

Bernardo Caal Xol, defender of the Cahabón River

This interview with q'eqchi' community leader, Bernardo Caal Xol, member of the Peaceful Resistance of Cahabón, was conducted May 22, 2018 during a visit to the Preventative Detention Center in Cobán, Alta Verapaz, where he has been incarcerated since the end of January. According to Greenpeace Spain¹ and other organizations, Bernardo's case is a clear example of criminalization against those who lead the struggle against economic projects in which communities have not been consulted in line with the International Labour Organization's convention 169 (ILO). During a court hearing on May 22, the Cobán Tribunal judge ruled to send Bernardo's case to trial. The trial will take place in the coming months. The Human Rights Law Firm (BDH) is preparing his technical defense.

Good afternoon Bernardo, what are your first impressions of being in jail?

At first I didn't know what jail was or what it was like and so I was scared to go. My first day, I had to start making friends. One has to learn to live with others in jail – one could say that it is a new family. I felt uncomfortable with the change, having left home for jail. An alarm sounds at 5:30am every



day and the guards do a general count of all prisoners. You cannot be late. I was one minute late one day and they reprimanded me. After the count, we make our beds, wash and have breakfast at 7:30am. Then, each prisoner starts their activities. I start listening to the news on my little radio at 9:00am and then I read one of my books. I buy the newspaper to stay informed on current national events. The routine is always the same. The food is bad and repetitive. Being locked up is turbulent and the spaces are small. I had to sleep on the floor for a month, but now I have a very small bed on a bunk-bed. We all sleep one on top of another. I don't sleep well, only about three

hours a night and I am sure that will have consequences later on in my life. In the bathrooms there are three toilets for 150 people. The only entertainment in jail is soccer, even the guards have a team.

How are you?

Here I have learned how to survive. I am fine physically and mentally, but prison is designed to denigrate and punish. Being in prison, the next step that one awaits is death. I am in constant danger and ever since I've been here I fear for my life. The companies and the State of Guatemala will be responsible if anything happens to me in here as



PBI Guatemala regularly visits Bernardo Caal in the prison of Cobán

accompany me. Also, to be able to show the people who have me here (in jail) that the lies the companies make up can be disproven and that the q'eqchi' peoples have dignity and cannot be bought off. That they can progress in the face of any adversity. We are slowing down the dispossessions the company carries out. It also motivates me to serve as an example for other struggles and resistances.

How has the judicial process been for you?

I anticipated that I was going to be arrested before it happened and I starting preparing from the moment I knew I was being accused of aggravated robbery. And when they suspended hearings and frequently changed dates, I knew what they were trying to do. I was familiar with the cases of colleagues from Santa Cruz Barillas, in which they changed dates and suspended hearings and also Abelino Chub's case where the same tactics were used. They do this to punish those who oppose megaprojects and file complaints against companies. I knew all of this and knew that my case would go to trial. These are the scenarios and at present I run the risk of being convicted even though I am innocent. I am preparing myself for that. I have to be mentally prepared for any scenario. The question I ask is "where should we go to complain?" If I am punished for protecting q'eqchi' peoples' rights and I am imprisoned for filing complaints against those who dispossess and hijack our rivers and mountains, where else can we go to complain? What else can we do to tackle discrimination and the racism that prevails in this system?

they are the ones who imprisoned me without legal grounds for doing so. I have lost weight and I've got used to seeing the same things all the time. That is why I prefer to read and write. I want to publish my biography and write about the q'eqchi peoples struggles – something that very few people do. There are many things that only I know and I don't want them to be forgotten. I am sure that my book will be interesting for my people.

When I go to hearings, those moments are difficult for me because I see reality again and have contact with the world that I truly belong to. Then when I come back to jail I don't want to go inside. It takes me about five hours to realise again that I am being criminalized and that my time in jail legitimizes the q'eqchi peoples struggle. My mood normalizes again, but those moments are difficult – they are traumatic. Jail is a way to weaken a person, mistreat them, and keep them alive while taking away their possibility to know what is going on outside.

What is your relationship with others?

I have a good relationship with the guards and other people here inside. You learn everyone's story and over time make friends. There are many innocent people who have been convicted and of course there are also are many people who committed crimes.

Are you scared at times?

Scared? From the moment I entered the prison! You don't know what problems each person brings with them when they come to jail.

What keeps you going?

What gives me strength is the struggle that other people carry on – against the companies that dispossess people of their territory. To know that others continue the fight and that I am not alone. That there are people monitoring my situation and that national and international organizations

There is no place we can go to complain because they are infringing on our rights.

What do you think of the accusations against you?

When one looks at all that has happened in the process, the criminalization is obvious. Before I was detained, they created pages on social networks to provoke hate against me - to tell the world "this guy is a criminal". Then they filed formal complaints at the Public Prosecutor's Office (MP), put out an arrest warrant which was also published on social networks and in the media just minutes after the judge signed the order. This is not a public document. Someone had to have sent it to the press so they could publish it. My questions is: "who did this?" The media gave exaggerated coverage to my case to promote hate and label me as a delinquent, criminal, and to undermine my leadership. Thousands of Guatemalans think I am a criminal and I am condemned. Once they detained me, they started working on how to keep me in prison using stalling tactics to continue punishing me. The thing that worries me most is the possibility of conviction, for how many years can they convict an innocent person?

In your opinion, what are the errors in the process?

The accusations that have me in prison date back to things that happened in October 2015. Four Oxec company workers say that they were held prisoner and robbed by a group of community members led by me in an area called el Puentón

in Cahabón. Although the acts took place in 2015, the plaintiffs filed their complaint in July 2017 because they allegedly saw me on television and recognized me.

I never denied that on that day I was at a meeting in Seka Tal Kab near el Puentón, because two days before we'd discovered that they were starting to build the Oxec II dam and we'd decided to meet to discuss what was happening. When I arrived, several people had gone to the river and I went to call them to return to the meeting, but I did not rob or assault anyone. I arrived that day in Seka Tal Kab around 12 not at 8:30 like the plaintiffs state. I never heard of a robbery until now, two years later.

Also, one of the plaintiffs said in the first complaint that he'd received a phone call during the events, and later in another formal statement said that he was present during the incident. Nevertheless, the judge did not take into account this contradiction in his statements. The judge affirmed that he had doubts about the case, and when there is reasonable doubt it should favor the accused and not the plaintiffs. They should have had evidence against me, but they only have statements from witnesses working in private security for Oxec. This is the same company that I filed a complaint against and some of the photos they took two years later in el Puentón where the acts allegedly took place. Nothing more.

What are your expectations for the future?

Everything is very uncertain, I don't know what is going to happen as it is a legal issue. It is a political issue

of the companies and the State. Legally the case should fall apart, but it has political implications, so it is hard to tell what will happen. They tried bringing another case against me in which they accused me of receiving a teacher's salary without going to teach classes. This was the first criminalization case they fabricated and they wanted to see me in jail, but it did not work for them so they created this case against me. And if this case does not work to their advantage then surely they will come up with something else so that I am in jail for longer. All of this is a show.

Are you aware of the actions that Resistance members are taking? What effect does this have on you?

I know very little. I don't get a lot of information in jail but when people come to visit they tell me what is going on outside and this inspires and strengthens me and while this goes on I can continue imprisoned but the day that my colleagues abandon the struggle or me, there will be repercussions.

What support do you receive from the outside?

My family comes once a week to visit me. My wife brings me food that I like - food from rural areas that I am used to. We will know the effects and repercussions on my family with time. All of the stress will take its toll, like the worries and the fact that I am away from them.

My colleagues who continue the fight do not come frequently because of the distance and the expense. Cahabón is far from Cobán. It's

a 2 or 3 day round trip from the communities and is expensive. They also have not visited because coming to jail frightens most people, especially indigenous people who do not speak Spanish. Aside from being involved in the Resistance, people work in their territories and this takes a lot of time.

Representatives from the Office of the Human Rights Ombudsman (PDH) and the Office of the High Commissioner for Human Rights (OHCHR), UDEFEGUA and the Madre Selva Collective has come to visit me. The United Nation’s Special Rapporteur on the Rights of Indigenous Peoples also visited me. I gave her copies of my legal

complaints and documents that explain the persecution that I have suffered and, most importantly, in her report she mentioned criminalization. That means she took into account what I denounced. All of these visitors give me strength. The fact that I am not alone makes me feel supported, although it does not solve the problem.

Is there anything else you would like to tell us?

Being in jail does not discourage me. Together with my colleagues we are touching on core elements of cooptation and corruption which prevail in Guatemala and we are defending ourselves against

the plundering. Everything has been done under the umbrella of corruption, to strip us of our rivers. Corruption is structural. It all started with Former Minister of Energy and Mines of the Patriot Party, Erick Archila, who authorized the licenses that now have us in conflict. If he had not authorized the licenses then the rivers would still be intact. It is the Government, the State. With our grievances we are touching the heart of large mafias, great interests in the country and that is what bothers them. That is why I am in jail. If justice were equal in Guatemala, those who signed the authorization for hijacking the Cahabón River and stealing lands would be in jail.



Bernardo Caal with his lawyers and journalists before his trial on May 22, 2018, Cobán