and is VIGENTE since September 10th 2009.

During its first year, PRECAPI's goal was to affiliate 10,968 private household workers, however, according to the IGSS report presented in January 2011, by September 2010 there were only 196 workers affiliated, and by March 2011, 227.

This means that currently in Guatemala, only 0.13% of private household workers enjoys a tricky social security that also costs them Q20.00 a month.





*The companion Olimpia Cruz  
Regional Seminar on  
Domestic Workers  
Brasilia, 2010*

already asked for its approval and ratification with the political action that we undertook on July 4th on the Labor and Social Prevision Ministry, together with our affiliates and of several media that have been solidary in our struggle.

**According to your perception, what are the main TAREAS that the union must undertake to improve the life and labor conditions of private household workers in Guatemala?**

First, we must work hard to prove that the union is the true instrument of struggle at the service of workers, we must make a different kind of unionism, we must make our membership grow immediately, this taking into account the bad image that prevails in the country due to union echelons and to the stigmatizing and repression directed against the union movement.

A part of this consists in trying to provide quick answers to the main demands of our affiliates and their families and to support our companions, whether they be unionized or not. Among these demands we are considering to drive as a priority the unionizing of each worker in the sector; promoting the ratification of ILO's Agreement 189 and the

implementation of ILO's Recommendation 201, thus contributing to eliminate from the laws and in the practice all types of discrimination against our sector's workers; also, we must promote collective negotiation to guarantee a true social security to all private household workers. We don't want to see our companions begging in the streets on their old age after having spent their whole lives as private household workers.

efficient work in decent conditions; besides, all of us must know how to read and write so we will not be abused; we must guarantee decent lodging for all the workers that are fired and kicked out of their work places late at night and that have no place to go, especially those that are kicked out at night with their small children; we must create immediate protection mechanisms for those workers that are victims of harassment, sexual abuses and any form of violence. We must strengthen the Union, Indigenous and Peasant Movement of Guatemala -MSICG- so it will continue to be the hope of a renewed democratic and independent unionism, among other no less important things.



COFFEE  
CABRAL  
STYLE

## Marlon García ...Painter

*Marlon García, Guatemalan painter and photographer, opens the doors of his house to us, to tell us about his work, his experiences and reflections on the relationship between art and social organizations, and between social organizations and art.*

**I**n everyone's life there is always a moment when the goals for the future are perfectly sketched, when one decides what one wants to be and do.,,In your case, how did you decide to turn into a painter?

I became a painter while doing other trades. My dad, who was one of the strongest influences I had, owns a press where I had my first contacts with graphics. Then I had a very normal childhood, elementary school, high school, all that stuff, but it was in high school when I started having a certain interest for all that was visual, like painting, photography, video. I even had a lot of interest in television. From there on I started taking my own decisions, the decisions that threw roots in my life. At first I don't believe I had all the confidence, when I was thirteen years old, as any teenager, I wasn't sure of what I wanted to be.

Over these years, the ability I have for figurative drawing and the photography knowledge I've accumulated over the years have opened the door for me to jobs that helped me define myself today as a scientific artist, that is, an artist that illustrates and researches realities through graphics.

I've worked with historians, archeologists, anthropologists, psychologists, psychologists, developing messages, but also of theories, or the development of scientific research within these branches, for which drawings and photographs are tools of analysis and, finally, to give knowledge a conclusion, that is, what did we manage to find. For all that, I now consider myself an artist with a scientific line.

**Besides painting, what other artistic branches have you tried?**

The strongest ones have always been visual arts, essentially painting and photography, which I have also used during music concerts of theatre sceneries, even on some in situ sceneries, that is, painting during the performance of other elements, while I perform myself, through painting.

**Your expositions have gone beyond the borders of Guatemala. In what other countries have you exposed your work?**

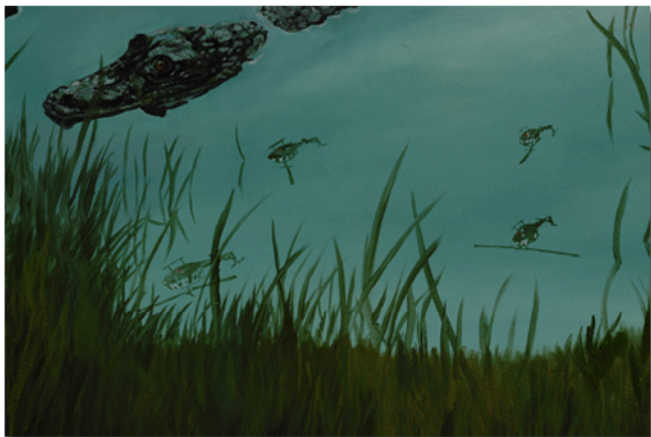


My paintings have been in some countries of Europe, as well as the United States, Mexico and Canada, however, I've only been able to travel with them to Mexico and Canada. In all other countries, it is the work alone that has gone there.

**Art has always been like a window to see history and as time goes by it has been witness of great changes and great vindication struggles. What do you think of art as a tool to transmit a social message?**

Art is a social message, trouble is, I can't promise you that all artists paint with a political or social option with which we will necessarily agree. Anarchist movements in the United States, as well as those that strive for free use of arms, xenophobic movements, all of them have their own artists which transmit these ways of thinking and that even would consider themselves as revolutionaries because they are against established order, they have set bombs, they have destroyed. The basic problem with art is that all politicians want it, all politicians would want that the best artists would play, paint or sing for them, in fact, it has been the great empires, the most powerful people, that have usually financed them. There are, of course, others whom they haven't been able to finance and for that reason there are voices that have been silenced because they have not had the support or the preference of something. An art historian, Ernst Gombrich, says that what we many times know as art is what artists were allowed to do to survive as means of subsistence or to avoid being killed for expressing what they thought or what they agreed on. All changes have gone through this and artists have taken part in all of them.

**Your last work on the massacre of Panzós reflects, beyond its own message, its own contents, the**



*"Los lagartos"*

**work of an artist with a lot of social commitment.**

I consider myself a scientific artist, since I uses art to generate knowledge and then to try to explain this knowledge. Although sometimes it may seem an intentional thing and may be a search for these issues, I have to tell you that it has also been the result of an investigation. I try not to partialize my work. The result that you see on my expositions is the result produced by research. I try not to bias myself towards a determined political speech, because I believe that science tries to give you exactly more lucidity about reality, about what's going on and of course there are moments in which the artist must be a critic. In the soviet regime there were some gags towards certain artists because they considered that art had to support a political speech. I consider that what I'm trying to support with my work is only the scientific discoveries that I've generated, and that other scientists have generated, that is, knowledge that is worth making public to be conscious of this historic reality that we have lived in Guatemala. I'm not trying to be in fashion with a political party or option, what I try is having an awaken conscience through science, trying to explain the world to myself...for example if, as they do with some historians, somebody comes to me and asks me to tell them a story about Guatemala, but a nice one, the only thing I could tell them is that I can show them the history of Guatemala, but not just a nice one, because Guatemala's history hasn't always been nice.

**And precisely, with your last exhibit, you told us a history of Guatemala that isn't precisely nice, a painful history as is the one of the massacre of Panzós, ¿What do you think was your main goal when you told us this?**

As I've been saying, visual arts have served me to understand reality. The way I work it, in visual arts there's a first moment in which I still don't know what the final result will be, but I'm not saying that I started painting yellow and it turned out green. What I'm saying is that the drawing helps you to make an abstract, to put the know things you learn in place, you add up one after the other and when the drawing is over you realize that all the elements are in one image in front of you...Several things that at first were dispersed and that you managed to paint. The first intention or goal of this exhibit was to try to put together all I could in visual terms to make the case of Panzos public. There was talk

through testimonies, through news from that time, of the reason for the massacre, that is, the owning of land, so I started grabbing a little map of the region, and I pointed in it the position of those towns where people that died in the massacre came from, according to their relatives testimonies. With a purely scientific drawing, I realized of the importance that the Exmibal mining company has in the region and that, the growth of its properties from the year 1965 to the year 2005, extended to the territories of the towns where people died. That is, the drawing helped me understand that, where there had been human rights violations, there came afterwards the business of a Canadian transnational company that did mining. So, the drawing was an exercise of gathering knowledge and then, obviously, there was the need to show it as something important for the conscience of Guatemalans. The exhibit's title was "The massacre of Panzós, 30 years later".

**Do you believe that in these 30 years, the conditions of the Guatemalan society have changed?**

Yes they have. Let's say there are tendencies that have been kept in place and others that haven't. There is still conflict with mining companies and violence is still viewed as a solution to the agrarian problem, however, we are talking about an interesting phenomenon of memory, because many people have forgotten about mining, some of them didn't even know, or never knew, that Canada was one of the countries involved. So today, when the lands affected by mining are growing, it seems that certain lights are starting to be lit, that the fears that people manifested on May 29th 1978 were those, but it's not the same anymore, and it

isn't because the massacre has already happened, the pain has happened, the qeqchis know this much better what the people of San Marcos is starting to live now. In mining companies the faces always change, but the operating ways never do, they operate together with crisis, political and social crisis. Since I was a kid I've heard how when Guatemala was at war there was no investment, and since today there's a lot of violence, also there is no investment, however, what my art made me know about Panzós tells me that, if during the repression and the war that happened here in Guatemala, between 1965 and 1982 Exmibal managed to get sixty million tons of nickel, thus making multi-million dollar business, that was because the territory were they were doing business was submerged in deep social crisis, there was a chain of human Rights violations and it was due to this crisis that they ended up doing great business. But for us it was never a good business and in these times of peace mining companies will not give us back our territories free of environmental impact, we keep seeing repression through the police, the army, private security companies...It's not happening in the same way that three decades ago, it's not the same modus operandi, it has evolved, they've perfected it, but unlike the times when the massacre of Panzós happened, today society knows a little more.

**Art always has a main space in all societies, besides, it always has a purpose. In the case of a society like the Guatemalan one, What do you believe is the place of art and what role does it play in our lives?**



"La memoria"



"Caminata nocturna en el Cementerio de Panzós"

Guatemala is one of the countries of Central America, or maybe of all of America, that has greater cultural patrimony. In spite of all the spoil it has suffered, besides natural resources it has a great cultural richness. Art is present in the life of Guatemalans and we are watching this in expressions of Guatemalan everyday life, rather than of what is a Guatemalan. When I say what is and is not the Guatemalan identity I mean, for example, the traditions of Easter and the great tradition of religious art in churches...People live their art very passionately. Now, not only this art that is passionately lived matches the new knowledge that the history of Guatemala tells us, that history of subjection, of alienation, of use of these tools...the tool of religion and its art, for

investigation. Art is limited to tradition.

**And the role that art plays within social organizations?**

Seldom have social organizations created art spaces that may come to develop tolerance, which is also a hard tolerance because you have to endure critiques or they sustain a message with which you don't entirely agree but still you must embody it, support it, defend it. My experience with the issue of feminism within union organizations serve as an example. At first, this new knowledge was attacked, at least they were not physical attacks, but a matter of opportunities, of closing spaces, of denying support. I, for example, try to be open to the proposals of young artists although I may not completely agree with them, but in the end, they always give me a new knowledge that may be useful for my happiness, or may turn into a norm for humans living in happiness. A society that allows artists to express this is a society that's ready for the worst, because is seeing to everything, what is possible, what is underlying, Traces of change, signals that there are things being corrupted. This sacrifice has a winning side, this tolerance to new knowledge allows you to have a consciousness.

*“Social organizations seldom create artistic spaces that at some point may have freedom even to take part on the critic of social organizations themselves.”*

example, has moved this country several times. So, for Guatemalans art is very important, but what we must wonder is if the changes proposed by art will conceit the interest of Guatemalans...if they will worry about regarding art as a way of creating new knowledge or if they are only worried about repeating it again and again as a means to preserve a way of being, that should not change. I am very worried when I hear talking about art in Guatemala and they always talk about rescuing our traditions, instead of recreating them. It is as if they told us that to give our identity as Guatemalans a foundation we shouldn't dare to create new things or to think about new things, maybe there are new colors, new lines, however, the thinking view regarding art is quite compliant with hegemonic groups behind the great institutions that manage the great culture budgets in this country. Sometimes some people get loose, they call them “enfant terribles”, they coopt them though a cultural foundation and they end up making an art that is of the liking of hegemonic groups and they completely forget about the necessity of a society to get in touch with new ideas...and then, with all this passion with which Guatemalans live art, there's still much to be done so Guatemalans will be close to new art, that art that matches scientific

**Many people say that art is reserved for a minority that has easier access to it. Do you think this statement to be true?**

No. Although it depends on what is art. It's curious, I feel that there are two groups that are not listened to. First of all, poor people and then young people, and it is precisely to them that art consumption politics are directed. There is a lot of radio, a lot of programing directed to poor people and youth as potential consumers. If we talk about proportions, most unflavored groups have access to art but, to what art? I don't believe in the ideas of the big evil heads that are planning everything, I rather believe that it's a construction that all society must make. While people keep thinking that it's the fault of who's below them, while their self-esteem is conditioned by racism or classism and while they believe that they must turn to certain kinds of aesthetics that belong to them because they belong to their class, well, they will keep consuming this and to change this complex situation we must abandon the idea that the artistic work can only be made by a famous artist. All of us can take part of an artistic work. In Guatemala there are many ways



*“La orgullosa”*

Portrait of María Maquín, survivor of the Massacre of Panzós on may 29th 1978, grandchild of Mamá Maquín.

of exclusion and these forms also inhibit the Guatemalans individually and then they feel unable to go and see art, to appreciate new art, to generate a new piece, a new idea. People's self-esteem is very put out in this sense. Guatemalans have art within them, but we still haven't realized it. I can think that this would be an artist's work, since we are talking about handing out new art, handing out the idea that the people can make art, that the people can add up to art, train in technical issues to take these ideas out, because the people will always be the reflection of their societies, the individual is the basic element of society and can generate new knowledge.

**Since we're talking about youth as a target group of current art consumption politics, do you think that art can be used to make young people sensible in order to have them involved in the defense of their rights?**

Yes, because in the end it is also through art that they are currently alienated. Art is being used so young people don't think too much about this. As I was saying, I don't believe in the diabolical minds of the world that are thinking about creating this kind of message so youth will be lost...I am more of a

pessimist, because I think this is a reflection of all mankind. There is a disappointment, a desire for the easiest way, for what is plastic. I am slightly disappointed of humanity in this sense. I think suddenly, as a human race, we are paying more attention to the channel than to the message. We are thinking more and more about having a TV without knowing what are we going to use it for the same bubble gum of every night since it was invented, or if we will use it to see quality art, quality movies and all that. Now the great companion of artists is not the companion artist, the companion from the organization, but their society, the Guatemalan society, and just as the companion from the organization has the duty of paying attention those that are creating new knowledge, society should pay attention to those who are creating new knowledge, they should want them because they are trying to say something. Young people should take care of themselves, of their mental health, because in the end it is mental health, they should be careful about what they are using as recreation –which is a composed word made up of re-creation, of creating again-, if their weekend re-creation consists on repeating what they lived last week, well obviously they will repeat it next week again. The problem with the young issue is that this is a market war, a war that we will not be able to win is we use the same weapons used by those that produce the big weapons, so, this doesn't mean that we should isolate ourselves from technology, because I confess that my training as a visual artist was no a teacher from the French academy but endless hours watching television, the thing is that we must create spaces so young people have a contact with artists that are generating new knowledge that is more interesting than what they are currently consuming.

**Is it adequate for union organizations to use art to transmit their struggle objectives?**

I think the answer is yes. Art itself is a product of society, we are a product of society, so art will reflect what society is feeling, the people will express all their frustrations, all their feelings

making aesthetic choices. Radio stations and their mexicanized versions, the so called narco-corridos, exist, I believe, because they talk about what the people perceive, of what people see and that is why the people like them. Organizations are made up of people that will look to make their aesthetic choices about what's in the environment, as any other part of the public and at any given time they may find congruence or coincidence with an artist that is tuned with the conscience that these organizations stimulate through their work and therefore, both should nurture each other. They should be careful about organizations taking some people with artistic skills and work with them asking specific works from them, because the artist will not necessarily be convinced of what this organization believes, regardless of who the promoter or financier is, and it would be much worse that he or she would be forced by social organizations, and I don't mean only union, peasant or civil society organizations, but also banker or capitalist organizations. Basically, all organization want artists, the artists needs them and they need also freedom to work.

**So what you're saying is that organizations need convinced artists?**

Yes, convinced artists, because otherwise, they would be getting paid like mercenaries do, like someone who does their job well but is not necessarily convinced of what they're doing.

Within social organizations, I've lived certain experiences with youth organizations and with organizations that look for alternatives to hegemonic power, so to speak, that not necessarily seek to incorporate art or look forward to listening to the artist's voice, but rather they want the artist to paint what they can not paint. It's a matter of errands, a crisis, because the artist will paint what they are paying for. It's a pretty risky business for organizations to fully trust in the artist, in this sense. Social organizations and artists have a permanent conscience commitment and I think they have to meet each other gradually, as spaces for a free expression of ideas open, and coincidences are possible. Artists shouldn't let their hand be guided by an already existing discourse, but by their hand, and organized groups must know that if they do not nurture the artist with freedom, if they do not stimulate their formation rather than imposing certain ideas, then the artist will not mature, will not grow along the

lines of the options that the organizations propose.

**Some time ago, organizations had artists among their cadres and art had a place in them, but not anymore. What do you think is the reason for this current division between art and organizations?**

I just graduated from the PLART program of the Superior School of Art and there, I wrote a little abstract of what I lived making posters for social organizations by the end of the eighties and beginning of the nineties, before the signing of the peace accords. Through my memory, I tell a little of what social organizations were living, and their kinship with certain artists...Sometimes we think of these kinships as motivated by certain political, social and struggle issues, however, they were also motivated by other reasons, like any other human being would have, girlfriends, friends, brothers, relatives, reasons that made people closer to or farther away from people who made art within the organizations that at that time -and this is well documented by anthropologists and historians- felt

*“Artists shouldn't let their hand be guided by an already existing discourse, but by their conscience.”*

far away from the peace negotiation table. I remember this, because the posters were made to make these organizations more visible, because the State and the guerrillas isolated them from the discussions that they were having then to reach the signing of peace, to decide how the agreements should be and they seeker me so I would make their work visible because they needed to be visible within the peace negotiation. I completely agreed with them and put my work at the service of these ideas, because I too was a part of the civil society, so you could say that I did what I could with what I had and that was painting. I believe in the old idea of the organic intellectual and artist, somebody that, if he or she will paint something, has to live within that something as a socio-political option in which he or she is really thinking and I think that when social organizations find artists that give themselves to them in this way, they must take good care of them, they must grant them the freedom that they need, they must support them, they must try to understand them because artists are kind of like bearers of a new knowledge that

has not been understood yet and that sometimes, these very reflections that the artist makes should also be made by the organizations. I remember that by the end of the eighties, the first feminist groups started to form, after having to leave Guatemala during the worst years of the war, women came back with new ideas.

I coexisted with all this that I'm telling you, this girlfriend and buddy things that unite or split people apart. Due to these circumstances I got to know other artists that had been couples or acquaintances or had been a part of organizations that had been attacked by the State. When we talked about the situation or art and its relationship with organizations, the feminist space was very interesting because we coincided, we felt as equals, as pariahs inside the organizations. The union women complained about the isolation in which union men had them and then, much of the feminist thinking started to be expressed in songs, in exhibits of which there may be no record left because they were spontaneous, in which we set up drawings, we sang -those who could sing- and we talked about feminist consciousness to unionists, but at first, union members didn't want anything to do with this type of art, maybe today this is part of a whole dynamics, maybe I'm wrong but in an effort to be politically correct everybody is incorporating the feminist issue but back then it was not the case. I brought this example up because I said that we must pay attention to artists, because maybe they're starting to deliver a new knowledge that needs to be manifest. We sometimes think that the message must hit the big banker, the murderous military, the thieving politician, but art not only delivers a message to them, it also does so to the companions that are closer to us and this is why if we have artist companions in the organizations, we must pay attention to them as if they were the clowns of the organization, but as companions with a certain sensibility, that could very well be starting to deliver a new knowledge as if it was science, because art condenses new knowledge as if it was a book.

But even with these difficulties, in other times organizations used art as a means to translate ideas, but not anymore. Almost all of them have excluded art from their work axis.

I don't think we can generalize, it was a whole

process. Let's say that there were those who called some artists ideological divisionists and others as conscious or revolutionary, thus resulting into some artists that you could support and others that you couldn't. More than once they did this as a way of democratic opening, of thought opening, and others, just because it sounded nicer and it attracted people. The fact that they don't use them now may be because some have understood that they shouldn't have used artists in this way and they are thinking it's better not to do so now and maybe others, among many things, lost that hope, that notion of what art could give. Maybe some -being pessimists- never believed in art and only used it to attract the masses and then they didn't need it. Anyway, I believe this can be improved because, as I said, a society must pay attention to culture and, while doing it, make an effort so art may be again the vehicle to show its symptoms, the one that may help us see what seems invisible or what just some of us think. It has happened to me that I hear a song and say to myself, "this artist sings the way I think"...in other occasions, these coincidences appear and I think a society that gives itself this chance, strengthens itself. If we look back, we would need many historical elements to judge the organizations and know what were their true intentions regarding art.

In the future, what can be done is to regain our confidence in the artist, in culture as a part of the changes that will deeply transform society. I don't think a society can change if its culture doesn't. Our October revolution, that only lasted ten years, managed to change many things but it could not stop many constants of liberal thinking. These constants continue to this day, this way of being



"Ya es mar"



"Los músicos del Valle del Río Polochic"

that us Guatemalans have, we drag it since back then because ten little years could not make radical cultural changes.

**This constants you refer to were even the reason of the counterrevolution.**

A counterrevolution in which the oppressed themselves took part. Something hard to undertake for many of us that have been involved in the social organizations is the fact that many of the thoughts that the mass media transmit and that will negatively influence the life of the most vulnerable ones among us is in the end the discourse that those very vulnerable people support. It is the same history of submission, of voluntary subjection of the people...

**Paulo Freire talked about the oppressor inside the oppressed, are you referring to that?**

Yes. The oppressor inside our heads, the one that can be affected by culture and that's where the work of the artist comes, but only in a society where things can be said, where artists are taken care of without imposing discourses to them, but rather providing the elements and conscience exercises that they may need. In my own work, I've found use in the exercise of reflection that I've been doing side by side with scientists with which I have worked on the history of the armed conflict. It's been useful to make my own criteria, to paint things in which I believe, to not regret the things that I do...to have the certainty that only the consciousness of the scientific fact can give me.

**Recently, MSICG organized a photographic exhibit called "Guatemala, the human face of agro exports". What is your opinion about that activity?**

The most positive thing about this experience would be that the aesthetic work could have a feedback from the public to the organization. You should see if its possible to know what the people is understanding because that way we will better know what we are doing. When I did the Panzós exhibit, for example, I was concerned about the fact that if setting up pictures of dead people would have the reach that I wanted, because I thought that the people could get angry, could wonder how was it possible that these things happened in Guatemala and that they would change their

attitudes, because in the face of State terrorism, that was just like promoting the work of murderers because it reminded us of terror, in a certain way.

In the Polochic, the army used to throw the body of the dead to the river so the corpse would float by. Since the river is water and without water there's no life, the people tried to have access to the water and then, when they got there, it was like on tv, with dead people floating on it. It was an exercise of terror. What I mean to say is that the new knowledge of art is much more than denouncing, it's proposal, what one proposes. I think that the Guatemalan worker has many tragedies to grieve and has seldom heard of the ways in which the working class resists. The art that discovers new ways and knowledge can also discover new ways of resisting. I, for instance, would be more changed by a photo of working class resistance, that has a lot of aesthetic problems, that is not an easy photo, it's a photo that requires a lot of creativity but that helps to acknowledge the needs and the sadness but that also helps to the proposal that you have or want to have. If not, the workers' struggle would end up by just being a wailing. That is where the feedback theme must be approached, asking the public something like, how would you resist this? Sometimes I think that doing art, doing art with the working class has its technical difficulties, because you have to look for a figurativist, an expressionist resolution.

I worked at jails with women who were deprived of their freedom, and of course, they grieved over many situations that led them there or about situations they were living, but they were also very creative with the exercise of questioning what to do to improve the quality of the life they were living there, and they proposed, and these proposals were there, right next to the grieving. Sometimes, conscious art has been called in many ways, socially conscious art, for example, it is very descriptive but few times does this description include proposals. It only uncovers those tragedies that is important to denounce but that must be hues with proposals, with resistance. This is interesting, because since sometimes art takes out things that are not always so easily visible, may contain in itself the very problem whose solution will be obtained through it, but which is now asleep, and maybe art will bring it out of that subconscious part.

MSICG is planning to incorporate art among its work axis. What do you recommend to implement this?

Some people don't believe this because it's something that can't be seen in my work nor in my exhibits, but I'm quite critical regarding the manipulation that artist suffer or may suffer, because this has been one of the dark things that haven't been discussed enough, about how pitiful the way artists are used has been and how little respect they have received among civil society organizations. As I told you, and given the experience that I had at the end of the eighties and early nineties with some organizations, we must reflect over whether incorporating art to this organizations' work will be a policy to help them or if art will simply be used to transmit a political discourse, and we should be very careful about this because if we're not, art will end up being nothing but a pamphlet, a discourse. I think that when there's a process of valorization of art, us artists will accompany organizations side by side, this would be the most desirable thing.





## They Told Me There Was Peace

*I wake up suddenly, jump out of my bed.  
 It happens often and I can't sleep again.  
 Images that seemingly would never occur,  
 Horrible, terrifying, as if we were at war.  
 Damn! My heart beats fast...  
 After my thoughts and my confusion, I realize I'm a soldier.  
 Nobody had told me, after '96, that yes, I was a soldier.  
 How could the be so unfair?  
 They told us al there was peace.  
 They signed some documents!  
 Ah, the anger! They told me there was peace, **THEY TOLD US THERE WAS PEACE!**  
 The documents say so!...  
 We go nicely to bed; because they said so, there was peace.  
 Now we are a country with millions of soldiers, that should not be soldiers.  
 A secret war! Undeclared! And with so many unemployed soldiers.  
 No one realizes, What's going on?!  
 Maybe it's because the documents still say so. Well yes, there is peace.*

Efrin González  
 Copenhagen julio 2010

Efrín González born in Guatemala city in 1980, he lives in Copenhagen, Denmark, northern Europe, since April 2010, with Maria Palmvang, whom he married. He takes active part in cultural political projects with movements in solidarity with Central America based in Denmark. He is currently a volunteer in the Danish Solidarity Committee with central America and member of the Association of Guatemalans in Denmark, whose goal is promoting Guatemalan culture and supporting on informative-technical aspects, aside from the mainly contextual Guatemalan contribution.

Regarding this edition's issue, Efrín says that he has created his vision of Guatemala through principles that stimulated interaction in the urban areas of the country, through the social problems that this carries along it; of his ambition for learning about what goes on in the country and of how are they impacted by world events. He also warns about the importance of recognizing the different races that give life to the geographical spaces occupied by one of the most diverse countries in the world.

With his prose style, Efrín's poetry has the goal not only to inform about something that other great poets have said in the Guatemalan national ambit, but also to continue the processes of raising conscience and confronting the individual, and at the same time contributing to document what goes on in an artist's mind, within a process whose utopia is the construction of a peace that's real, not rhetoric or statistical.

# MSICG TO ACTION!!

## UNCONSTITUTIONALITY OF MINIMUM WAGES

As a part of its struggle for decent labor, on March 13th 2011, MSICG promoted an unconstitutionality action against the fixing of a differentiated minimum wage, inferior for maquila and export activity workers. This action highlights the discriminatory character of this measure and the way it violates Chapter XVI of CAFTA.

In this moment, the file is waiting for its resolution.

## UNCONSTITUTIONALITY OF IGSS RETIREMENT PLAN

On January 7th, 2011, the Union, Indigenous and Peasant Guatemalan movement -MSICG- presented a general total action of unconstitutionality before the Court of Constitutionality against Agreement 1257 of the Board of the Guatemalan Institute of Social Security -IGSS, for its initials in Spanish-, dated December 14th 2010 and against Agreement 318-2010 of the Ministry of Work and Social Prevision, dated December 28th 2010.

The action we presented is promoted in order to stop the flagrant violation to human rights related with social security caused by the aforementioned agreements, and that directly violate Constitutional order and human rights laws ratified by the State of Guatemala.

Within the stipulations that affect workers and that mean a backward movement in acquired rights and a violation to the Political Constitution of the Republic of Guatemala are: the increase of retirement age from 60 to 62 years for all workers that are actually benefited by social security (despite Guatemala's life expectancy being 70 years of age), the increase of the number of fees to have access to a pension for invalidity, old age and survival of current and future affiliates, the reduction of invalidity pensions, which are turned into old age pensions when the affiliate reaches retirement age, the elimination of the rights of the insured's relatives to enjoy the benefits of social security, to which they currently had access, reduction of the amount of pensions, among

among others.

There is a statement of the Public Ministry, only actor who's foreign to the ones that up to this moment have incorporated to the process, asking for the declaration of general, total unconstitutionality of Agreement 1257 of the Board of IGSS. This statement is now a part of the processing of the file in which the actions promoted by the ombudsman against article 15 of the Agreement, the one promoted by a Congresswoman of the Republic of Guatemala and the one promoted by MSICG against the integral contents of both normatives.

MSICG hopes that, when sentences is ruled, the Court of Constitutionality will act in defense of the Constitution and will declare the total unconstitutionality of Agreements number 1257 of the Board of IGSS and 381-2010 of the Ministry of Labor and Social Prevision.

## ANTI-UNION REPRESSION AT THE PUBLIC MINISTRY

From its foundation, the Union of Workers of the Direction for Criminalistics Investigations of the Public Ministry -SITRADICMP- has been subject of constant anti-union repression through the transferring of the whole of their Board and consultive council to far away, high risk positions.

In spite of the statements of the Committee for Union Freedom and to the fact that the then Attorney General rendered the transfers void, the Public Ministry has started ordinary trails to obtain permission to fire the union leaders despite the existence of provisional appeals for legal protection ruled by the constitutional justice through which the effects of the aforementioned transfers were suspended.

MSICG has undertaken the defense of each cases, obtaining a favorable sentence in the cases of companions Javier Adolfo de León Salazar and Axel Vinicio Lemus Figueroa. Nevertheless, and in an illegal way, the Second Hall of the Appeal Court has revoked the sentence that was ruled in first instance in favor of companion Javier Adolfo de León Salazar, for this reason, we have asked for a

provisional appeal for legal protection, since companion de León Salazar has been fired while being suspended by the Social Security Institute -IGSS- which means the Public Ministry has violated Agreement 410 of its Board, according to which a person cannot be fired while being suspended.

The appeal is in process in the Supreme Court of Justice under number 909-2011, in charge of Officer 9th of the aforementioned Court.

**THIRD AGE PEOPLE ARE ARBITRARILY DEPRIVED OF THEIR PENSIONS**

The Union, Indigenous and Peasant Movement of Guatemala -MSICG- promoted an Appeal against the resolutions of the Board of IGSS that arbitrarily suspended the Invalidity, Old Age and Survival pensions of 17 companion workers which were not above an average of Q350.00 a month, that is, 8.62% of the cost of the Basic Market Basket. Both the Public Ministry's Attorney for Constitutional Affairs, Appeals and Habeas Corpus and the Ombudsman office joined in the argumentations of MSICG, asking, at the proper process moment, constitutional appeal protection in favor of those workers that were affected. However, in a ruling done against the law, the Third Hall of the Appeals Court of Labor and Social Prevision, constituted as a First Instance Appeal Court overruled the action we interposed, fully ignoring the legislation and the arguments of the parts. In the face of the evident illegality of the resolutions issued by the IGSS' Board, and of the ruling of the First Instance Appeal Court, both MSICG and the Public Ministry, through the corresponding Attorney's office, appealed the sentence searching to revert the situation in which the affected workers are.

**ANTI-UNION STRATEGY OF RUBBER COMPANY FAILS IN COURT**

The First Instance Tribunal for Labor and Social Prevision of the department of Suchitepéquez learned of the ordinary demand promoted by the Agricultural Industrial Solesa Company, though which they intended to get judicial authorization to fire companion Alfonso Enríquez Chonay, current Secretary for Organization and Communication of the Union of Workers of the Finca La Soledad, from the municipality of Patulul in the department of

Suchitepéquez. -SITRASOLEIDAD for its initials in Spanish-. The effective defense of the case, done by MSICG allowed to prove that the arguments wielded by Solesa, were a mere act of retaliation for the companion's union activity, for which reason the demand was overruled by the First Instance Court, as well as by the Fourth Hall of Appeals for Labor and Social Prevision, which was in charge of the appeal interposed by the employers.

**ANTI-UNION RETALIATION CONTINUE IN THE OFFICE OF THE SECRETARY FOR SOCIAL WORKS OF THE PRESIDENT'S WIFE**

The Anti-Union Retaliation Continue in the Office of the Secretary for Social Works of the President's Wife implemented in the last years by the State of Guatemala, the Secretary for Social Works of the President's Wife recently ordered the anti-union transferring of companion Lesvia Amparo Velásquez Gómez, current member of the Board of the Union of Workers of the Office of the secretary for Social Works of the President's Wife -SITRASEC, for its initials in Spanish-. This transferring, which did not comply with the formalities demanded by the Law of Civil Service, also constitutes a flagrant violation to the immobility which is her right as union leader. MSICG acted before the National Civil Service Office, asking to leave the transferring of companion Lesvia Amparo Velasquez Gomez, interposed by the employing entity, void.

**29 WORKERS WAITING TO BE RE-INSTALLED**

After a long process in which all process instances were complied with, the Fourth Hall of Appeals for Labor and Social Prevision confirmed 29 re-installment orders ruled by the First Instance Court of Labor and Social Prevision of the Department of Suchitepéquez, benefiting the members of the Union of Workers of Finca La Soledad of the municipality of Patulul in the department of Suchitepéquez -SITRASOLEIDAD- fired by the Agricultural Industrial Solesa Company during the process of a collective conflict of social economic nature. However, despite the firmness acquired by the resolution, not being any pending appeals and of MSICG's insistence in its judicial execution, the first instance hall has not complied with naming an executive minister that will go to

the working center to verify compliance with the re-installment orders. In the face of this, we have again asked for the resolution's execution, given the delay of the court to solve a petition that we had previously presented.

### MSICG GIVER WORK SHOP ON UNION FREEDOM AND LABOR RIGHTS OF RURAL WORKERS

On April 15th 2011, in the frame of the formative program of MSICG, there was a workshop on union freedom and labor rights of rural workers, with the participation of companions from the Peasant Committee from the Highlands -CCDA for its initials in Spanish-

Through this activity, MSICG wanted to strengthen the agricultural workers' knowledge on their labor rights and highlight the importance of union freedom in the defense and progress towards generating conditions for social dialogue and decent jobs, as well as setting the necessary basis to consolidate a union central in the Guatemalan agro.

During this activity, the leaders that were there assumed the commitment of accelerating the process of union organizations in the agro, and MISCG, though INESICG, assumed the commitment of technically supporting these processes.

### MSICG REJECTS CONSULTATION REGULATIONS

On March 25th 2011, the Union, Indigenous and Peasant Movement of Guatemala, through a delegation of its Political Council, presented before the Ministry of Labor and Social Prevision its rejection position to the proposal of "REGULATIONS TO THE GOOD FAITH, FREE, PREVIOUS AND INFORMED CONSULTATION TO INDIGENOUS PEOPLE ON THE FRAME OF ILO'S AGREEMENT 169 ON INDIGENOUS AND TRIBAL PEOPLES IN INDEPENDENT COUNTRIES" presented by the Executive Organism and which worsens the constant violations to ILO's Agreement 169 in Guatemala and evidences a hardening of racism and exclusion patterns which have characterized the State politics towards indigenous people in Guatemala and that represent also a furthering away from the State regarding effective

compliance of the commitments it has assumed before the international community.

The arguments for MSICG's position are contained in the document called "From 'requerimientos' to 'repartimientos': Opposition and proposals of MSICG in the face of the consultation regulations proposed by the Executive Organism" that can be downloaded from the MISCG web site.

Through this document, MSICG proposes several measures oriented to harmonize legislation and government practices to the full compliance of ILO's Agreement 169 and all other international instruments ratified and valid to Guatemala in the matter of indigenous people's human rights.

### MSICG TAKES PART IN NATIONAL DIALOGUE ON AGRARIAN CONFLICTIVITY

On April 5th and 6th 2011, MSICG, through a delegation of our Political Council and together with our member organization, Peasant Committee of the Highlands -CCDA for its initials in Spanish- and other sister organizations, among the Rural Women's Alliance, the Peasant Unity Committee -CUC, for its initials in Spanish-, the National Coordinator of Peasant Organizations -CNOC-, the National Pastoral of the Land, the Agrarian Platform, the Orients' Popular, Indigenous, Union and Peasant Organizations' Coordinator -COPISCO for its initials in Spanish- and CONGCOOP, took part in a national dialogue on Agrarian Conflictivity.

The national encounter was preceded by four regional encounter on Agrarian Conflictivity, the first one of them was developed in October of the year 2010 in the department of Cobán (Northern Region), the second in the department of Sololá (Western Region) during November 2010, the third, on February 2011 in Mazatenango (Southern Region) and the last one, done on March 2011, in Chiquimula (Eastern Region).

These regional encounters were the platform through which the companions from the communities expressed how agrarian conflictiveness is growing in their regions and how the lack of workable land is increasing the workers' over exploitation in fincas, and putting every day more at risk the right to life and alimentation of the communities. Within the biggest problems were, besides that, land evictions of indigenous people

as a result of mining companies' invasions with the protection of the State, hydroelectric projects, monocultures like African palm and sugar cane, criminalization of social struggle, evictions, murders, threats and persecution of leaders, likewise, the diversion of rivers was denounced, and women stated the differentiated impacts that they and their children suffer due to these problems, among other violations to no less important fundamental rights.

During the development of the National Dialogue on Agrarian Conflictiveness, representatives from the Executive, Legislative and Judicial Organisms were presented a series of concrete demands, like the total rejection to the approval of the Law initiative that aims to create the social Economic Council, since there are currently no conditions in the country to propel a good faith, democratic and constructive dialogue; the approval, as a matter of national urgency, of the Law Initiative 40-84, Law of the National System for an Integral Rural Development; adequate regulation of the social problem posed by idle lands; creation of an agrarian confiscation law to regain lands that are currently in the hands of organized crime and also lands that haven't paid taxes; implementation, as a matter of national urgency, of a rural development policy; guaranteeing the right to life, decent labor, alimentation and rural development of the population over the right to private property; the review of valid agrarian laws to put them to the service of the majority and so the land will fulfill its social purpose; propel an integral tax reform under the principle that those who have more should pay more, abolishing tax privileges of the maquila industry, of duty free zones and extractive industries and completely abandoning the regulations proposed by the Executive Organism to control indigenous people's consultation, because they violate the right to self-government and the free determination of people, among other necessary demands to overcome the agrarian conflictiveness that is affecting indigenous and peasant communities of Guatemala.

**COMPLAINTS BEFORE ILO**

MSICG has presented, before the union freedom Committee, three messages contributing with new arguments referring to violence against unionists, anti-union actions taken by the current Attorney General and Chief of the Public Ministry against companion Javier Adolfo de León Salazar, Secretary

General of SITRADICMP and the case of anti-union dismissal executed by the Friedrich Ebert Stiftung against companion Lesbia Guadalupe Amézquita Garnica.

**COMPLAINTS BEFORE CIDH**

MSICG presented, before the Inter American Commission for Human Rights -CIDH for its initials in Spanish-, a petition related to violence against unionists and a request of two precautionary measures, one of them requesting suspension of the process approving the Executive Organism's proposal of a consultation regulation, and the second, because of the violent evictions performed in the Polochic Valley.

**MSICG AND SITRACAPGUA DEMAND RATIFICATION OF AGREEMENT ON DECENT LABOR FOR DOMESTIC WORKERS TO THE GUATEMALAN GOVERNMENT**

On the frame of the actions taken within the world journey for decent labor called upon by CSI, MSICG and SITRAPCAGUA, on July 4th 2011 a communication was presented to the Ministry of Labor and Social Prevision, through which it was asked, according to procedures foreseen by law, to proceed to advise the President of the Republic to ratify ILO's Agreement 189 so that it will present, with an urgent nature, the corresponding law initiative to the Congress of the Republic to ratify the agreement.

This action is part of those planned by MSICG as a part of its World Journey for decent Labor.