



GUATEMALA HUMAN RIGHTS COMMISSION/USA

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Summary:

GHRC's advocacy traveled to Guatemala to observe the Mujeres Achi Trial and conduct a fact finding mission on human rights conditions in El Estor following two states of exception at the end of last year. In a major win for transitional justice, five former members of the Civil Autodefense Patrol were convicted of crimes against humanity in the form of sexual violence and sentenced to 30 years. Attacks against human rights defenders and judges, however, continued. Despite criticism from the USDOS, Judge Erika Aifán faces three new petitions from the Public Ministry to remove her judicial independence. The situation in El Estor remains tense as the mine is in full operation and police continue to harass community members. Meanwhile, Guatemala signed a deal with a US lobbying firm—to be paid for by Taiwan—to improve relations with the US.

Transitional Justice Cases:

- *GHRC Accompanies Achi Women in their Fight for Justice as Trial of 5 Former Civil Patrollers Begins*



Palacio de Justicia, Guatemala: Trial against 5 former civil patrollers taking place on Level 15 of the Tribunal Towers.

The oral and public debate stage in the [trial](#) against the 5 former members of the Civil Defense Patrol (PAC) accused of sexual violence and crimes against humanity began on January 5. The survivors of these crimes—36 Achi women—have been fighting for justice for 40 years. For the past ten years, lawyers with the [Rabinal Community Law Firm](#) ([2019 winner of the Alice Zachmann Human Rights Defenders Award](#)) have been representing the women in their fight for justice. After overcoming delays and obstacles in the judicial process, including a [decision in 2019](#) by Judge Claudette Dominguez—infamous for ruling in favor of the military on transitional justice cases—finding there was [insufficient evidence](#) to send the case to trial, the women have at last arrived at a critical moment for justice.



High Risk Tribunal A: Inside the courtroom waiting for the next witness to take the stand.

GHRC staff attended the trial in Guatemala City. Over the course of the hearings, the prosecution has presented an array of witnesses, including [survivors](#) and [experts](#), who illustrated the systematic use of sexual violence as a tool employed by the Guatemalan State against Achi women. In her testimony, survivor [Ana Garcia de Paz](#) bravely recounted her experience surviving three months in a military camp and repeated sexual assault by PAC members after her family was massacred. She stated, “I am telling my story because I want justice. Justice for me and for the other victims.” Several other women and men testified, sharing their personal accounts of torture and sexual assault,

which according to expert witness Arsenio García Cores, “serve as essential pieces of evidence in accordance with international law.” All the testimonies point to a clear pattern in which PAC members specifically targeted the Achi people, massacring whole communities and repeatedly raping women as part of a “counterinsurgency” strategy.

- *Judge Convicts the Defendants for Crimes Against Humanity and Rule on 12 Reparations Measures for the Survivors*

In a historic victory for transitional justice, Judge Yassmin Barrios declared five former Civil Defense Patroler members [guilty](#) of crimes against humanity in the form against sexual violence against 36 Maya Achi women between 1981 and 1985. [Judge Gervi Sical](#) during the sentencing hearing stated, “It has been possible to establish disproportionate violence against these women, who were treated like animals, sexually violated and subjected to sexual slavery.” Gabriel Cuxum Alvarado, Bernardo Ruiz Aquino, Benvenuto Ruiz Aquino, Damián Cuxum Alvarado, Francisco Cuxum Alvarado will face 30 years in prison for the use of “physical and psychological force to its greatest extremes.”

Outside the tribunals, the women, their legal team from the Rabinal Legal Clinic and [supporters who had gathered](#) in [solidarity with the women](#) celebrated this important step in the fight against impunity in Guatemala. According to [Haydee Valey](#) of the Rabinal Legal Clinic, “Today we have a sentence that is very important. It’s a way of identifying the strength and the courage that these women had to break the silence and express what they suffered.” In a statement, United Nations Under Secretary General and Special Representative of the Secretary General on Sexual Violence in Conflict, [Pramila Patten](#), congratulated the women, stating, “Their courage and determination are truly an inspiration, and show us that, despite many challenges, accountability efforts for sexual violence can succeed, are transformative, and must be pursued.”

On January 27, the case continued with a [hearing](#) to resolve the request for reparations filed by the women and their legal team. The court ordered [12 reparations measures](#) to be granted to the survivors in the categories of financial compensation, rehabilitation, settlement, and guarantees of non-repetition. These measures include incorporating the story of the Achi women into the national curriculum, a formal apology from the Ministry of Defense, the development of sexual violence prevention trainings for security forces, and more. (Read the full list of reparations [here](#).) In the words of one of the lawyers for the Maya Achi women, [Lucia Xiloj](#), “[This legal victory] vindicates all those years of struggle during their search for justice.” *Survivors of Atrocities During the Armed Conflict Could See Justice Next Week*

- *Death Squad Dossier and Tactic Cases Advance*

Meanwhile, a few floors below in the Tribunal Tower, two other transitional justice cases continued: the [Death Squad Dossier](#) and the [Tactic Case](#). The “Death Squad Dossier” refers to an army logbook that came to light in 1999. The logbook was used by military intelligence to track 183 forced disappearances of political dissidents between 1983 and

1985. On the morning of [December 18](#), Judge Angel Gálvez ruled to send retired general Victor Augusto Vásquez Echeverría to trial for the forced disappearance of 14 people. The trial of José Manuel Castañeda Aparicio—accused of the forced disappearance of three people from the municipality of Tactic in the department of Alta Verapaz in 1983—[resumed January 19](#). [Carlos Juarez](#), of the Mutual Support Group, shared his hope that “the victims finally have access to justice and truth” which is the only way to prevent these atrocities from repeating.

Criminalization and Situation for Human Rights Defenders:

- *Police Continue to Terrorize Defenders in El Estor with Mine in Full Force*

During the first week of January, GHRC’s Guatemala City Office Director and DC Advocacy Director traveled to El Estor, Izabal to meet with the El Estor Resistance and [hand deliver](#) the [2021 Alice Zachmann Award](#), which was presented and accepted by Olga Che at our virtual ceremony in December. Members of the Resistance voiced their ongoing concerns for their safety. While the [states of exception](#) in El Estor ended on December 7, 2021, police presence in the community remains high. According to community members, police are continuing to follow them and are even waiting for them when they leave their homes to antagonize them, threatening them with arrest. For the Resistance, this terrorization by the police has complicated their ability to organize their next steps against the mine and is reminiscent of intimidation strategies used during the internal armed conflict. As one of the members of the guild explained, “I’m afraid to go anywhere. We’ve been followed by cars without license plates and we’re afraid of what they will do to us. They took my father that way. I could be next.”



Lake Izabal: Mine visible in the distance.

One month after the Ministry of Energy and Mines announced the completion of the consultation of the Fenix Mine, mining operations appear to be in full force. On a Sunday afternoon, dozens of trucks circled around the mine, picking up and dropping off excavated nickel to be processed. But according to legal representative of the Resistance, [Rafael Maldonado](#), “Mining operations never stopped. They said that they did, but that was a lie.” Maldonado has worked with the Fisherman’s Guild since filing the injunction against the mine in 2017, which was [resolved in 2019](#) when the Constitutional Court ruled that the mine had been operating illegally since 2005 and ordered all operations to be halted until a consultation could be carried out. He explained, “The consultation process is notoriously illegal. Not only did it exclude the guild, it was carried out while the mine was operating. It’s completely illegitimate.”



Fenix Mine, El Estor, Izabal: Mine in full operation on a Sunday afternoon.

The Resistance has moved forward with a legal complaint denouncing the consultation as illegal, but the hope of resolving the issue in domestic courts is low. Maldonado explained, “The courts have been co-opted. How can we rely on them to get justice in this case?” Plans to take the case to international courts are underway, but those processes often take years.

- *US Department of State Condemns Criminalization of Judge Erika Aifán*

On January 16, in a [statement](#), the US Department of State (USDOS) expressed concerns about the deteriorating judicial system in Guatemala, condemning the request filed by the Public Ministry (MP) on [January 13](#) for a preliminary hearing to remove the judicial immunity of Judge Erika Aifán as “a blatant effort to obstruct investigations into

corruption and an affront to the integrity of Guatemala's highest courts." The MP, in an announcement published to twitter, accuses Aifán of "abuse of authority and breach of duty" related to her overseeing of the [2020 Parallel Commissions Case](#). Five days later, on [January 18](#), the MP released another request for a preliminary hearing against Aifán for the same crimes, as well as "prevarication" related to the Odebrecht Case. In an atmosphere of [increasing criminalization](#) of judicial officials, Aifán stands to lose her judicial immunity and could face prison time for her alleged crimes. But [according to Aifán](#), these charges are false. "I have not committed any crime," she explained.

Awarded the "[Women of Courage Award](#)" from USDOS in 2021, Aifán is internationally recognized for her work as an independent judge and is identified by the USDOS as "an icon in Guatemala in the fight against corruption, efforts to increase transparency, and actions to improve independence in the justice sector." [Since 2016](#), she has suffered harassment and threats for her work as a judge; the Inter-American Commission on Human Rights granted her [protective measures in 2019](#), ordering the State of Guatemala to guarantee her safety. For Congresswoman Norma Torres, it is "unacceptable that Judge Aifán and her family have to face violent threats because she is fulfilling her oath to uphold the law." Others have come forward, as well, in support of Aifán, warning of the broader implications for the justice system. The [Central American Federation of Judges for Democracy](#) explained that the MP aims "to criminalize her and her judicial performance which will weaken the fight against corruption and impunity." According to lawyer Ramon Cadena, Aifán's losing her immunity would mean "the end of judicial independence in Guatemala." Attorney General Porras, however, appears undeterred by these statements and has pushed through two more requests to remove her judicial immunity related to other cases.

- *Political Prisoner Bernardo Caal Completes Fourth Year Behind Bars*

On January 30, Maya Q'eqchi' human rights defender Bernardo Caal officially completed his fourth year in prison, [criminalized](#) for his work defending his ancestral territories against an illegally imposed hydroelectric project. Arrested in 2018, Caal was sentenced to seven years and four months for the alleged crimes of kidnapping and robbing four employees of the hydroelectric company OXEC in 2015. The charges, however, [lack evidence](#) and according to [Erika Guevara-Rosas](#), Americas director at Amnesty International, "The proceedings against Bernardo show the same patterns of criminalization of human rights defenders that we have documented in the country for years." Amnesty International named him a "prisoner of conscience" in 2020 and in July 2021, [UN experts](#) warned that Caal's health is deteriorating in prison.

Migration and US-Guatemala Relations:

- *COVID-19 Policies Block Asylum Seekers from Reaching the US*

On January 17, [Guatemalan authorities](#) pushed back a caravan of over 600 migrants en route to the United States. The caravan—composed mostly of Hondurans and Nicaraguans, with minors comprising about a quarter of the group—had left from the San

Pedro Sula bus terminal two days earlier. [Video footage](#) reveals Guatemalan police clad in riot gear blocking the migrants from crossing the border. According to authorities, the migrants lacked “[the proper health requirements](#)” of proof of vaccination and a negative COVID test to enter Guatemala that came into effect on January 10. Guatemalan Migration Institute Director [Carlos Emilio Morales](#) explained, “We are protecting our borders; we are protecting the health of all Guatemalans.”

Similarly, the US has justified policies that prevent migrants from seeking asylum in the name of public health. For example, [Public Health Order Title 42](#)—first implemented in March 2020 by the Trump Administration—allows US border authorities to expel migrants without first screening them for asylum. On January 19, representatives of the Biden administration [vigorously defended](#) Title 42 in a hearing at the DC Circuit Court of Appeals. The hearing is part of a [lawsuit](#) filed by the American Civil Liberties Union (ACLU) that argues the policy violates the right of migrants to seek asylum and will determine whether or not the administration can continue this policy. ACLU lawyers pointed to the violence from which migrants are forced to flee and the brutal conditions they face along the way in search of asylum. [Sharon Swingle](#), a Justice Department lawyer representing the Biden administration, explained that the administration is “aware of the deplorable and horrific circumstances,” and “the government’s goal is to get back to a state of orderly immigration processing for everyone, but currently, in the CDC’s view, the public health realities don’t permit that.”

Since March of 2020, the US has expelled [more than a million](#) migrants under 42. In a recently released report, Human Rights First found [nearly 9,000 reports](#) of kidnappings and other violent attacks against people who had been expelled to Mexico or blocked from seeking protection in the US. [Gillian Triggs](#), Assistant High Commissioner for Protection, explained, “The UNHCR has been clear: it is possible for a country both to protect the public health of its people and to ensure access to territory for people forced to flee their homes. Measures restricting access to asylum must not be allowed to become entrenched under the guise of public health.”

- *Taiwan Hires Lobbying Firm to Represent Guatemala*

On January 12, Guatemalan Ambassador to the United States signed a [12-month contract](#) with Brian Ballard of Ballard Partners. The Guatemalan government explained that the \$900,000 arrangement—financed [by Taiwan](#)—is to “promote focus on strategic communication, investor outreach and promoting tourism.” Ballard has stated the firm’s only role is “strategic consulting and advocacy services.” During the Trump administration, Ballard Partners was described by [Politico](#) as “the most powerful lobbyist in Trump’s Washington.” The account will be overseen by three associates: the former Republican State Senator Jose Diaz; Justin Sayfie, former advisor for Florida Governor Jeb Bush; and Democrat Jon O’Hanlon.

This new deal comes on the heels of President Giammattei’s visit to Washington, DC where he gave the keynote address at an event hosted by the Heritage Foundation. The

event happened to take place at the same time as the US Department of State's [Summit for Democracy](#), which Guatemala was not invited to. "We consider ourselves an ally and friend [of the United States], although some officials in this government don't understand this in its true dimension," [Giammattei said](#), elaborating, "I'll mention a couple of things that prove it: First, diplomatic relations with Taiwan, not China. We're the last ones left in the region."

- *Guatemala Rejects Offer for Assistance in the Upcoming Attorney General Election*

On January 19, Swedish Ambassador to Guatemala Hans Magnusson, representing the G13 Donor Group—a group of countries that contribute aid to Guatemala, including the US—expressed the member countries' interest in combating corruption and impunity in Guatemala. Specifically, the group [invited](#) representatives from the commission tasked with the selection of candidates for Attorney General, asking for a dialogue between the two groups to better understand the work of the commission, asking, "if there would be a way in which we could support you in the facilitation of your duties." The government of Guatemala responded to the request, [asking the group](#) to avoid meddling in the election, "respect its laws, and not interfere in its internal affairs."

Meanwhile, [civil society organizations](#), in a press conference held outside of the Supreme Court of Justice on January 26, [demanded](#) the election commission "carry out a transparent process to elect a suitable person to perform the job in accordance with the law and that will not use their position to persecute judges." The group drew on the [example of Erika Aifán](#) who current Attorney General Consuelo Porras has filed [three requests](#) against in the last month to remove her judicial immunity. In addition, they explained the devastating consequences of Consuelo Porras' [forced removal](#) of Juan Francisco Sandoval from the Special Prosecutor's Office Against Impunity (FECI) in July. Now, they said, Feci has shifted from fighting impunity to persecuting human rights defenders.

Consuelo Porras has come under the scrutiny of the international community, including the United States, for her actions subverting democracy and rule of law in Guatemala. The US Department of State (USDOS) cut aid to the Public Ministry in July, [citing](#) "lost confidence in the Attorney General and the intention to cooperate with the US government and fight corruption in good faith." Going further, the USDOS added Consuelo Porras to the [Engel List](#), stating that Porras "obstructed investigations into acts of corruption by interfering with criminal investigations." The outcome of this election is considered especially important for the future of the relationship between the US and Guatemala in the fight against corruption.

Relevant Cases in IACHR:

- *Displaced Community Calls Out State Inaction and Failure to Comply with IACHR*

In a [protest](#) outside of the Presidential Palace, community members of the displaced community of [Laguna Larga](#) condemned the lack of government action on their case.

Nearly five years prior, 115 families were forcibly removed from their homes by police and military. With no other option, the community settled on a strip of land near the Mexican border, but according to the [IACHR](#), in their current living arrangement, they are exposed to “extremely unhealthy and unsanitary conditions.” Four community members have died of health issues associated with the current living situation and now, given the [COVID-19 pandemic](#), the situation of health and safety for the community has grown even more precarious.

In 2017, following their violent eviction from land they had lived on for over 30 years, the community members received [precautionary measures](#) from the Inter-American Commission on Human Rights (IACHR). The IACHR ruled that the situation in which the community was forced to live violated several of their human rights, including the right to water, housing, and education; the IACHR ordered the Guatemalan State to find a solution. With no solution in sight, the IACHR issued a [follow-up resolution](#) this past December, expressing willingness to “conduct a new visit to Guatemala in order to establish a space for dialogue to address the challenges identified in the implementation of the measures.” Community members and their legal representation from the Human Rights Law Firm reiterated the responsibility of the state to comply with the IACHR and [demanded](#) “a viable and definitive solution.”