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Guatemala: Lack of evidence suggests new proceedings against human rights defenders are unfounded

On 31 July 2018, a judicial hearing at the High-Risk Court of First Instance “A” for Criminal Justice, Drug-Trafficking and Environmental Crime, was held in the cases of six territorial and environmental rights defenders in the north of the department of Huehuetenango, Guatemala.

Two human rights defenders are accused of abduction or kidnapping and inciting crime; crimes that were allegedly committed during a demonstration in front of the Administration of Justice Centre (Centro de Administración de Justicia, CAJ) of Santa Eulalia, Huehuetenango on 19 and 20 January 2015 (criminal case 109-2015). Three other women human rights defenders are accused of assault, coercion, threats, inciting crime, obstruction of justice, and abduction or kidnapping; crimes that were allegedly committed during another demonstration in front of the CAJ on 23 January 2014 (criminal case 268-2014). Finally, one further human rights defender was brought to trial for the crime of meeting and demonstrating illegally; crimes that were allegedly committed during a demonstration that took place on 22 April 2013 in Santa Cruz Barillas (criminal case 139-2014).

Amnesty International has been able to access part of the files for the first five accused. In the legal materials to which it had access, the organization has not found sufficient evidence presented by the prosecutor's office to link each one of these individuals to a crime. The allegations are based on testimonies that only confirm the presence of these human rights defenders at said demonstrations, as well as their roles as community leaders; however, there is insufficient evidence to substantiate the charges against them.

Amnesty International reiterates its concern that the Guatemalan authorities are once again misusing the criminal justice system as a way of silencing and harassing human rights defenders. In July 2016, seven other human rights defenders were also accused by the prosecutor's office of having committed crimes during demonstrations. Criminal proceedings were instituted against them in similar criminal cases as those described

above and for the same crimes.¹ On 22 July 2016, the Guatemalan First Criminal Court for Drug-Trafficking and Environmental Crime acquitted the seven defenders of the crimes of illegal detention, threats and inciting crime.²

Within the acquittal judgement on 22 July, as well as in the Reasoned Opinion of Presiding Judge Iris Yassmin Barrios Aguilar, the Court considered that judicial proceedings were used to criminalize the actions of Indigenous leaders and those in the community who took a leading role in defending their human rights. The judges stated their concern with the allegations presented by the Public Prosecutor's Office, which were based on incorrect information or conduct that does not constitute a crime. The Court reiterated all individuals' rights to peacefully demonstrate, meet, and associate. As per the judgement, charges cannot be leveled against an individual solely based on their participation in a demonstration or their belonging to an organization. Lastly, the Court recognized the role played by representatives, or Indigenous or community leaders, in mediating with other authorities and communities to resolve any conflicts that may arise.

However, despite the important guidelines established in this judgement, the case against the other six human rights defenders demonstrates that the Public Prosecutor's Office continues making allegations in order to obstruct and delegitimize the defenders' fight for the right to territory and the right to a healthy environment.³ It is worrying that this series of allegations from the Public Prosecutor's Office against human rights defenders is based solely on their role as community authorities, deeming them automatically responsible for any harm caused due to the fact that they organized the demonstrations; this conduct goes against international human rights norms.

In the absence of a direct link between the accused and the events in question, Amnesty International urgently calls for the Public Prosecutor's Office to promptly review the current cases against these six human rights defenders. They must make sure no one is being prosecuted simply for peacefully exercising their human rights. This is in line with Guatemala's international human rights obligations as well as with the conclusions reached in the judgement that considered these same events and allegations to be unfounded.

Amnesty International also calls upon the Public Prosecutor's Office to adjust its internal guidelines so as to ensure that the criminal justice system is not used as a mechanism to

¹ Criminal proceedings against Rigoberto Juárez Mateo, Domingo Baltazar, Arturo Pablo Juan, Francisco Juan Pedro, Sotero Adalberto Villatoro Hernández, Bernardo Ermitaño López and Mynor López. The kidnapping or abduction offence was revised and modified to illegal detention.

² Two of the court judges considered that defender Ermitaño López Reyes was guilty of obstruction of justice in connection with the demonstration on 23 January 2014. They also considered that Rigoberto Juárez was guilty of coercing CAJ public officials in the demonstration on 19 and 20 January 2015. Both proceedings are still under appeal.

³ <https://www.amnesty.org/es/documents/amr34/6212/2017/en/>

attack and harass those who defend human rights, and that criminal investigations are only initiated when there is sufficient merit and evidence to do so.