



GUATEMALA HUMAN RIGHTS COMMISSION/USA

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Summary:

This month, Guatemala has reached a breaking point. Attorney General Consuelo Porras unleashed a wave of attacks against those in the fight against corruption, releasing arrest warrants for no less than seven anti-corruption attorneys in the span of two weeks. With the NGO Law in full force, civil society organizations are worried about their ability to continue operating in the country. Meanwhile, more evidence has surfaced of President Giammattei's involvement in major corruption. Guatemala faces a dire situation, a threat to human rights unparalleled in peacetime.

Attacks on Rule of Law, Judges, and Anti-Corruption Attorneys, and Civil Society

- *Public Ministry Arrests Seven Prosecutors Investigating High-Level Corruption*

Since February 10, the Guatemalan Public Ministry has issued [seven arrest warrants for attorneys](#) connected to the former International Commission Against Impunity in Guatemala (CICIG) who work or have worked with the Special Prosecutor's Office Against Impunity (FECI). Six such prosecutors have been arrested and await trial. Attorney Leyli Indira Santizo Rodas, former President of the International Commission Against Impunity (CICIG), and Eva Xiomara Sosa, former prosecutor with FECI, were arrested on February 10; Willy Roberto Racanac Lopez, an assistant prosecutor with FECI, was arrested on February 16, along with Paola Escobar, also an assistant prosecutor with FECI. Aliss Moran, a former assistant prosecutor with FECI who resigned in January, had her house raided on February 16 and was arrested, after presenting herself voluntarily, on February 17; and Rudy Manolo Herrera Lemus, a former FECI prosecutor, has an arrest warrant pending but is no longer in Guatemala. The female prosecutors/former prosecutors [are awaiting their trials](#) in prison, where they fear for their safety. Racanac Lopez, due to medical concerns, is awaiting trial under house arrest.

The latter four arrests mentioned above are linked to the 2020 [Parallel Commissions](#) case, in which prosecutors uncovered a corruption plot between lawyers, politicians, and businessmen to elect judges.

On February 23, Virginia Laparra, the head of FECI's Quetzaltenango office, [was arrested](#) on [charges](#) of providing false testimony, abuse of authority, and encroachment of functions. She apparently [fainted](#) as she was informed of the arrest and was taken to a health clinic before being turned over to the court.

The Public Ministry is led by Attorney General Consuelo Porras, who has been named as corrupt by the United States government and included on the [Engel List](#).

Five prosecutors working on corruption cases have resigned due to pressure during the month of February. Carlos Antonio Videz Nava, who as a prosecutor with FECCI oversaw important cases involving money laundering and wrongdoing by government officials, [announced](#) on February 20 that he is now in exile. He stated that he feared for his life and feared unjust persecution. He had participated in the questioning of [Witness A](#), who has accused Guatemalan President Alejandro Giammattei of receiving bribes (see more about this case below, on p. 2). Three additional prosecutors with FECCI [resigned](#) on February 21, and the resignation of one more assistant prosecutor [became public](#) on February 23.

The UN Rapporteur on judicial independence in a February 13 statement [denounced](#) the acts of persecution against judges, prosecutors, and lawyers, as did the European Union in a February 11 [statement](#), expressing “its utmost concern over the ongoing deteriorating of the rule of law in Guatemala, where the Supreme Court of Justice and the Prosecutor-General have initiated legal action against independent judges, lawyers and prosecutors, resulting in arrests and loss of judicial immunity.” The US Department of State in a February 16 [statement](#) expressed deep concern about “the Guatemalan Public Ministry’s unacceptable mistreatment and persistent abuse of current and former independent prosecutors” and said “the Public Ministry used searches and arrests based on sealed indictments and selectively leaked case information with the apparent intent to single out and punish Guatemalans who are combatting impunity and promoting transparency and accountability.” The Inter-American Commission on Human Rights on February 22 [called for](#) the “cessation of any interference against the independence of the Judiciary in order to guarantee independent and impartial justice” and expressed concern that these incidents were occurring “in a context of severe setbacks in the fight against impunity and corruption in Guatemala.” The [IACHR](#) reminded the Guatemalan government of its “obligation to protect justice operators from attacks, acts of intimidation, threats, and harassment, and to investigate and effectively punish those who commit violations of their rights.” [National](#) and [international nongovernmental organizations](#) also condemned these recent acts of criminalization. According to the [Unit for Human Rights Defenders](#) in Guatemala, the persecution of the prosecutors “puts at risk the freedom to practice law and the right to defend human rights.”

- *NGO Law Poses Major Threat to Civil Society as Organizations Face Closure*

In a [press conference held](#) in the Constitutional Plaza, civil society organizations denounced [Decree 04-2020](#), known as the “NGO Law” which came into full effect on February 2 as the deadline for organizations to register themselves passed. Condemning the lack of transparency on the part of the government regarding the process of registration, the group warned against the “enormous repercussions for social organization, society in general, democracy and rule of law.” The NGO Law, according to

the group “constitutes a straitjacket to citizen expression and organization,” which allows the government, “to intimidate organizations and to be able to act as it pleases in a marked effort to promote impunity, corruption and concentrate its power.”

On January 31, in a [bicameral letter](#) led by Representatives Castro, Torres, and McGovern, and by Senator Markey, US lawmakers [condemned](#) threats to civil society posed by the NGO Law, passed last June, and warned that it “could be used to criminalize human rights defenders and CSOs [Civil Society Organizations].” The letter warned of trend within the region of government efforts to shrink civil society and emphasized its importance stating, “The United States must elevate amending or repealing harmful legislation restricting legitimate civil society activity as a key bilateral and regional policy priority while simultaneously continuing to partner with and protect CSOs carrying out critical work.”

In the case of Guatemala, the NGO law requires all NGOs to register with the Ministry of the Interior according to predetermined categories, but there is no registration category for organizations whose primary role is human rights reporting or advocacy. Moreover, under the law, any organization deemed to be “altering the public order” will lose its legal personality and its employees will be banned from working in the nonprofit sector for two years. What constitutes “altering public order,” however, is undefined and instead left to the discretion of the Ministry of the Interior. “I fear a wave of dissolutions [of organizations] for not complying with the requirements of the controversial NGO Law,” explained the [UN Special Rapporteur on Freedom of Expression](#) and “I reiterate my call to avoid its use to restrict civic space.”

As of January 25, Napoleón Barrientos Girón is heading the Ministry of the Interior, having [replaced Gendri Reyes Mazariegos](#) as Minister. Barrientos Girón, a retired general and former Kaibil [commander](#) in the Guatemalan army, served as [deputy chief](#) of the National Defense General Staff in the government of Otto Perez Molina. Barrientos Girón led the Kaibil Special Forces Brigade in Puerto Barrios, Izabal. The Kaibiles are [notoriously](#) hardline and have faced many allegations of human rights abuse. The [Dos Erres Massacre](#), in which three former Kaibiles were convicted for murdering over 200 civilians in 1982, is one of the few cases in which Kaibiles have been held accountable. Barrientos Girón, who has worked as a columnist, [opposes](#) trials of former military members accused of gross human rights violations. Now that the NGO registration deadline of [February 2](#) has passed, with 96 percent of NGOs failing to register under the new guidelines, Girón will be in a position to oversee the ministry that has the sole authority to shut organizations down.

- *Judge Pablo Xitumul at Risk for Arrest after CSJ Removes his Immunity*

On February 9, the Guatemalan Supreme Court ruled to [remove the judicial immunity](#) of Judge Pablo Xitumul. The [International Observatory for Human Rights](#) in Guatemala denounced the [decision](#) by the Supreme Court, condemning it as a “grave attack on his

independence and an unacceptable action that seeks to frighten and intimidate justice operators in the country.” Judge Xitumul told the [Associated Press](#) that those he has sentenced are seeking revenge. The High Risk Court “C” judge—known for his decisions in favor of victims in transitional justice cases—can now be removed from his position and forced to face charges related to a [2019 incident](#) in which a National Police officer demanded to search Xitumul’s car. Xitumul’s vehicle was not moving at the time; Xitumul was sitting in the car with his family. Judge Xitumul asked the reason for the search and the officer refused to give a reason. An altercation ensued, and the officer, José Cuxaj, grabbed the judge by the neck. Judge Xitumul filed charges against the officer, who answered with a lawsuit against the judge for “abuse of authority.”

Judge Xitumul is one of [several](#) high-court judges who has faced consistent harassment and suffered surveillance and other forms of intimidation. The Inter-American Commission on Human Rights (IACHR) granted Xitumul [precautionary measures](#) in 2013 after he began receiving threats related to his work overseeing the Rios Montt genocide trial. In [September of 2021](#), the IACHR expressed concern over the weakening of the judicial system, reminding the state of Guatemala “of its duty to protect those who work in the field of justice from attacks, intimidation, threats, and harassment.” The removal of Judge Xitumul’s immunity, [according](#) to international NGOs, forms “part of a systematic pattern that has been worsening and that has as a common denominator the use of the criminal justice and disciplinary systems to undermine the independence of judges and prosecutors.”

- *CODECA Leader Murdered in Jalapa*

Human rights defender Álvaro Marco Román was fatally shot while returning home to Tierra Blanca, Santa María Xalapán, Jalapa early in the morning on February 6th. Román—who dedicated his life to the struggle for community land rights—served as the president of his community board and a leader within the Campesino Development Committee ([CODECA](#)). In a public [statement](#) CODECA demanded that “the Public Ministry and national and international human rights organizations seriously investigate this repression against CODECA leaders.” [The Human Rights Ombudsman](#) also called for a prompt investigation to identify and prosecute all parties responsible for Román’s murder. Earlier this year, the Special Rapporteur on Human Rights Defenders and other UN experts released a [joint letter](#) sent to the Guatemala government denouncing the harassment, death threats, armed attacks, and assassinations of CODECA leaders and demanding the government address the “systemic repression against members of CODECA.” His death marks the 23rd assassination of a CODECA member since 2018.

- *Public Ministry Issues Extradition Request for Former Attorney General Thelma Aldana*

The International Affairs Unit of the Public Ministry (MP) has submitted a [request](#) to extradite Thelma Aldana. The former Attorney General—[internationally recognized](#) for

her work fighting corruption during her tenure—fled to the US in 2019 to seek refuge. She was [granted asylum in 2020](#).

The MP requested the extradition of Aldana in order to prosecute her for [charges made in 2019](#), when the MP accused Aldana of abuse of authority and fraud in relation to a supposed irregular purchase of a building in Zone 5 of the capital. The MP launched an investigation into the alleged misconduct, claiming Aldana authorized the purchase of a building overvalued by \$449,000. Aldana refuted the allegations once more and responded to the government’s request to extradite her on [Twitter, stating](#), “Consuelo Porras should come to Washington DC to make her request. I’ll wait for her here.” The USDOS pulled Consuelo Porras’ visa in September 2021 after adding her to the [Engel List](#) for “[obstructing] investigations into acts of corruption by interfering with criminal investigations.”

Corruption:

- *Witness Testimony Indicates Giammattei Financed Campaign through Bribes*

Evidence has surfaced implicating Guatemalan President Alejandro Giammattei in illegal campaign financing. According to the testimony of a protected witness, Giammattei agreed to receive \$2.6 million in bribes from construction companies to finance his 2019 presidential campaign. Reports first published in the Salvadoran daily [El Faro](#) indicate that the witness said a deal was struck between Giammattei and close associates Giorgio Bruni, then the secretary general of former President Morales’ political party, Vamos, and José Luis Benito, the Minister of Communication, Infrastructure, and Housing under Morales administration. According to the [testimony](#) of the witness, who says he was present at a July 2019 meeting where the deal was discussed, Benito—in exchange for being allowed to retain his position as minister of communications in the new administration—arranged \$2.6 million in contributions to the Giammattei campaign from construction companies, who in turn benefitted by receiving additional contracts and advance payments. A second source within the Giammattei administration reportedly confirmed to [El Faro](#) the existence of this deal. Although Benito was not kept on as minister in Giammattei’s administration, a number of these construction projects that allegedly formed part of the corruption scheme are in progress. Twelve highway construction projects worth more than \$191 million are allegedly linked to this pact. According to [El Faro](#), official documents show that eleven of them are underway and the last is accepting proposals.

Potential corruption in infrastructure projects of this sort is particularly relevant in light of international investment in infrastructure projects in Guatemala. In February 2019, the Inter-American Development Bank provided the Guatemalan government a \$150 million [loan](#) for the building of roads.

The evidence gathered from the sealed testimony of Witness A was recorded in May 2021 as part of an ongoing investigation opened by FECCI in response to the discovery in

October 2020 of suitcases full of cash amounting to nearly \$16 million, stashed in a house in Antigua, Guatemala rented by Benito. Benito, after a period on the run, was arrested on January 21, 2022, in connection with the case, pursuant to an arrest warrant issued in October 2020 for money laundering after the suitcases were discovered.

The testimony of the witness is in the care of [Judge Erika Aifán](#), of High Risk Court “D.” [Aifán](#) has been subjected to intense pressure from the Attorney General’s Office but has refused to turn over the testimony or reveal the identity of the witness. In a written response to the Attorney General’s Office, Aifán explained her refusal to turn over the information, noting that the testimony is already part of a judicial process beyond the attorney general’s control, and the recording and the identity of the witness are now evidence in the court’s custody.

As the *El Faro* article points out, the [New York Times](#) referenced the existence of Witness A last October in an [article](#) that revealed that another witness told FECCI in July that it had delivered to Giammattei’s house a rug rolled with cash inside. The cash was allegedly part of a bribe by a Russian-backed mining company for the rights to operate part of a Guatemalan port in Izabal. When former leading anti-corruption prosecutor [Juan Francisco Sandoval](#) left Guatemala to go into exile in July 2021, he told *El Faro* [in an exclusive interview](#) that one of the reasons for his removal was that the investigation of the money found in a house in Antigua led back to Giammattei and to “payments from contractors” to finance a political campaign.

According to *El Faro*, both the US State Department and the FBI have had a copy of Witness A’s testimony for months, as international transactions between the individuals or companies involved may have passed through US banking institutions. According to reports, one construction magnate implicated has been cooperating with US authorities.

- *Attorney General Consuelo Porras Seeks Re-Election*

The call for applications for the upcoming Attorney General election [closed](#) on February 21. From this list, the Nominating Commission will choose six candidates to present to President Alejandro Giammattei, who will select the new Attorney General on May 17. This week, the commission released a preliminary list of [26 candidates](#) for consideration, including current Attorney General Maria Consuelo Porras.

As the current head of the Public Ministry, Consuelo Porras has been [criticized](#) in recent weeks both nationally and [internationally](#) for her persecution of anti-corruption prosecutors. The United States [removed her visa](#) and placed her on the Engel List in September 2021 for her “obstruction of justice” in cases of high-level corruption in Guatemala. Former Attorney General [Thelma Aldana](#) tweeted, “The candidates for attorney general of Guatemala included on the Engel List for corrupt and anti-democratic actions and linked to organized crime should not receive votes from the Commission,” arguing that they are “unfit at the national and international level.” Porras’ candidacy was [accepted](#) by the Nominating Commission on February 23. The

outcome of this election holds significant implications in the fight against corruption and US-Guatemala relations.

A number of potentially strong candidates, such as independent judges, were excluded from the Nominating Commission's list after a decision was made by the Constitutional Court not to count the years a judge has spent in service of the law in the tally of requisite years as a lawyer stipulated for eligibility for the attorney general position. International organizations, including GHRC, issued a [statement](#) of concern about a number of circumstances affecting the conditions of impartiality and transparency that must be guaranteed in the process.

Migration and US-Guatemala Relations

- *Thousands Demand the Release of Maya Chuj Woman Detained in Mexico*

On [January 31, 2022](#) family and friends of detained migrant Jauna Alonzo Santizo, along with [Promoters of Migrant Liberation](#), traveled from San Mateo Ixitán to Guatemala City to present a [petition letter](#) to the Mexican Consulate. This letter—signed by 5,135 individuals and 43 organizations—demands the immediate release of Santizo, who has been detained in Tamaulipas, Mexico for seven years for a crime she and her family maintain that she did not commit.

In an attempt to migrate to the United States in search of better economic opportunities in [2014](#), Santizo was kidnapped in Mexico and forced to work for her captors. When police arrived on the scene, they accused Santizo of being a trafficker, but because Santizo—a Maya Chuj woman—did not speak Spanish at the time, she was unable to defend herself. Without legal counsel, consulate support, or even an interpreter, Santizo was [forced at gunpoint](#) to sign a document incriminating herself. US Border Patrol and Customs has reported an increased need for interpreters that speak languages like Chuj; the number of migrants that speak only Mayan Indigenous languages apprehended at the US Southern Border [doubled](#) from 2020 to 2021.

According to the [International Mayan League](#), “The Government of Mexico is accountable for the human rights violations of Ms. Juana.” Last September, the Working Group on Arbitrary Detention of the United Nations Human Rights Council adopted decision No. [35/2021](#), declaring that Santizo's detention violates international law, stating, “The appropriate remedy would be to immediately release Ms. Santizo and grant her the right to obtain compensation and other types of reparation.” The UN Office of Human Rights in Mexico has also advocated on her behalf since [2018](#), when it requested access to an interpreter and consular protection for Santizo. But, in spite of the continuing support for Santizo's release, Mexican and Guatemalan authorities apparently have not met to discuss her case. On March 8th 2022, a group of women will travel to the Mexican Consulate in [Quetzaltenango](#) to once again demand her release.

- *US-Guatemala Joint Investigation Leads to Ten Human Trafficking Arrests*

On January 28, Guatemalan forces executed nineteen search warrants, arresting ten for charges of human smuggling, money laundering and obstruction of justice. The arrests—resulting from a joint US-Guatemalan Investigation—were made in connection with the massacre of nineteen migrants in Tamaulipas, Mexico killed en route to the US in January 2021, sixteen of whom were Guatemalan nationals.

[Carlos Gammorra](#), Homeland Security Investigations acting Regional Attaché for the Northern Triangle, stated “This joint transnational operation targeting a major human smuggling organization shows the importance of both governments collaborating to apprehend the individuals responsible and hold them accountable...” President Alejandro [Giammaetti](#) recently ramped up the penalty for human smuggling, increasing the jail terms to up to 30 years. He reaffirmed the country’s commitment to toughening sentences against traffickers to [“punish the ‘coyotes’ who are truly responsible”](#), [adding that](#) the US should also extradite traffickers.

The US has continued to increase their collaboration with Guatemala to deter migration. In June 2021, Kamala Harris [announced](#) the creation of a new Human Smuggling and Trafficking Task force to work with US law enforcement counterparts to tackle human trafficking from Guatemala. On the US side, [Joe Biden set](#) a \$1.2 billion dollar budget to manage the border, including modern security technology and border patrol. This comes alongside soaring levels of migration, with the [US Customs and Border Enforcement](#) reporting increases of migrants along the Southern Border of 234,981 migrants between the fiscal years 2020 and 2021, with 60,797 migrants attempting to cross the border in this fiscal year alone.