

Dispatches **BOLIVIA PALESTINE PERU TURKEY GUATEMALA**



Carmen Beatriz Ruiz

BOLIVIA

Elecciones Judiciales

En octubre de este año 2017, la población boliviana elegirá, por segunda vez, autoridades del Órgano Judicial. Según la Constitución Política del Estado, la Asamblea Legislativa elige a los postulantes que, luego, serán sometidos al voto popular.

En octubre del año 2011, durante las primeras elecciones judiciales según la nueva Constitución, una comisión conformada por integrantes del Órgano Legislativo, asegurando que se actuaría en un marco de transparencia e imparcialidad en el proceso de elaboración de esa lista, sometió a los postulantes a concurso de méritos y a exposiciones orales para establecer experiencia, conocimientos y visión en torno a la función jurisdiccional. Sin embargo, esa promesa no se cumplió. Al contrario, la selección final de los postulantes respondió al criterio del Movimiento al Socialismo (MAS), la mayoría partidaria presente en la Asamblea, que no tomó en cuenta las impugnaciones presentadas por la oposición y sociedad civil. Nuevamente se impuso la lógica político-partidaria, precisamente uno de los males que aquejan al sistema judicial. También hubo trabas a la difusión de información sobre el proceso y los postulantes, por lo que, como confirmaron varias encuestas, alrededor del 90 por ciento de la población no conocía a los candidatos, sin que el Tribunal Supremo Electoral tome medidas correctivas.

El resultado fue el predominio de los votos nulos y blancos (60 por ciento) sobre los válidos (40 por ciento). Ante esto se propuso que las autoridades elegidas con tan poca credibilidad renunciaran, dando paso a un nuevo proceso que corrigiera los defectos evidentes. No se hizo y el Poder Judicial arrastró una carga aún mayor de polarización sospecha e ilegitimidad, confirmada hasta el momento.

Por todo ello, para las elecciones judiciales 2017 se propuso que la Asamblea Legislativa conforme comités de calificación de las y los postulantes, integrados por personalidades de diversas corrientes ideológicas y representantes de Facultades de Derecho de las universidades y agrupaciones colegiadas del área. El proceso aún está dando sus primeros pasos, en medio de un clima de desconfianza, por un lado y, por otro, de expectativa sobre posibles medidas que efectivamente contribuyan a solucionar la profunda crisis del sistema judicial boliviano. Unas elecciones transparentes son un componente importante.

PALESTINE/OCCUPIED PALESTINIAN TERRITORY

Palestinian Prisoners' Hunger Strike for "Freedom and Dignity"

[**Editor's note:** The information prepared by Varsen Aghabekian, **Commissioner, Palestinian Independent Commission for Human Rights**, pre-dated the end of the hunger strike on May 27, 2017. The prisoners ended the strike after 40 days, just before the beginning of Ramadan, after negotiations with Israeli officials. Reports differ on whether the prisoners were successful in negotiating more than the resumption of two

family visitations per month per prisoner. Israeli officials claim that family visitation was the only issue resolved in the negotiations; however, the Palestinian Prisoners Solidarity Network listed the resolution of 19 issue. See: <http://mondoweiss.net/2017/05/palestinian-prisoners-declaring/>]

Varsen Aghabekian

A group of 1500 Palestinian Prisoners in Israeli jails launched a hunger strike on April 17, 2017, protesting Israeli policies and measures against Palestinian prisoners - the conditions of their detention and imprisonment, and violations of their rights. This action, in which striking prisoners refrain from ingesting any type of food and liquids (with the exception of water and salt), is the 23rd coordinated hunger strike since the June 1967 Six Day War. The Palestinian prisoners' movement considers the hunger strike as a form of passive resistance and peaceful protest. Historically, it has been the only means available for demanding prisoners' rights in Israeli jails that has succeeded in the past.

This hunger strike in 2017 coincides with some very painful historical events affecting Palestinian lives:

- » the 100th anniversary of the Balfour Declaration,
- » the 70th anniversary of the forced displacement of the Palestinians,
- » the 50th anniversary of the 1967 occupation of the West Bank, the Gaza Strip and East Jerusalem and,
- » 10 years since the imposed blockade on the Gaza Strip.

The state of Israel, as an Occupying force of the State of Palestine, has over 6500 Palestinian prisoners in 22 Israeli prisons, including 300 children, 62 women and approximately 500 administrative detainees (held without charges). Since 1967, over 800,000 Palestinians have been detained in Israeli prisons, equivalent to 20% of the population. These prisoners experience various violations of their rights in breach of international treaties and conventions with the majority of prisoners subject to some kind of torture and mistreatment.

Most prisons are located inside Israel in violation of international law. Moreover, Palestinian prisoners are not afforded minimum guarantees of a free trial under the judicial system (military courts). International Humanitarian Law, particularly the Geneva Conventions, was built on the idea of providing protection to those who do not take part or have stopped taking part in hostilities. Prisoners fall under these two categories and should thus be afforded special protection, since they are at the mercy of the detaining power. All High Contracting Parties of the Geneva Convention have a responsibility to ensure respect for prisoners' rights and see that those on the hunger strike are not harmed.

The Palestinian prisoners' hunger strike in Israeli Prisons is a peaceful and a legitimate means of protest. The demands of the hunger strikers are grounded in international law and include, but are not limited to:

- » ending administrative detention,
- » ending punitive measures such as solitary confinement,
- » ending deliberate medical neglect,
- » respecting visitation rights with longer time and inclusion of relatives beyond immediate family members as well as improved conditions for such visits and making public phones available to allow contact with family and,
- » restoring education rights.

There is a duty on states to condemn Israel's mistreatment of hunger strikers by punitive measures such as placing them in solitary confinement, preventing lawyers' visits, and inciting hatred against Palestinian prisoners. There is also an international duty to intervene; to put an end to all injustices against prisoners and violations of their rights including torture and inhumane treatment. The prisoners' hunger strike is a step in the path towards liberation. In this regard, support for the prisoners' demands, their ultimate release, and an end of the Israeli occupation are the way towards peace, freedom and dignity for all.



Varsen Aghabekian



Sami Al-Kilani

dispatches

Administrative Detention

Sami Al-Kilani

[Editor's note: Sami Al-Kilani was detained at Ansar 3, an Israeli detention camp built by the Israeli government 70 kilometers south of Beersheva during the first Intifada. Amnesty International raised his detention as a prisoner of conscience detained exclusively for his non-violent political beliefs and activities. Sami wrote about his experience years ago and allowed us to print it here.]

When you're an administrative detainee you're under arrest and that's that. No need for questions, no need for answers. Neither you nor your attorney can do anything.

During the First Intifada, a Palestinian uprising against the Israeli occupation lasting from December 1987 to 1993, there were at one time more than 4000 people in military detention camps. Political activists and intellectuals were mainly targeted. I was a member of the Palestinian Workers' Union board. Seven out of eleven board members were imprisoned.

Administrative detention is the unknown enemy facing Palestinian prisoners. It is a sanction without charges. Decisions of administrative detention are based on so-called "confidential/classified files", submitted by the intelligence services. Prisoners and their lawyers are not permitted access to such files. The administrative detention order is renewed several times for periods ranging from two to six months with further possibility of extension. They are issued by military commanders of the Occupied Palestinian Territory.

My crime was practicing my right to express my political opinion and for writing poetry. Being an administrative detainee means that you are sent to prison without having any kind of trial, without knowing why you were arrested, without knowing whether you'll be released upon the end of the six-month period.

I was sent to military court for the crime of publishing a book of poetry. My lawyer, a respectful and humane Jewish lawyer, Felicia Langer, told the judges 'it is shame for a people that calls itself the people of the book to send a poet [to] military court'. They failed to condemn me, I was acquitted, saved from further imprisonment. Still, my punishment included four 6-month periods of administrative detention plus three years of town arrest (also an administrative military order).

Administrative detention means being in the Negev (the desert). In Ansar 3, you are in desert. Your family requires a special permit to visit and conditions are difficult for the prisoner and his family. It's as if it isn't your natural right to see your son, but rather a privilege for which you must pay dearly. In some prisons, the guard handcuffs you so you won't escape, but here the guard closes the handcuffs so tight they leave marks on your wrists. In Ansar 3, you are fortunate if you receive less-than-month-old news of your loved ones. The prison administration delays the mail, and sometimes simply throws it in the garbage.

PERÚ

Niño costeño, reconstrucción y gobernabilidad

El Perú se ha visto nuevamente afectado por la improvisación y la escasa planificación ante la presencia de eventos climáticos extremos, esta vez en el norte del país, con el llamado Niño costeño. Un total de 114 personas fallecieron y existen más de 100,000 damnificados; además han sido afectados 549 puentes, 6.477 kilómetros de carreteras y 30.970 kilómetros de caminos rurales, 45.335 kilómetros de canales de riego y 60.400 hectáreas de cultivo. Para encarar esta difícil situación el gobierno ha creado la Autoridad para la Reconstrucción con Cambios, medida administrativa a la que siempre se ha recurrido para acontecimientos naturales afines en otras partes del país sin los éxitos esperados y debilitando aún más la frágil gobernabilidad existente.

El actual debate sobre la reconstrucción se presenta como una oportunidad para superar errores y empezar procesos más sostenibles que incluyan visión de planificación concertada y a largo plazo, que superen la corrupción y el uso político y mercantilista de los proyectos; que consideren una relación de respeto y convivencia armónica entre ser humano y naturaleza, con medidas permanentes de adaptación, resiliencia y alerta temprana, frente a los próximos eventos naturales. Igualmente, que los proyectos previstos se diseñen con un enfoque de ordenamiento territorial en función de las potencialidades y capacidades



Carlos Herz

de los diversos espacios a intervenir. No se trata de levantar casas menos precarias que antes, sino de reconstruir la vida de las personas con dignidad y calidad en la vivienda, en el empleo, en los servicios que brinde cada territorio afectado.

Asimismo, es una ocasión para sumar esfuerzos entre los diversos ámbitos de gobierno, la sociedad organizada, la inversión privada y las organizaciones políticas, en un clima de consensos, diálogo y toma de decisiones responsables, eficientes y transparentes, que garanticen la participación, la rendición de cuentas y el control público, en un escenario de enorme desconfianza social y de manifestaciones de corrupción por doquier, como una lacra que corroe la mayoría de instituciones del país.

Actuar así en la reconstrucción servirá para construir y reforzar gobernabilidad democrática como garantía de éxito para las zonas afectadas y como patrón para el país.

TURKEY

Constitutional Referendum and Extended State of Emergency

On April 16, 2017 Turkey held a national Constitutional Referendum, which, by a slim margin of votes, introduced the most significant political reform since the Turkish republic was formed in 1923. The constitutional change represents a step backwards in Turkish democracy by introducing a system of executive authorities designed to grant the reigning President, Recep Tayyip Erdoğan, even wider-ranging powers, severely threatening the separation of powers, and weakening both the parliamentary regime and judicial independence. With the changes, the position of prime minister is abolished and executive powers are fully transferred to the president, giving him the authority to issue decrees and appoint judges and officials responsible for scrutinizing his decisions.

The Yes camp, despite having vastly superior campaign advantages, won the referendum by the narrowest of margins over the No camp (51.4% vs 49.4%). Consequently, the legitimacy of the referendum has been largely contested. The referendum was held during a prolonged state of emergency (imposed after last year's failed military coup attempt) during which most of the oppositional media outlets and NGOs were shut-down and oppositional figures, including members of Parliament, were jailed. The Yes campaign, supported by Erdoğan's Justice and Development Party (AK Party), frequently claimed that the No campaign was siding with terrorism. A recent report by the Republican People's Party (CHP), the main oppositional party, argues that the budget of the Yes campaign exceeded that of the No campaign by a factor of one thousand (15 million TL to 15 billion TL), and included vast state resources. More importantly, there are strong allegations of fraud regarding election results, not the least of which is unlawful action by the Supreme Board of Election (SBE). According to the [OSCE observers' report](#), 'The SBE issued instructions late in the day that significantly changed the ballot validity criteria, undermining an important safeguard and contradicting the law.'

President Erdoğan, who has since returned to his post as the AK Party leader, has pledged to maintain the state of emergency as long as he deems necessary.

Following the coup attempt on 15 July 2016 and throughout the continued state of emergency, Turkish authorities have pursued an unprecedented crackdown against perceived critics and opponents: Over 160 media outlets and publishing houses have been closed; approximately 165 journalists and media workers are in jail pending trial; over 100,000 civil servants were summarily dismissed; over 47,000 army personnel, police and teachers were arrested on charges of involvement in the coup plot and/or of association with a terrorist organization.

Turkey's Kurdish population has been disproportionately affected. The co-chairs of the parliamentary opposition Peoples' Democratic Party (HDP), and other MPs from the party, have been incarcerated since the referendum, thus effectively barred from further campaigning. At least 87 municipalities in the southeast have been taken over by the government and their democratically elected mayors and officials removed or jailed. The activities of some 370 NGOs were arbitrarily suspended - over half of them Kurdish organisations. Among the thousands of academics dismissed, approximately 400 had signed a January 2016 peace petition calling for an end to army abuses in the southeast of the country.



Zeynep Baser

Turkey's international relations with Europe have become increasingly tense in the last few months. Relations began to deteriorate when ministers from the Turkish government, who were hoping to gather support from Turkish citizens, were barred entry to European cities (in Germany, Austria, Switzerland, and the Netherlands). President Erdoğan accused these states of fascism and Nazism. In response, hundreds of Turkish expats took to streets in European cities to either protest in favour or against Erdoğan's government. In April, the Council of Europe voted to resume monitoring the situation in Turkey, citing "serious concerns" about democracy and human rights, a process it had relaxed in 2004 to pave the way for accession talks with the European Union.

In May, President Erdoğan visited the United States and met with President Donald Trump. For Turkey, the key issues of the visit included demands that Washington discontinue its support of the Kurdish People's Protection Units (YPG); extradite Fethullah Gulen; and release Reza Zarrab, a central character in a 2014 corruption case in Turkey, who was arrested in the U.S. in 2016. It appears that none of these demands were met. Meanwhile, international media focused reports on the violent attacks by Erdoğan's bodyguards on peaceful protestors outside the Turkish Embassy in Washington, D.C.

Perhaps it is not surprising that there appears to be [a sharp increase in asylum applications by Turkish citizens](#) and a significant increase in emigration from Turkey, particularly by the educated classes. This "brain drain" could have major long-term consequences for Turkey.

Opinión **SEGURIDAD EN LAS AMÉRICAS**

Editor's note: On May 31, 2017 Just Governance Group asked Dra. Claudia Paz y Paz Bailey, Secretary of **Multidimensional Security at the Organization of American States** and former Attorney General of Guatemala about her experience and plans related to combatting security problems.

JGG: ¿Cómo su mandato y experiencia como Fiscal General en Guatemala la preparó para su actual cargo en la OEA?

Dra. Claudia Paz y Paz:

Los temas que trataba yo como Fiscal General son similares a los temas tratados por la Secretaría. Por ejemplo, los temas vinculados al tráfico, no solo narcotráfico sino también trata de personas, lavado de dinero y pandillas – siendo este último más relevante para la región de Centroamérica – son vigentes para todo el hemisferio. Como Fiscal General logré entender cómo operaban las bandas ilegales y pude diseñar estrategias para combatir crímenes organizados. Una estrategia exitosa en Guatemala fue la creación de la dirección de Análisis Criminal. Tal unidad tenía 10 personas para analizar los patrones de casos y cuando terminé mi gestión después cuatro años, esa instancia se había convertido en una Dirección con 150 personas. Gracias a esta instancia se pudo identificar vínculos entre criminales en base del análisis de diversos tipos de (balística, escuchas telefónicas, entre otras). Por tanto, el litigio de crímenes fue más exitoso. No solo logramos mayor número de condenas sino la tasa de homicidios (muertes violentas) bajó significativamente, especialmente en la Ciudad de Guatemala (en 2009 la tasa de

muertes violentas en el país fue 46.3 por cada 100,000 habitantes y en 2016, 27.31 por cada 100,000 habitantes). Entonces la inteligencia criminal es una estrategia muy importante. Otras estrategias para combatir el crimen organizado que son útiles para mi actual trabajo son el uso de tecnología y trabajo conjunto entre fiscales y agentes policiales. En Guatemala logramos mayor coordinación entre las instituciones para que los mismos agentes siguieran un caso desde la investigación preliminar hasta el final del proceso.

JGG: ¿Cuáles son sus prioridades para tratar los temas comunes que afectan a la mayoría de los países en el hemisferio?

Dra. Claudia Paz y Paz:

Apoyar a los Estados para combatir el tráfico de armas es altamente importante dado que las muertes violentas son, en su mayoría, causadas por armas ilegales. Sin embargo, debemos combatir otras actividades ilícitas perpetradas por el crimen



organizado, tales como trata, narcotráfico y minería ilegal. Algunos esfuerzos importantes en la región son la capacitación a la fuerza policial y la prevención de violencia. Finalmente, es importante también mejorar la seguridad en centros penitenciarios.

Dra. Claudia Paz y Paz Bailey

photo Organization of American States (OAS)

Advancing the Rights of Women and Girls through Constitutional Litigation: Insights from the global south

JGG organized a panel for the conference called Realizing Rights 2017: Human Rights and Constitutionalism. The purpose of the conference, organized by the Human Rights Research and Education Centre (HRREC) at the Faculty of Law, University of Ottawa, was to allow practitioners, scholars and advocates to discuss challenges and opportunities for the effective realization of human rights and related constitutional and governance arrangements. Jennie Abell and Kimberly Inksater, the two principal researchers of a global exploratory study completed by JGG for International IDEA, examined strategic litigation from the global south related to family law and sexual violence in the context of armed conflict in their respective presentations. Chantal Tie, who collaborates with the equality effect organization, discussed the preparation and aftermath of litigation in the Ripples case in Kenya (Equality Law and Girls' Empowerment: The 160 Girls Story). Élène Bérubé, counsel in the Human Rights Law Section of Justice Canada, moderated.



Panelists responding to questions from the audience



New JGG Manager

John Sharp joined JGG as Manager in February. He supports all administrative aspects of consultancy, knowledge and network/corporate functions of the Group. John has extensive experience in the administration and management of civil society networks and non-governmental organizations.



John Sharp

news

JGG Roundtables

JGG held its first roundtable event in April. Tanya Zayed, a child protection specialist, asked participants to discuss “Where are the boys? A conversation around sexual and gender-based violence in conflict settings and fragile states”. In June a second roundtable examined the timely question: “Does Canada have a feminist foreign policy? Implications for the Women, Peace and Security Agenda.” Beth Woroniuk, a specialist in gender dimensions of peace-building, armed conflict and humanitarian assistance, gender equality and women’s rights facilitated the discussion. The next roundtable will be held in October.



Guest speaker Beth Woroniuk



Guest speaker Tanya Zayed with JGG Executive Director Kimberly Inksater

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