

HOLISTIC SUPPORT FOR LAND AND ENVIRONMENTAL DEFENDERS IN GUATEMALA

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Country: **GUATEMALA** | Principal Organisation: **Trócaire**

ABSTRACT

The number of land and environmental defenders (HRDs) being criminalised has increased in recent years, particularly in Latin America. Trócaire's efforts in the past have focused on legal strategies aiming to free HRDs being held in pre-trial detention.

With time, Trócaire has learned that support to HRDs needs to be holistic (including logistical, economic, medical and psychosocial support) and that legal, policy, advocacy, campaigning and communications strategies must be complementary. To avoid the individualistic "hero narrative", in addition to freeing HRDs Trócaire works with communities to secure their land and resource rights.

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PROTECTED LAND RIGHTS DEFENDERS

COMPETENCIES

ILC AWARD THEMES

PEACE-BUILDING

SKILLS

ADVOCACY AND CAMPAIGNING

- LEGAL ASSISTANCE, LEGAL EMPOWERMENT AND ACCESS TO JUSTICE
- RESEARCH AND TRAINING

BACKGROUND

Abelino Chub Caal worked with Trócaire's partner Fundación Guillermo Toriello (FGT) to assist the Maya Q'eqchi' communities to secure their land rights in the Polochic Valley and Sierra de las Minas of Guatemala. The government had declared huge tracts of land in that area "protected" – a common strategy for evicting communities from their land prior to the eventual granting of concessions to corporations for sugar cane, banana and palm oil plantations.

Conflicts arose as the communities opposed the land protection declarations, agribusiness concessions and evictions. Abelino, acting as mediator in those conflicts, soon fell out of favour with state and private company representatives as he refused to recommend compromise arrangements to the communities.

THE CHALLENGE

A banana company attempted to evict the Plan Grande community from their land. Seeing Abelino's leadership position, the company attempted to bribe him to convince the communities to leave their land voluntarily.

Abelino refused and was arrested 20 days later on false charges of stealing land, aggravated trespassing, illicit association, coercion, arson and directing armed groups. He was imprisoned for two years and three months.

OVERCOMING THE CHALLENGE

Prior to this incident and escalation of the conflict, Trócaire provided support to its partner organisation FGT to put a security plan in place and to monitor any changes. This led to a number of decisions such as closing its office temporarily due to risks. The FGT team was trained on how to deal with evictions, report illegal evictions, take a case to the attorney general and pursue individual complaints when individuals were prosecuted.

When Abelino was detained, the first step was to link FGT with Bufete para Pueblos Indígenas, an experienced multidisciplinary team with specialist knowledge of similar cases. The support of this organisation better positioned Trócaire to advise FGT on legal and security matters and on communications. The legal team successfully argued for Abelino's case to be heard in a higher court (High Risk Court A) which was thought to be more impartial than local courts. He won his case and was acquitted of all charges.

OVERALL RESULT AND POSITIVE CHANGE IN PEOPLE-CENTRED LAND GOVERNANCE

Trócaire provided emergency support to Abelino and his family (medical, psychological and economic) and contributed towards putting in place a sophisticated legal and research team. At community level, a decision was taken to prove at Abelino's trial that the land in question had been purchased illegally. Though Abelino's case was an individual one, it was crucial for securing the broader land rights of the community. Using evidence from anthropological and historical research, along with a careful analysis of the land registry, the legal team successfully convinced the court that the Mayan indigenous community had a valid claim to ownership of the disputed lands. The court ordered the company's purchase of the land to be investigated. By winning this point, the charges against Abelino of having "stolen" the land became untenable, and he was released after more than 800 days in pre-trial detention. Most importantly, the communities gained greater security over their lands.



THE GOOD PRACTICE IN FIVE SIMPLE STEPS



1

LEGAL SUPPORT

Trócaire provided significant funding to pay for a number of legal strategies. Support was provided not only to pay for lawyers but also for a team of researchers. The researchers provided four expert reports to be used at the trial, including academic assessments of how land seizures in the area had been fraudulent, using anthropological, historical and geopolitical research methods, together with an analysis of the land register. This proved instrumental in winning the case, and in securing community land rights through the trial.

2

LOGISTICAL SUPPORT

Trócaire financed the fees and travel costs of a lawyer and legal team, while ILC provided financial support to Abelino's wife and children. Moreover, Trócaire's Honduras office facilitated a visit by Honduran lawyers involved in a similar HRD case to support Abelino's lawyers with their legal strategy.

3

ADVOCACY AND CAMPAIGNING SUPPORT

Trócaire took a tactical decision not to prioritise advocacy as a major strategy because other INGOs were supporting the case from that angle. However, it engaged in high-level advocacy and campaigning by writing to the Guatemalan Department of Justice in relation to Abelino's case and engaging with the UN High Commissioner for Human Rights and the UN Special Rapporteur on the rights of indigenous peoples.

Trócaire also took a delegation to visit Abelino in jail, which led to media coverage in Ireland. Following his release, Abelino visited Ireland to receive the Trócaire Romero Award, where he met with Michel Forst, UN Special Rapporteur on the situation of HRDs, and a number of Irish politicians.

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PSYCHOSOCIAL SUPPORT

Trócaire sought to ensure Abelino's well-being both during and after his imprisonment. This included providing funding to ensure that his family and colleagues could visit him in jail and attend his trial and also securing him a place in a shelter for HRDs to recuperate, mentally and physically, following his release from prison.

Ongoing support was crucial to the case: the Trocaire team kept in close contact with Abelino, his family and FGT for any updates on the situation, and to provide extra support as needed.

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ALLIANCES AND COORDINATION WITH OTHER KEY STAKEHOLDERS

Trocaire worked in close collaboration with several key national and international stakeholders such as ILC, the local office of the UN High Commissioner for Human Rights (UNHCHR), Front Line Defenders and ActionAid, among others.

The division of labour between Trócaire's team in Guatemala and its partners worked well and in a complementary fashion. It was not detrimental to the case that Trócaire did not engage in extensive public campaigning because other organisations were doing this, enabling it to focus on the legal strategy.



KEY FACTORS OF SUCCESS FOR REPLICABILITY AND ADAPTABILITY PURPOSES

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Three important takeaway points from this are:

- 1 The need to invest in having a very robust legal strategy. This case was based on sound research and drew on international legal instruments and mechanisms. This needs to be complemented by policy, advocacy, campaigning and communications strategies. A number of pre-identified strategies have been collated by the United Nations Development Programme (UNDP);
- 2 The need to provide comprehensive and integrated support to HRDs and their families;
- 3 The importance of contextualising and leveraging an individual case to secure community land rights.

MORE INFO

Guatemalan activist wins Trócaire human rights award

<https://www.trocaire.org/news/2019-romero-human-rights-award>

Land rights defender finally walks free in Guatemala

<https://www.trocaire.org/news/land-rights-defender-finally-walks-free-guatemala>

808 days of wrongful imprisonment

<https://www.trocaire.org/news/808-days-wrongful-imprisonment-trial-set-guatemalan-human-rights-defender>

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LESSONS LEARNED

The speed of Trócaire's reaction to the case was a significant strength. The day Abelino was detained, Trócaire was informed and acted immediately. Moreover, there was strong coordination with all key stakeholders involved. Abelino felt that the most useful support from Trócaire was the financial support to commission the academic assessments of how the land seizures in the area had been fraudulent. Secondly, he noted that the financial support he received while he was in prison was hugely helpful. Trócaire and ActionAid also funded an external evaluation of their joint support to the case.

While a number of measures were put in place to support Abelino's reintegration into society after his release from prison, they were mainly ad hoc and not based on a predefined strategy. Currently, Trócaire is working on a strategy for continued support where necessary.



UNITED FOR LAND RIGHTS