



**PEACEBUILDING FUND**  
**[GUATEMALA]**

**PROJECT HALF YEARLY PROGRESS UPDATE**

**AS OF JANUARY – JUNE 2013**

<b>Project No &amp; Title:</b>	PBF/GTM/H-1 Support to the consolidation of the right to truth, justice, and reparation and measures of non-repetition for victims of the internal armed conflict in Guatemala 00083915		
<b>Recipient Organization(s)<sup>1</sup>:</b>	UNDP		
<b>Implementing Partners (Government, UN agencies, NGOs etc)</b>	General Prosecutor's Office; Judicial Branch; Guatemalan National Forensic Science Institute; Guatemalan Forensic Anthropology Foundation; and Civil society organizations. OHCHR		
<b>Location:</b>	Guatemala		
<b>Total Approved Budget<sup>2</sup></b>	US\$ 980,000.00		
<b>Funds Committed<sup>3</sup></b>	US\$272,611.82	<b>% of funds committed / total approved budget:</b>	27.81%
<b>Expenditure<sup>4</sup>:</b>	\$567,690.00	<b>% of expenditure / total budget: (Delivery rate)</b>	57.92%
<b>Project Approval Date:</b>	Sept. 1, 2012	<b>Possible delay in operational closure date (Number of months)</b>	0
<b>Project Start Date:</b>	Sept. 1, 2012		
<b>Expected Operational Project Closure Date:</b>	<b>Sept. 30, 2014</b>		
<b>PBF Outcome Area<sup>5</sup></b>	Priority Area 2 of Guatemalan Priority Plan Outcome No. 5		
<b>Qualitative assessment of achievements and challenges</b>	This report relates to the initial 6 month period of implementation of the Project, 1 January – 30 June 2013.		

<sup>1</sup> Please note that where there are multiple agencies, only one consolidated project report should be submitted.

<sup>2</sup> Approved budget should be the amount transferred to Recipient Organisations

<sup>3</sup> Funds committed are defined as the commitments made through legal contracts for services and works according to the financial regulations and procedures of the Recipient Organisations.

<sup>4</sup> Actual payments (contracts, services, works) made on commitments.

<sup>5</sup> Reference to be made to outcomes of the Priority Plan or PBF Performance Management Plan (PMP)

I: Qualitative assessment of level of progress (Outcome and Output Level; Based on Indicators and Targets)

**PBF Outcome**

**National Reconciliation Processes, that promote an inclusive culture and the peaceful resolution of conflict, strengthened and the most urgent human rights legacies of the conflict addressed, including responsible media.**

The Planned Target relative to the PBF Outcome is 5 convictions in paradigmatic cases of the internal armed conflict. During the period covered by this report (January-June 2013), a guilty verdict for genocide and crimes against humanity was achieved in proceedings against former de facto Head of State Efraín Ríos Montt. While the verdict was subsequently overturned by the Constitutional Court – in a split decision which is regarded by the human rights community as highly erroneous and even illegal – the verdict achieved was celebrated internationally as a breakthrough not only for justice for victims of Guatemala’s genocide, but for transitional justice in general, in that it represents the first time a perpetrator of genocide has been convicted at the domestic level. Furthermore, it reflects the huge advances that Guatemala’s justice system had made towards building capacity to bring complex cases involving international crimes committed decades ago to trial, and to do so successfully despite the ongoing obstructionist tactics used by Defense lawyers and a highly charged political environment.

**Output 1.1**

**Capacities of the Public Prosecutors Office and the Judicial Branch strengthened to investigate process and punish gross violations of human rights committed during the internal armed conflict, with special emphasis on gender-based violence**

*1.1.1 Support to the Human Rights Division in order to strengthen expert legal assistance on the investigation and prosecution of cases of the internal armed conflict, with emphasis on cases of gender-based violence.*

The historic breakthrough achieved for victims in the Ríos Montt genocide case is testament to the improved technical capacities of the Public Prosecutors Office to prosecute complex cases of international crimes. The support provided via PAJUST to the strengthening of the Human Rights Division of the Prosecutors has played a major role in this process, specifically through the provision of Technical Legal Advisors who work closely with local staff on the cases to provide training and mentoring, and who were heavily involved specifically in the preparation of the genocide case and steering it through the trial process between January and May.

In relation to capacity building of the Prosecutors office to investigate and prosecute cases of sexual violence against women during the internal armed conflict, during this period PAJUST facilitated the creation of a coordination

roundtable in which prosecutors, lawyers, psychologists, advisors, as well as UNDP and UN Women staff participate. The purpose of this roundtable is to promote knowledge sharing amongst participants, enabling a discussion of progress achieved and challenges faced in relation to 4 cases from the internal armed conflict which include sexual violence against women of various forms and in various contexts. Issues being discussed by the roundtable include: legal concepts, standards and jurisprudence applicable under international law to prosecuting sexual violence as genocide, crimes against humanity, war crimes or torture; use of sexual violence against women as military and counter-insurgent strategy; evidentiary requirements, limitations and hurdles to overcome; psycho-social support to victims during the process, and how to address continuing hostile attitudes to female victims of sexual violence at the community level, among others. It is proving to be a very dynamic and interesting space for discussion, and motivating Prosecutors and lawyers to work more closely – and more efficiently – on the various cases. It is expected that this coordination will assist in fast-tracking the cases in order that they will be brought to trial in 2014.

In addition to the facilitation of this space, PAJUST provides specialized legal advisors to assist prosecutors in planning and carrying out investigations in these cases.

Preparation and litigation of the Rios Montt genocide case was a major focus of the Human Rights Division during this semester. For this reason, work on drafting the investigation and prosecution strategy for cases from the internal armed conflict was delayed. This will be undertaken by the Division with the technical assistance of a legal advisor provided by PAJUST, with the support of 4 Analysts to be hired in the second semester who will undertake a review of all files relating to the internal armed conflict in 4 key regions. Detailed Terms of Reference have been prepared for the hiring to these analysts during July.

*1.1.2 Support to organizations litigating cases of internal armed conflict, with special emphasis on cases sexual violence against women.*

During this period PAJUST continued providing support to 2 organizations which provide legal advice to victims in cases of sexual violence committed during the internal armed conflict:

- Rabinal Legal Centre (*Bufete Juridico Rabinal*), which provides legal advice to victims in relation to 2 key cases: 1) 20 massacres committed in the department of Baja Verapaz in 1982 and 1983, currently being investigated with a view to being included in the indictment of members of the military for genocide against the the *Achi* mayan group. 2) 11 women victims of sexual violence committed within the installations of the Military Garrison at Rabinal, Baja Verapaz. These women were illegally detained and held at the Garrison where they were subjected to sexual violence of diverse forms. The support provided to the Centre enabled the lawyers' working on the cases to develop an investigation plan and to collect testimonies from victims as well as identify sources of expert evidence

which will be required.

- Mutual Support Group, which is investigating 2 cases of sexual violence against women of the El Jute Village, committed by members of the Army in 1981 some months after 8 members of the community were disappeared. The case is in the investigation phase, and during this period progress was made. Work was carried out to enable testimonies of the victims to be rendered before a Judge and incorporated into the body of evidence, and members of the Military Base were interviewed, among other actions.

PBF support to these organizations means that the target of promoting 4 cases of sexual violence has now been achieved.

### 1.1.3 Training of judges

During this semester, this component of the project was implemented by the Office of the High Commissioner for Human Rights (OHCHR):

Between the months of April-June, the OHCHR carried out the training of over 100 first instance and trial judges from 10 departments of Guatemala on international human rights and humanitarian law obligations, standards and principles relevant to the trial and punishment of cases of gross human rights violations and grave breaches of international humanitarian law. The training sessions were preceded by a Forum convened by the President of the Supreme Court, in which the Inaugural speech was presented by the OHCHR on the topic of the decisions of the “*Constitutional Application of decisions Inter-American Court of Human Rights in Post-Conflict Contexts*”.

Results achieved include: 1) Participants knowledge of international human rights standards, instruments and jurisprudence in the transitional justice field has been strengthened; 2) Participants are now aware of the relevant International instruments and their applicability at the domestic level as part of domestic law. An unexpected – although foreseeable – result was the facilitation of an exchange between the participant judges on their own experiences and criteria for the application of international law, generating positive knowledge sharing at the peer level which complemented the formal training sessions.

A challenge encountered initially was a reticence on behalf of some judges to participate actively in discussions. This was overcome by identifying and citing the judgments of national courts in which international standards have been incorporated, which motivated greater interest. The training course was well received by participants, which meant attendance levels were maintained.

An additional result expected by the end of the year is that the judges refer to international human rights and humanitarian law standards in their analysis of cases before them, and include them in their judgments. As a result of the trainings, OHCHR has received requests from the President of the Constitutional Court and the Supreme Court to include Judges Associates in the training courses. Some budgetary adjustments have been made to make

this possible.

**Output 1.2 Strengthening of State and civil society capacities to conduct forensic-anthropology investigations to search for and identify victims of the internal armed conflict.**

*1.2.1 Analysis of state capacities in the field of forensic anthropology for the investigation of gross human rights violations, and the identification of coordination mechanisms and agreements for inter-institutional collaboration*

During this period further meetings were held with the National Institute for Forensic Science (INACIF for its initials in Spanish) and with the Guatemalan Anthropology Foundation of Guatemala (FAFG) in preparation for the institutional study. On the ground monitoring was also carried out in rural areas to understand more closely the relationships between the FAFG, INACIF, the National Reparations Programme as well as civil society organizations providing legal and psycho-social assistance to victims in the exhumation processes.

On the basis of this work, Terms of Reference for the 3 month study were drafted and consulted with both INACIF and FAFG. These will be published in July with a view to hiring the Consultant to commence in August. Results of this study will be obtained during the second semester of 2013, and therefore by the end of year the result expected is a detailed report and set of recommendations in relation to the role of the State and Non-state bodies in carrying out exhumations in Guatemala.

*1.2.1 Support to the FAFGs forensic anthropology investigations at the Verbena Cemetery, for the search for victims of the internal armed conflict*

Six monthly progress reports (January – June) were produced in relation to the exhumations being carried out at the Verbena Cemetery, and presented to the Prosecutors Office.

During this period the exhumation phase at La Verbena cemetery concluded, and the FAFG will now concentrate on the analyses of the bones and other articles exhumed.

**1.2.3**

*DNA bone samples taken and compared with genetic samples obtained from family members of victims, via the Genetic Database of Victims of the Internal Armed Conflict.*

During the relevant period, genetic profiles from 566 bone samples, as well as genetic profiles from 947 DNA samples taken from family members of victims, were entered in to the Genetic Database. These samples were compared with the total number of profiles contained in the database.

During this period, the FAFG achieved 18 identifications, including victims exhumed from La Verbena cemetery and the CREOMPAZ Military installation.

The continuing increase in the number of victims identified reflects the ever-greater capacity of the Foundation to undertake rigorous technical and scientific procedures in the DNA laboratory which are complemented by archeological and bone analysis as well as prior anthropological work undertaken within victims' families and communities.

### **Output 1.3**

#### **Strengthening of partnership between State and civil society for the promotion of the rights to truth, justice, reparation and measures of non-repetition in the framework of transitional justice.**

##### **1.3.1**

Promotion of dialogue between civil society and the State via the development of joint initiatives in the thematic areas of Culture of Peace, Historical Memory and National Reconciliation, promoting international standards on transitional justice, access to justice for victims of the internal armed conflict, psycho-social attention of victims of the internal armed conflict; psycho-social attention for victims during criminal proceedings, strategic communication for the promotion of the rights to truth, justice, reparation for victims of the internal armed conflict; civil society follow up and monitoring of State obligations in the field of transitional justice.

As a result of the November 2012 call-for-applications, PAJUST received 28 applications for funding, of which 17 projects were approved, across a broad range of transitional justice topics covering the large majority of those mentioned in the PBF Project document. Support for these initiatives was conditioned on organizations demonstrating capacity and commitment to coordinate closely with other NGOS in the field, and with relevant State bodies. PAJUST has convened project partners to a number of meetings and workshops to stimulate relationship building and alliances, both at the national and regional levels. Results are already beginning to emerge as a result of this work. For example, 4 organizations whose projects share similar aims with respect to promoting international standards with respect to reparations and empowering victims to understand and exercise their rights in that regards, are now meeting regularly and are joining forces to prepare a joint analysis of the National Reparations Programme which will also be presented jointly to the President of the National Reparations Programme. Open communication mechanisms with this President are being established to facilitate uptake of recommendations flowing from the analysis. With a history of deep divisions with the victims organizations, such an alliance is rare, and a very positive indicator

### **II. Major highlights of results**

The major highlights of results achieved during this period are as follows:

- Ground-breaking and historic genocide conviction against former de-facto Head of State Efraim Rios Montt.
- For the first time, coordination is occurring between Prosecutors and Lawyers working on new cases of sexual violence against women.

- Completion of exhumations at the Verbena Cemetery.
- Large increase (18 individuals) in number of identifications of victims of gross human rights violations committed during the conflict.
- Largest number (17) of civil society projects approved in the history of PAJUST, enabling a broad range of civil society initiatives in the transitional justice field to be supported.

### III. Did the results impact the causes and drivers of conflict?

The conviction of Efraín Ríos Montt was a huge step towards ending impunity for conflict era crimes in Guatemala, and towards demonstrating the capacity of victims, prosecutors and judges to ensure judicial accountability at the domestic level when gross violations of human rights are committed. It has been internationally recognized as an important step forward in ensuring respect for human rights (access to justice), strengthening the rule of law and contributing to the creation of conditions for reconciliation. As recognized in the *Updated Set of principles for the protection and promotion of human rights through action to combat impunity*<sup>6</sup> there can be “no just and lasting reconciliation unless the need for justice is effectively satisfied”<sup>7</sup>.

The case sparked intense public debate for many weeks, and accusations by some of creating divisions within Guatemalan society and a political “polarization”. It is true that the case provoked vehement reactions from certain sectors which are accustomed to, and benefit from, current levels of impunity and lack of judicial accountability, and which sought – via a very well-coordinated media and political campaign – to discredit victims and all those who support them in their search for justice.

However, beyond the judicial results of the case – a result emerging from the case is a burgeoning interest in the recovery of historical memory and the dissemination of the truth. There are a range of initiatives starting up around the country which seek to promote a broader understanding of the context, actors and factors which contributed to the violence in Guatemala during the conflict – specifically the genocide of Mayan peoples which was brought so powerfully into the public realm during the trial of Ríos Montt - and how these resulted in the gross violations of human rights on a systematic and widespread scale. Some of these initiatives are being funded by PBF via the PAJUST project, as outlined above. These initiatives go to the heart of the Guatemalan people’s right to truth: as recognized in the *Updated Set of principles for the protection and promotion of human rights through action to combat impunity*

*“Full and effective exercise of the right to the truth provides a vital safeguard against the recurrence of violations”*.<sup>8</sup>

In this respect, these expected –and unexpected – results being produced via this Project are impacting in important ways on the causes and drivers of conflict in Guatemala.

<sup>6</sup> E/CN.4/2005/102/Add.1, 8 February 2005.

<sup>7</sup> Preamble.

<sup>8</sup> Principle 2.



<p><b>Indicator</b> Increase in cases of gross human rights violations without plaintiff in the framework of an investigation strategy, especially cases of gender-based violence.</p> <p><b>Baseline:</b> Human Rights Division is promoting cases without plaintiffs in the framework of the investigation strategy, especially cases of gender-based violence.</p> <p><b>Planned Target:</b> Increase by 20% in the number of cases without plaintiff in the framework of the investigation strategy.</p>			
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<b>Outcome 1<sup>10</sup></b> <b>Indicator:</b> <b>Baseline:</b> <b>Planned Target:</b>	<u>Achieved</u> <b>Indicator Targets</b>	<b>Reasons for Variance with Planned Target (if any)</b>	
<p><u>1.1.2</u></p> <p>Support to organizations which provide legal assistance to victims, o act as plaintiffs, in order to promote strategic litigation and to coordinate with the Prosecutors Office in the investigation of cases from the internal armed conflict, especially cases of gender-based violence.</p> <p><b>Indicator 1.1.2:</b> # of judicial cases promoted by plaintiff and advisor organizations.</p> <p><b>Baseline:</b> 15 paradigmatic cases of human rights violations committed in the internal armed conflict, including 2 of sexual violence.</p> <p><b>Planned Target:</b> At least 19 judicial cases including 4 for sexual violence, promoted.</p>	<p>Target of 4 cases of sexual violence, achieved.</p>		<p>Copy of Agreements signed.</p>

<sup>10</sup> Note: Outcomes, outputs, indicators and targets should be **as outlined in the Project Document/Priority Plan or PMP specific** so that you report on your **actual achievements against planned targets**. Add rows as required for Outcome 2, 3 etc.

	<b><u>Achieved</u> Indicator Targets</b>	<b>Reasons for Variance with Planned Target (if any)</b>	<b>Source of Verification</b>
<b>Outcome 1<sup>11</sup></b> <b>Indicator:</b> <b>Baseline:</b> <b>Planned Target:</b>			
<u>1.1.3</u>  Strengthening of judges technical capacities for the trial and punishment of cases of gross violations of human rights law and grave breaches of international humanitarian law, with special emphasis on gender-based violence.  <b>Indicator:</b> # of trainings carried out with judges assigned to cases of human rights violations committed during the internal armed conflict, especially cases of gender and ethnic violence.  <b>Baseline:</b> Scarce programming and implementation of training for judges on the application of national and international standards to cases of human rights violations committed in the internal armed conflict.  <b>Planned Target:</b> At least 4 trainings of judges assigned to cases of human rights violations committed during the internal armed conflict, especially cases of gender and ethnic violence.	2		Copy of training plan.

<sup>11</sup> Note: Outcomes, outputs, indicators and targets should be **as outlined in the Project Document/Priority Plan or PMP specific** so that you report on your **actual achievements against planned targets**. Add rows as required for Outcome 2, 3 etc.

	<b><u>Achieved</u> Indicator Targets</b>	<b>Reasons for Variance with Planned Target (if any)</b>	<b>Source of Verification</b>
<b>Outcome 1<sup>12</sup></b> <b>Indicator:</b> <b>Baseline:</b> <b>Planned Target:</b>			
<b>Output 1.2 Strengthening of State and civil society capacities to conduct forensic-anthropology investigations to search for and identify victims of the internal armed conflict.</b>  <u>1.2.1</u>  Analysis of state capacities in the field of forensic anthropology for the investigation of gross human rights violations, and the identification of coordination mechanisms and agreements for inter-institutional collaboration  <b>Indicator:</b> Existence of an institutional analysis of state capacities in the field of forensic anthropology for the investigation of gross human rights violations  <b>Baseline:</b> No systematized data on state services in relation to forensic anthropology exists.  <b>Planned Target:</b> Institutional analysis of which systematizes information on resources available and needed and the legal framework necessary to enable the State to offer forensic anthropology services en cases from the internal armed conflict.	0		Copy of meeting minutes. Copy of Memorandum of Understanding.

<sup>12</sup> Note: Outcomes, outputs, indicators and targets should be **as outlined in the Project Document/Priority Plan or PMP specific** so that you report on your **actual achievements against planned targets**. Add rows as required for Outcome 2, 3 etc.

<p><u>1.2.2</u></p> <p>Support to the FAFGs forensic anthropology investigations at the Verbena Cemetery, for the search for victims of the internal armed conflict</p> <p><b>Indicator:</b> # of progress reports delivered by FAFG to Public Prosecutors' Office on the forensic anthropology investigation at the Verbena Cemetery.</p> <p><b>Baseline:</b> FAFG delivers monthly progress reports to Public Prosecutors' Office on the forensic anthropology investigation at the Verbena Cemetery.</p> <p><b>Planned Target:</b> Public Prosecutors Office receives monthly progress reports to Public Prosecutors' Office on the forensic anthropology investigation at the Verbena Cemetery.</p>	<p>Target of monthly progress reports to Public Prosecutors Office, ACHIEVED.</p>		<p>Copy of progress reports.</p>
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<p><u>1.2.3</u></p> <p>DNA bone samples taken and compared with genetic samples obtained from family members of victims, via the Genetic Database of Victims of the Internal Armed Conflict.</p> <p><b>Indicator:</b> # of comparative analyses carried out between DNA profiles taken from bone samples and DNA profiles taken from samples provided by relatives of victims of enforced disappearance.</p> <p><b>Baseline:</b> At June 2012, 625 comparative analyses had been realized on the basis of 2142 DNA samples taken from more than 9,000 skeletons exhumed from the Verbena Cemetery.</p> <p><b>Planned Target:</b> Annual increase in number of comparative analyses carried out via the genetic database on the basis of DNA samples obtained from skeletons exhumed from the Verbena Cemetery.</p>	<p>As the target is an Annual Target, achievement will be evaluated in early 2014.</p>		<p>Report received from FAFG.</p>
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<p><b>Output 1.3</b></p> <p><b>Strengthening of partnership between State and civil society for the promotion of the rights to truth, justice, reparation and measures of non-repetition in the framework of transitional justice.</b></p> <p><u>1.3.1</u></p> <p>Promotion of dialogue between civil society and the State via the development of joint initiatives in the thematic areas of Culture of Peace, Historical Memory and National Reconciliation, promoting international standards on transitional justice, access to justice for victims of the internal armed conflict, psycho-social attention of victims of the internal armed conflict; psycho-social attention for victims during criminal proceedings, strategic communication for the promotion of the rights to truth, justice, reparation for victims of the internal armed conflict; civil society follow up and monitoring of State obligations in the field of transitional justice.</p> <p><b>Indicator:</b> # of State- Civil society partnerships. # of proposals which progress in relation to transitional justice.</p> <p><b>Baseline:</b> Weak coordination between civil society and the state on transitional justice issues.</p> <p><b>Planned Target:</b> At least 4 partnerships supported showing effective progress.</p>	<p>Target of 4 partnerships ACHIEVED.</p>		<p>Copies of Agreements Signed with NGOS.</p>

