ABSTRACT

The number of land and environmental defenders (HRDs) criminalised has increased in recent years, particularly in Latin America. Trócaire’s efforts in the past have focused on legal strategies aiming to free those HRDs in pre-trial detention. With time, Trócaire has learnt that support to HRDs needs to be holistic (including logistical, economic, medical and psychosocial support) and that legal, policy, advocacy, campaigning and communication strategies must be complementary. To avoid the individualistic “hero narrative,” Trócaire, in addition to freeing the HRDs also works with the communities to secure their land and resource rights.

ILC COMMITMENTS

- SECURE TENURE RIGHTS
- EFFECTIVE ACTIONS AGAINST LAND GRABBING
- PROTECTED LAND RIGHTS DEFENDERS
### Competencies

<table>
<thead>
<tr>
<th>Areas</th>
<th>Skills</th>
</tr>
</thead>
<tbody>
<tr>
<td>Communities, Indigenous &amp; Religious Institutions and Rights</td>
<td>Advocacy and Campaigning</td>
</tr>
<tr>
<td></td>
<td>Legal Assistance, Legal Empowerment and Access to Justice</td>
</tr>
<tr>
<td></td>
<td>Research and Training</td>
</tr>
</tbody>
</table>

### Background

Abelino Chub Caal worked with Trócaire’s partner, Fundacion Guillermo Toriello (FGT) to assist the Maya Qeqchi 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 ‘protected’ in that area – a common strategy for evicting communities off 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 the 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 twenty 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 conflict, Trócaire provided support to FGT to put a security plan in place and to monitor any changes. This led to a number of decisions such as closing the 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 are prosecuted.

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

### Moving Towards People-Centred Land Governance

Trócaire provided emergency support to Abelino and his family (medical, psychological, economic) and contributed towards a sophisticated legal and research team. At community level, a decision was taken to prove at Abelino’s trial, that the land in question was purchased illegally. Though Abelino’s case was individual, it was a crucial case for securing the broader land rights of the community.

Using evidence from anthropological and historical research; and a careful analysis of the land registry; the legal team successfully convinced the courts that the Mayan indigenous community had a valid claim to ownership of the disputed lands. The court ordered that the company’s purchase of the land should be investigated. By winning this case, the charges against Abelino, that had ‘stolen’ this land, became untenable, and he was released from two years of pre-trial detention. Most importantly, the communities gained greater security to their lands.
LEGAL SUPPORT.
Trócaire provided significant finances towards several legal strategies. Support was provided not only for lawyers; but also for a team of researchers. The researchers provided four expert reports for the trial, including academic assessments of how the 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 land rights through the trial.

LOGISTICAL SUPPORT.
Trócaire financed fees and travel costs of a lawyer and legal team, while International Land Coalition 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.

ADVOCACY AND CAMPAIGNING SUPPORT.
Trócaire took a tactical decision not to prioritise advocacy as a major strategy, because there were other INGOs that were supporting the case from that angle. Trócaire 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 Rapporteur for Indigenous Peoples.

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

PSYCHOSOCIAL SUPPORT.
Trócaire sought to ensure Abelino’s wellbeing during and after his imprisonment. This varied from funding to ensure his family and colleagues could visit him in jail and attend his trial, to 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.

ALLIANCES AND COORDINATION WITH OTHER KEY STAKEHOLDERS.
Trócaire worked in close collaboration with several key national and international stakeholders such as ILC, the local office of the United Nations High Commissioner for Human Rights (UNHCHR), Front Line Defenders and Action Aid among others.

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

The immediacy 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 notes that the financial support received while he was in prison was hugely helpful. Trócaire and ActionAid 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.

KEY FACTORS OF SUCCESS AND REPLICABILITY

Three important take-away points from this are:

- 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 communication strategies. There are several pre-identified strategies collated by the United Nations Development Programme (UNDP);

- The need to provide comprehensive and integrated support to the HRDs and their families;

- The importance of contextualising and leveraging the individual case to secure community land rights.

FIND OUT MORE
