



# General Assembly

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## Human Rights Council

Twenty-eighth session

Agenda item 3

**Promotion and protection of all human rights, civil,  
political, economic, social and cultural rights,  
including the right to development**

### **Joint written statement\* submitted by the France Libertes : Fondation Danielle Mitterrand, American Association of Jurists, Emmaus International Association, non- governmental organizations in special consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[16 February 2015]

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\* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.15-03475 (E)



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## **The Guatemalan government does not honor its obligations in terms of rights to security, to liberty, to well-being and to access to health and education for people in the Laguna del Tigre, Petén\***

According to reports of the organizations in the Petén and testimonies of community leaders from Laguna del Tigre, declared protected area in 1989, the Guatemalan State does not guarantee access to health care, education and drinking water nor the legal security of peasant communities living in the area. At the same time, since 1985 it has allowed oil production in the area. Since 2010 the Guatemalan government encourages the development of the oil industry and has accordingly encouraged changes in the 2007-2011 management plan for the Laguna del Tigre National Park.

However, in Article 25 of the Universal Declaration of Human Rights recognizes everyone's right to a "standard of living adequate for the health and well-being of himself and of his family" and in Article 26 proclaims the right to education as a fundamental right. Moreover, according to Article 9 of the International Covenant on Civil and Political Rights, "everyone has the right to liberty and security of person". Also the International Covenant on social, economic and cultural rights, ratified by Guatemala, affirms, in its article 2, that people "should not be deprived under any circumstance of their own means of living".

These fundamental rights are strengthened by their presence in various instruments of international human rights law such as Convention n°169 on Indigenous and Tribal Peoples - International Labor Organization. Recognition of these rights is noted in resolutions voted by the UN General Assembly : A/RES/64/292 on the human right to water and sanitation, A/RES/64/215 on legal empowerment of the poor and eradication of poverty, A/RES/64/196 on harmony with nature, and A/RES/64/163 on the right and responsibility of individuals, groups and organs of society to promote and protect universally recognized human rights and fundamental freedoms,.

These rights are also underlined in the Report of the Special Rapporteur on the rights of indigenous peoples, James Anaya, A/HRC/24/41, as well as in the UN Guiding Principles on Business and Human Rights, adopted by the Human Rights Commission in 2011.

Guatemala ratified the Ramsar Convention on Wetlands in 1990. In the frame of this Convention, the Laguna del Tigre National Park is also registered in the Montreux register (1993) which lists wetlands of international importance especially threatened by human intervention. In addition, the renewal of Perenco Guatemala Limited's 2-85 operating contract goes against Decree 4-89 implementing the Protected Areas Act because it broadens its operation area. In legal action brought before the Constitutional Court by CONAP on the 5<sup>th</sup> of October 2010, it is stated that "there is no socio-environmental impact assessment in this area; there is no monitoring by institutions [State] of the evaluation of these impacts". It is also recalled that existing assessments have been financed by the company itself and not by an independent body. Finally, "the Decree 5-90 expressly states the incompatibility of this oil industry with the conservation area"<sup>1</sup>.

First of all, the State of Guatemala threatens some peasant communities with expulsion because of the incompatibility of their subsistence farming with protection of the area<sup>2</sup>. Yet in 2010, Perenco Guatemala Limited's oil exploitation contract 2-85 of Xan well was renewed for 15 more years<sup>3</sup>.

At present, six communities in Laguna del Tigre and Sierra Lacandón are threatened with eviction: Laguna Larga, La Mestiza (both subjected to daily military presence), El Reloj, Estrella del Sur, El Guayaca and La Revancha<sup>4</sup>. Prior information principles are not respected during evictions and inhabitants are evicted by force and violence by the

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<sup>1</sup> Plea in front of the Constitutional Court, presented by CONAP, on the 5<sup>th</sup> of October 2010.

<sup>2</sup> Decree 4-89 Protected Areas Act, which outlines the dangers of human activity in protected areas.

<sup>3</sup> Ministerial Agreement No. 214-2010

<sup>4</sup> Interviews with community leaders.

“infantry battalion of the jungle”, called the “green batallian”, which is financed by Perenco Guatemala Limited and guided by the National Council for Protected Areas (CONAP), without any rehousing plan. Since 2009, 600 families have been evicted from the area without being rehoused. They now find themselves without access to land, education and health<sup>5</sup>.

In addition, peasant farmers are regularly threatened or attacked in order to push them to concede their land to multinational companies. This was the case of Elias Borjas, shot dead by military forces on 31 January 2014<sup>6</sup>. From 2009 to 2013, the Laguna del Tigre communities report 5 killings.

For communities who are still settled in the area, access to fundamental rights is not ensured. CONAP prohibits residents to carry equipment necessary for the construction of schools and health centers. The ferry to cross the river and to access the nearest health center is managed by Perenco Guatemala Limited and operates from 8 a.m. to 5 p.m., which further accentuates the isolation of communities and constitutes a restriction on their right to mobility.

Moreover, the presence of oil extraction wells in the area generates water pollution and health impacts. The La Libertad refinery’s industrial activities and water pollution appear to cause many diseases among inhabitants such as headaches, chronic stomach aches, pimples, itching, allergies etc. that did not exist before the refinery’s installation. The nearest healthcare center believes that, the 50% of children born with respiratory problems and 30% of pregnancies ending in stillbirth are due to water pollution,.

Contrary to what is laid down by national and international regulations signed by Guatemala, the government does not sanction Perenco Guatemala Limited for its inaction concerning limiting the environmental and health impacts of its operations. During periods of heavy rain, the oil pipeline, when underwater, is damaged: paint and oxides covering the pipeline, , leak into the lagoons used by inhabitants as water resources. When water retreats, company employees paint the pipeline again, thus perpetuating the problem for the following winter. Moreover, on the last oil leak of well 41 on 15<sup>th</sup> November 2013, the oil that had leaked into the soil and water was in some places covered by a thin coat of earth, making the soil unsuitable for farming and causing death of livestock, poisoned by water. Vista Hermosa community, with over 100 families, was particularly affected because it is installed near the area where Perenco Guatemala Limited has installed its Xan operating wells.

#### **We demand that the Guatemalan State:**

- Amend laws regarding land use so that they comply with Guatemala’s obligations on human rights;
- Strengthen the role of CONAP, providing it with a real power of veto over approval of oil projects;
- Suspend evictions of communities living in the area;
- Put a system of compensation and rehousing plan into place, as well as fair and transparent compensation for harm suffered by evicted communities;
- Provide an independent and coordinated body to monitor the oil industry, in particular focusing on the industry’s impact on human rights;
- Ensure Petén’s population’s access to fundamental rights to food, education and health ;
- Take into account the results of popular consultations organized by indigenous communities.

#### **Our organizations call upon:**

- The Special Rapporteur on the rights of indigenous peoples

<sup>5</sup> Observations at previous missions to Collectif Guatemala’s report “Perenco: exploit oil whatever cost”, 2011.

<sup>6</sup> Interviews with community leaders.

- The Special Rapporteur on the situation of human rights defenders
- The Special Rapporteur on the human right to safe drinking water and sanitation
- The Special Rapporteur on the right to education
- The Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context
- Working Group on the issue of human rights and transnational corporations and other business enterprises to pay special attention to the serious and recurrent violations of human rights in the Laguna del Tigre National Park.

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\*CCFD - Terre solidaire, an NGO without consultative status, also shares the views expressed in this statement.