



## GUATEMALA HUMAN RIGHTS COMMISSION/USA

3321 12th St NE Washington, DC 20017 | 202-998-2191 | [www.ghrc-usa.org](http://www.ghrc-usa.org)

### Summary:

December ended with a continuation of a year marked by worsening human rights in Guatemala. Throughout the year, 846 aggressions were committed against human rights defenders, including 11 murders from January to November; another defender was killed in December. In El Estor, the state of exception continued until December 7. Just days later, the Minister of Mines and Energy announced that the consultation on the Fenix Mine was complete, greenlighting mining operations to begin again by January. Criminalization continued against defenders while victims of the armed conflict called out threats to transitional justice cases.

### Human Rights Defenders:

- *2021 in Guatemala Marked by 846 Attacks Against Human Rights Defenders*

The Unit for the Protection of Human Rights Defenders in Guatemala (UDEFEGUA) reported [846 aggressions](#) against human rights defenders this year. Of the [aggressions cited](#), 153 were committed against environmental defenders and 210 against judicial sector workers, including judges and prosecutors. From [January to November](#), there were 11 murders and 3 attempted murders. Defenders also had [84 baseless lawsuits](#) filed against them. The [annual report](#)—titled “Dictatorship Disguised as Democracy: Authoritarianism and the Increase in Aggressions Against People, Organizations, and Communities Defending Human Rights in 2021”—documented this year’s trends in attacks on human rights defenders, pointing to democratic backsliding as one of the major factors behind the attacks.

The report revealed an alarming trend that attacks on human rights defenders are coming from the very institutions that should be protecting them. For example, the Public Ministry consistently worked against human rights defenders this year, criminalizing defenders for their work fighting corruption and impunity. In light of the increasing danger to defenders, UDEFEGUA [called on](#) “the national and international human rights community to be attentive to the human rights situation in the country and to accompany the efforts of human rights defenders and their organizations to recover the path of democracy, peace and rights for all.”

- *Human Rights Defender Murdered*

Human rights defender [Apolinario Quiroz](#) was found dead on November 26 in Puerto de San Jose, Escuintla. He apparently had been shot to death on his way to work. Quiroz

was a member of the Campesino Development Committee (CODECA) and served as municipal secretary of the Movement for the Liberation of Peoples (MLP), the political arm of the Committee for Peasant Development. His death marks the 22nd murder of a CODECA member since 2018. According to [Neftalí López](#), who was a candidate for vice president on the MLP ticket in 2019, the violence is coming from “groups against CODECA seeking to counteract our organized struggle.” The Human Rights Ombudsman’s Office [condemned](#) the murder, offering “deep and heartfelt condolences to [Quiroz’] family and colleagues in the organization, several of whom have suffered threats and attacks because of the work they do.”

- *IACHR Holds Hearing on the Situation of Women Environmental Defenders in Guatemala*

In a [hearing](#) requested by GHRC and the Amaq’ Institution, indigenous human rights defenders presented to the Inter-American Commission on Human Rights the challenges faced by women environmental defenders in areas where mines have been imposed. Composed of female representatives from several indigenous organizations, the group informed the commission about the struggle to defend their territory and the environment against mining, specifically mentioning the case of El Estor and their resistance against the Fenix Mine in Izabal. They denounced the violation of their right to a free, prior, and informed consultation by the State and the [two states of exception](#) implemented in October and November. According to GHRC’s Guatemala City Office Director, Isabel Solis, who testified in the hearing, “The terror generated by the state has been permanent since the states of siege.” The defenders testifying emphasized that women in El Estor have faced the worst impacts caused by the mine and states of exception, including higher rates of health problems related to pollution and sexual harassment at the hands of police.

The State, however, denied these accusations, insisting that it is doing its part to respect the rights of women. In respect to El Estor, the representatives of the State claimed that the consultation process was conducted “in accordance with the law and jurisprudence.” Representatives of the IACHR reiterated that states of exception must comply with international standards. Commissioner Antonia Urrejola acknowledged that the State and the women defenders had divergent views in respect to the consultation process, compliance with international standards, and the experience of the women defenders affected and recommended that the State seek spaces for dialogue, finding points of agreement and establishing a dialogue with the indigenous organizations that would lead to a way forward. She offered the help of the IACHR in establishing such a dialogue. She reiterated the importance of environmental defenders and urged the State to provide them protection so that they could carry out their role, stating that “they are the people that play a fundamental role for a functioning democracy.”

- *Over 60 Organizations Appeal New Decrees Regulating Water*

Organizations, Indigenous Authorities, and communities that make up the group "Friends for Water " presented [three appeals of unconstitutionality](#) to the Constitutional Court, [challenging new governmental agreements](#) related to the management of water in Guatemala. The agreements seek to create new rules to regulate water, in addition to creating a new vice ministry. In a [press conference](#), the group denounced the decrees for their exclusion of indigenous communities who value water as a sacred resource. According to [Imelda Vicente](#) of the Assembly of Peoples, Water, Life and Territory, "Since our grandparents, we have been the ones who take care of the water, but the companies come and take all that away. For us, the water is for everyone, but unfortunately it is being commercialized." Emphasizing the failure of the government to conduct consultation with impacted indigenous communities, the group demanded that the implementation of the decrees be suspended until a proper consultation is carried out.

### **El Estor:**

- *Ministry of Energy and Mines Rams through Sham Consultation on Fenix Mine*

On the morning of December 13, the Ministry of Energy and Mines (MEM) announced in a press conference that the [consultation process](#) on the Fenix Mine was officially completed. As mandated by a Constitutional Court (CC) ruling in response to an appeal filed by the El Estor Fisherman's Guild in 2019, a consultation process needed to be carried out with all the impacted indigenous communities before the Fenix Mine, in El Estor, Izabal, could restart mining operations. Oscar Pérez, Vice Minister of Sustainable Development of the MEM, [stated](#), "We have determined that the continuation of the project is viable." Mining operations could [officially restart](#) by early January.

The Q'eqchi' Ancestral Council and Fisherman's Guild, however, have [refused to recognize the process](#), which, according to President of the Fisherman's Guild Cristobal Pop, "cannot be called a consultation or pre-consultation and is in violation of the rights of the indigenous people." The consultation—a process which normally takes at least a year to complete—was conducted in just over 3 months, during the majority of which the community of El Estor was under a state of exception. Kelvin Jiménez, a lawyer for the Xinka Parliament, explained that the rushed consultation violates the rights of the indigenous communities to meaningful consultation in "good faith," as established by international human rights standards. He explained, "What we see here is a mockery, totally deplorable, that in no way can justify that they have carried out a true consultation in light of Convention 169 and what the CC ordered."

Indigenous Authorities throughout Guatemala have denounced the sham consultation, warning that rushed processes like the one carried out in Izabal could become standard practice throughout Guatemala. [Juan Castro](#), of the Indigenous Peoples' Law Firm, in an [interview](#) explained, "The gravity is not only for the Q'eqchi' people but for all the indigenous peoples." Rafael Maldonado—legal representative of the Fisherman's Guild—

announced the guild's plans to bring the case to the Inter-American Commission on Human Rights if they are unable to achieve justice nationally.

- *State of Prevention Lifted in El Estor*

On December 7, constitutional restrictions were [finally lifted](#) in El Estor with the end of the state of prevention. Since [October 23](#), the community had been under a “state of exception,” first with a 30-day state of siege and then with a 15-day state of prevention. Established in the constitution, states of exception allow for the temporary suspension of rights and guarantees in order to “maintain public order.” For 45 days, police and military [occupied the community](#) of El Estor, [harassing and intimidating](#) community leaders involved in resisting an [illegal nickel mine](#). Reliable reports, including testimonies taken by GHRC's Guatemala team, reveal police and military personnel perpetrated human rights violations during the states of exception against community members, including sexual harassment, violence against youth, arbitrary arrests, multiple violent raids, surveillance, and other violations of rights. Despite calls from the Fisherman's Guild, the Q'eqchi Council of Ancestral Authorities, and the [Inter-American Commission on Human Rights](#), no investigation into abuses has been carried out.

## **Criminalization:**

- *Public Ministry Presses Charges Against Defender Beaten by Police*

During the first week of December, three activists were criminalized for charges related to their involvement in a [peaceful demonstration](#) that took place on November 21, 2020. The popular demonstration, attended by thousands of citizens outraged by overnight budget cuts in critical areas of need, was largely peaceful except for police brutality and [excessive use of force](#), decried by the Inter-American Commission on Human Rights. Last week, more than a year later, the Public Ministry accused maya Kaqchikel women's rights activist Nanci Sinto, painter Juan Francisco Monroy, and student activist Dulce Archila of [destruction of cultural heritage](#) for the alleged painting of the side of the Congressional building that took place during the demonstration.

Police arrested [Nanci Sinto](#) and Francisco Monroy on [November 24](#), raided their homes, and immediately transferred them to their [initial hearing](#) at the [Tribunal Tower](#) in Guatemala City. With a warrant out for her arrest, Dulce Archila voluntarily presented herself at the Tribunal Tower, where she had her [first hearing](#) on November 29. Public Ministry employees justified the charges by claiming that the damages caused could cost up to \$65,000. Protesters gathered outside of the Tribunal Tower in solidarity with the criminalized defenders and called on the court to drop the spurious charges. [Judge Isabel Valesquez](#), however, rejected their demands, as well as the [motions from the defense](#) to drop the charges, and ruled to [open criminal proceedings](#) against the three defenders.

Human rights organizations condemned the criminalization of the defenders as a tool by the Public Ministry to silence dissent. According to the Unit for the Protection of Human Rights Defenders ([UDEFEFUGUA](#)), “Demonstration is not a crime; the arbitrary arrest of Nanci Chiriz Sinto and Juan Francisco Monroy is a form of criminalization and repression against those who exercise and defend human rights.” In fact, video footage reveals National Civil Police officers in full riot gear [attacking](#) Sinto at the protest. Citizens presented a legal action to President Giammatteri demanding an investigation into police brutality that occurred during the protest, but their complaint remains stalled. But as Sinto explained in an interview with the Prensa Comunitaria, this inaction speaks to the selective nature of the justice system that criminalizes defenders and protects perpetrators of corruption. She [stated](#), “I am not a criminal . . . today those who should be in prison are free.”

- *Public Ministry Announces Second Arrest Warrant for Ousted Special Prosecutor*

On November 30, the Public Ministry announced a second [warrant](#) for the arrest of former head of the Special Prosecutor’s Office Against Impunity (FECCI), Juan Francisco Sandoval. [The warrant](#)--issued in response to a complaint filed by the Foundation Against Terrorism--is for the alleged crimes of “abuse of authority, usurpation of powers, fraud, and conspiracy.” In a statement published on twitter, the Public Ministry claimed that according to investigations, “it has been possible to establish a connection to the signing of effective fraudulent agreements, possibly to generate impunity and undermine the resources of the State of Guatemala.”

Sandoval has been living in the United States since July, when he was [forced to flee](#) Guatemala following his arbitrary removal as head of the FECCI by Attorney General Consuelo Porras. This warrant is the second issued for his arrest; Sandoval first faced charges in September for his work investigating corruption related to the President accepting bribes from a Russian businessman. Consuelo Porras issued that [warrant for his arrest](#) for “breach of duty” and “obstruction of justice.” Repudiating the Public Ministry’s accusations, Sandoval published a [response](#) on his twitter, defending his innocence. Sandoval [tweeted](#), “the Attorney General prefers to persecute those of us who have dedicated all our energy and career to investigating the truth and building Justice.”

- *Appeal Hearing for Criminalized Defenders Suspended*

The Criminal Chamber on December 6 ruled to [suspend the hearing](#) for the case of criminalized defenders [Jorge Choc and Marcelino Xol](#). In 2019, following an irregular trial in violation of due process, the two were sentenced to 35 noncommutable years in prison for a murder they did not commit. Both are environmental defenders and members of the Campesino Committee of the Highlands (CCDA). According to the [World Organization Against Torture](#), “Their story is emblematic of the battle for land, water, and other natural resources playing out in Guatemala.” Their defense team filed an appeal for cassation immediately following the verdict, but the case has been

continually stalled. Originally planned for November 2020, the hearing was suspended until December 6, 2021. A [new date](#) has not been set.

## Migration and US Policy:

- *54 Dead After Mexican Bus Carrying Central American Migrants Crashes*

A trailer crammed with over 100 migrants overturned in Chiapas on December 9, leaving [54 dead](#). According to [Luis Manuel García Moreno](#)--Chiapas Civil Protection Secretary--the weight of the trailer compounded with the speed of the truck caused the trailer to flip off the truck bed, scattering the passengers across the highway. [Mexican authorities](#) identified 95 of the suspected 166 migrants riding on the truck to be from Guatemala.

[President Giammattei](#) extended condolences to the families of the victims, offering “all the necessary consular assistance including repatriations.” The office of the [UN High Commissioner for Refugees](#) (UNHCR) in Mexico condemned the unnecessary deaths of the migrants, arguing that “immigration alternatives and legal avenues are required to avoid tragedies like this one.”

- *Conservative Think Tank Hosts Giammattei in DC*

On December 6--days before the start of the [Summit for Democracy](#), which the US did not invite Guatemala to participate in--President Giammattei gave the [keynote address](#) at the [Heritage Foundation](#) in Washington, DC, traveling to Washington in spite of the slight. He emphasized his administration’s alignment with US policy objectives, including its commitment to “democracy” and “human rights.” Recognizing recent tensions between his administration and the US, he stated, “We consider ourselves an ally and friend [of the United States], although some officials in this [Biden] government don’t understand this in its true dimension.” Giammattei met with several conservative news outlets while in Washington, including [Fox News](#), where he confirmed in an interview that his administration has had limited contact with the Biden Administration.

The United States’ failure to [extend an invitation](#) to Guatemala to join the Summit for Democracy left Guatemala in the company of Cuba, Nicaragua, Venezuela, El Salvador, and Honduras. The State Department has not issued a public explanation for excluding Guatemala, but in a [press briefing](#) before the summit, Uzra Zeya, Under Secretary for Civilian Security, Democracy, and Human Rights, expressed concern over a downward trend in the Northern Triangle “with respect to the direction of the rule of law and governance and anti-corruption efforts.” In spite of this concern, and the message sent by leaving Guatemala out of the summit, Zeya had traveled to Guatemala in late November, where she held [strategic meetings](#) and “reviewed US government-funded programs that are advancing Guatemalan and US national security by enhancing law enforcement, reintegrating returned migrants, rehabilitating youth in conflict with the law, and increasing local capacity to respond to regional challenges such as narcotics trafficking and human smuggling.”

