



**Guatemala's oppression  
of Indigenous human rights  
defenders:  
The case of Bernardo  
Caal Xol**



## Introduction

Indigenous human rights defenders in Guatemala have been systematically targeted by Guatemala's judicial system. According to the United Nations High Commissioner for Human Rights (OHCHR) report, published in February 2021, at least 881 arrest warrants had been issued against members of indigenous human rights organisations since October 2020<sup>1</sup>. Within these arrests, the OHCHR found that Guatemala has been misusing its criminal law against indigenous human rights defenders, claiming the rights for their lands and communities<sup>2</sup>. The most recent case involved Bernardo Caal Xol, an indigenous human rights defender and leader of the Maya Q'eqchi indigenous community, who was unlawfully sentenced to imprisonment of seven years and four months<sup>3</sup>.

1. Human Rights Council, 'Report Of The United Nations High Commissioner For Human Rights' (2021) <<https://undocs.org/A/HRC/46/74>> accessed 3 February 2022, para.87. (OHCHR 2019 Report)
2. OHCHR 2019 report (n 1),para.87.
3. Sentencia No857 [2021] de Corte Suprema de Justicia (de Corte Suprema de Justicia), p.10.

## The case of Bernardo Caal Xol

The case goes back to 2015, when Mr. Caal Xol accused the OXEC Company of the illegal construction of hydroelectric plants that had been destroying indigenous land and restricting the rights of indigenous communities. Following his legal complaints and peaceful demonstrations against the OXEC Company, Guatemala's authorities arbitrarily arrested Mr. Caal Xol in January 2018<sup>4</sup>. His first trial occurred in November 2018, where the first Court of Criminal Sentencing, arbitrarily sentenced Mr. Caal Xol to seven years and four months in prison for the illegal detention of OXEC employees and aggravating robbery of the company<sup>5</sup>. Mr. Caal Xol appealed the decision of the Court and claimed that there was no evidence of his involvement in such crimes<sup>6</sup>. The Appeals Chamber rejected all the claims on the grounds of the defendant's erroneous legal and factual application, claiming that the defendant's arguments were inconsistent<sup>7</sup>. The case was then brought to the Supreme Court of Guatemala which rejected the claims and upheld the initial decision of the Court of Criminal Sentencing<sup>8</sup>.

The international community has put pressure on Guatemala's authorities to ensure Mr. Caal Xol's release from prison. However, he is still being unlawfully imprisoned in inhumane and degrading conditions. In the 2019 follow-up recommendations, the Inter-American Commission on Human Rights (IACHR) has raised its concerns over Guatemala's jurisprudence concerning indigenous human rights defenders and especially Mr. Caal Xol's case, emphasizing the state's duty to adopt all necessary measures to protect human rights defenders<sup>9</sup>. The European Union has sent a request to the EU Delegation in Guatemala to observe the judicial proceedings, as well as Mr. Caal Xol's condition in prison.<sup>10</sup> According to the review made by the Americas director of Amnesty International, Erika Guevara-Rosas, there is no evidence of Mr. Caal Xol's involvement in the crimes he has been sentenced to, which makes him a prisoner of conscience;<sup>11</sup> meaning that Mr. Caal Xol is imprisoned because of who he is and his beliefs.<sup>12</sup> Thus, marking Mr. Caal Xol the first prisoner of conscience following the Peace Agreement signed in Guatemala in 1966.<sup>13</sup>

4. 'Amnesty International Names Bernardo Caal Xol A Prisoner Of Conscience' (Amnesty International, 2022) <<https://www.amnesty.org/en/latest/news/2020/07/guatemala-bernardo-caal-xol-presos-conciencia/>> accessed 3 February 2022. Inter-American Commission on Human Rights, 'Annual Report 2019, Chapter V Follow up recommendations issued by the IACHR in its country reports or thematic report: Guatemala' (2019) <<http://www.oas.org/en/iachr/docs/annual/2019/docs/IA2019cap5GU-en.pdf>> accessed 2 February 2022, para.185. (IACHR Annual Report 2019)
5. Sentencia No857 [2021] de Corte Suprema de Justicia (de Corte Suprema de Justicia), p.2.
6. Sentencia No857 [2021] de Corte Suprema de Justicia (de Corte Suprema de Justicia), p.10.
7. Sentencia No857 [2021] de Corte Suprema de Justicia (de Corte Suprema de Justicia), pp.10-14.
8. Sentencia No857 [2021] de Corte Suprema de Justicia (de Corte Suprema de Justicia), p.30.
9. IACHR Annual Report 2019, paras.139 and 185.)
10. 'The Situation Of Bernardo Caal, Defender Of Human Rights In Guatemala And Prisoner Of Conscience' (Europarl.europa.eu, 2022) <[https://www.europarl.europa.eu/doceo/document/E-9-2020-005881\\_EN.html](https://www.europarl.europa.eu/doceo/document/E-9-2020-005881_EN.html)> accessed 3 February 2022.
11. Amnesty International Names Bernardo Caal Xol A Prisoner Of Conscience' (Amnesty International, 2022) <<https://www.amnesty.org/en/latest/news/2020/07/guatemala-bernardo-caal-xol-presos-conciencia/>> accessed 3 February 2022.
12. 'Detention and Imprisonment' (Amnesty International) <<https://www.amnesty.org/en/what-we-do/detention/>> accessed 1 March 2022. Prisoner of Conscience: "someone has not used or advocated violence or hatred but is imprisoned because of who they are or what they believe."
13. Amnesty International Names Bernardo Caal Xol A Prisoner Of Conscience' (Amnesty International, 2022) <<https://www.amnesty.org/en/latest/news/2020/07/guatemala-bernardo-caal-xol-presos-conciencia/>> accessed 3 February 2022.

## Legal protection of Indigenous lands

The case of Bernardo Caal Xol is a projection of Guatemala's oppression of indigenous human rights defenders as well as indigenous communities who have been greatly affected by the establishment of illegal hydroelectric projects on their lands. Since 2019, the IACHR has been receiving information regarding the Environmental Impact Assessment (EIA) of such projects, indicating their failure to protect the environment and land of indigenous communities.<sup>14</sup> The IACHR has raised its concerns, in 2020, regarding the protection of the Mayan Q'eqchi Community, and concluded that Guatemala's domestic legislation fails to protect the rights of indigenous people both individually and collectively.<sup>15</sup>

14. IACHR Annual Report 2019, para.139

15. Comisión Interamericana de Derechos Humanos, 'Informe De Fondo Comunidad Indígenas Comunidad Indígena Maya Q'eqchí Agua Caliente Guatemala' (2020) <[https://www.oas.org/es/cidh/decisiones/corte/2020/GT\\_13.082\\_ES.PDF](https://www.oas.org/es/cidh/decisiones/corte/2020/GT_13.082_ES.PDF)> accessed 3 February 2022, para.4.

## Conclusion

Guatemala's authorities should immediately release Mr. Caal Xol from prison without undue delay. Otherwise, the continuation of Mr. Caal Xol's sentence and violation of his rights will create a dangerous precedent for future cases, resulting in further deterioration of the rights of indigenous human rights defenders and indigenous communities in the country. In addition, the international community, as well as human rights campaigns, should continue to put pressure on Guatemala's authorities, and prevent any further rights violations of indigenous peoples.

## Bibliography

### Case law

Comisión Interamericana de Derechos Humanos, 'Informe De Fondo Comunidad Indígenas Comunidad Indígena Maya Q'Eqchí Agua Caliente Guatemala' (2020) <[https://www.oas.org/es/cidh/decisiones/corte/2020/GT\\_13.082\\_ES.PDF](https://www.oas.org/es/cidh/decisiones/corte/2020/GT_13.082_ES.PDF)> accessed 3 February 2022

Sentencia No857 [2021] de Corte Suprema de Justicia (de Corte Suprema de Justicia)

### Reports

Inter-American Commission on Human Rights, 'Annual Report 2019, Chapter V Follow up recommendations issued by the IACHR in its country reports or thematic reports: Guatemala' (2019) <<http://www.oas.org/en/iachr/docs/annual/2019/docs/IA2019cap5GU-en.pdf>> accessed 2 February 2022

Human Rights Council, 'Report Of The United Nations High Commissioner For Human Rights' (2021) <<https://undocs.org/A/HRC/46/74>> accessed 3 February 2022

### Websites

Amnesty International Names Bernardo Caal Xol A Prisoner Of Conscience' (Amnesty International, 2022) <<https://www.amnesty.org/en/latest/news/2020/07/guatemala-bernardo-caal-xol-pres-conciencia/>> accessed 3 February 2022

'Detention And Imprisonment' (Amnesty International) <<https://www.amnesty.org/en/what-we-do/detention/>> accessed 1 March 2022

The Situation Of Bernardo Caal, Defender Of Human Rights In Guatemala And Prisoner Of Conscience' (Europarl.europa.eu, 2022) <[https://www.europarl.europa.eu/doceo/document/E-9-2020-005881\\_EN.html](https://www.europarl.europa.eu/doceo/document/E-9-2020-005881_EN.html)> accessed 3 February 2022

### Photos

'Guatemala: Freedom For Bernardo Caal And For All Water Defenders' (Awasqa: The Green Network Project, 2021) <<https://awasqa.org/en/2021/06/07/guatemala-freedom-for-bernardo-caal-and-for-all-water-defenders/>> accessed 2 March 2022



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