



GUATEMALA HUMAN RIGHTS COMMISSION/USA

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Summary:

Under a “state of exception”, the community of El Estor has suffered human rights violations at the hands of police. GHRC’s team was able to visit the community and gathered testimonies from community leaders and their families who are currently facing violent raids, sexual harassment, and intimidation reminiscent of terror strategies used against indigenous communities during the internal armed conflict. Meanwhile, throughout the rest of the country, attacks against human rights defenders, organizations, judges, and political opposition continued to soar.

El Estor:

- *State of Siege Maintained in El Estor Despite Widespread Condemnation*

President Giammattei declared a state of siege in El Estor following the violent eviction on October 23 of an encampment the community had set up in resistance to an illegal nickel mine. The resistance had established the encampment to block the passage of mining materials for the Fenix mine--a joint Swiss-Russian project--which the Constitutional Court in a 2020 ruling confirmed was operating illegally and had been since 2005, given that no free, prior, and informed consultation of the affected indigenous communities had been carried out. (Read more on [our blog](#).)

In a [press conference](#), indigenous authorities highlighted the failure of dialogue in the process so far. “We are not looking to start dialogue in our demands, nor will we accept it. We want the government to repeal its agreement regarding the creation of the state of siege and the suspension of preconsultation.” Indigenous authorities demanded the immediate annulment of the government decree enacting the state of siege, annulment of the pre-consultation process--which, according to Indigenous Authorities is being manipulated by staff of the mining company--and the inclusion of the 94 legitimate delegations of El Estor communities.

Denouncing the violations as part of a psychological terror strategy, the Convergence condemned the state of siege which is still in place. According to [Jorge Santos](#), Director of the Unit for the Protection of Human Rights Defenders of Guatemala (UDEFEQUA), the violence that has occurred under the state of siege is “like some kind of spiral or endless loop, the viciousness, violence, pillaging, exploitation of natural resources, death, and terror plagues the population that inhabits El Estor, particularly the Q’eqchi’ people.”

On October 29, the Special Rapporteur on freedom of expression of the Inter-American Commission on Human Rights [called on](#) the State of Guatemala to respect and guarantee the work of journalists, in accordance with international human rights standards, noting that “it is the duty of states to provide the press with the highest guarantees to carry out its work freely, safely, and independently, since it is journalists who keep society informed and contribute to the consolidation and strengthening of the rule of law.”

Finally, GHRC released a [statement](#), along with nine other organizations condemning the human rights violations occurring under the state of siege and demanded that the state of siege be revoked. The group called upon the state of Guatemala to respect the rights of the community and upon the international community to take more decisive action, including reexamining their own country’s involvement in investments linked to human rights violations.

- *Police Brutality Surges Against Defenders and their Families in El Estor*

On October 31, the Convergence for Human Rights presented its [report](#) on the human rights violations that occurred within the first seven days of the state of siege, [reporting](#) disproportionate use of force by National Civil police, soldiers, and agents of the Public Ministry against the community and journalists. The report documents use of tear gas against women, children, and the elderly; violation of the freedom of the press, including physical attacks and destruction of equipment; 14 documented raids of the homes of human rights defenders, including Juan Bautista Xol and Carlos Choc; intimidation of indigenous authorities, purposeful targeting of youth during raids, with intimidation, threats, and physical abuse; and the illegal detention of defender Eduardo Bin.

GHRC visited El Estor to document human rights violations occurring under the police occupation imposed by the State of Siege. One community member reported a violent raid on her home by police who were accompanied by Public Ministry officials, who targeted her young son. She told our team, “While they were interrogating me, other policemen followed my little son...they grabbed my 8 year old son from behind, and they squeezed him hard by the arms,” and when he failed to answer their questions, “they beat him some more.” Two young girls recounted being sexually harassed by police officers. Recalling her experience, one girl explained that “a policeman took our bras and put them on their chests, they put our panties in front of their genitals and looked at us and laughed and said vulgar things” and that “one of them approached me and touched my chain that was around my neck, and I told him not to touch me, and then they threw me forcefully down on the bed.”

Community members whose homes were raided reported the sudden and suspicious deaths of their livestock. One family told our team, “We don't know what they gave them, but they are dying, now in the morning I buried the mother [pig] who died and the others already look sick.” Another family has lost five roosters to illness since the police raided their home, stating, “We don't know if they gave them something, but our animals are dying.”

In a particularly violent encounter, a contingent of hundreds of National Civil Police (PNC) officers [forcibly evicted](#) 96 Maya Q'eqchi families on November 16. Carrying out an eviction order against the community, the PNC used heavy machinery to [destroy their homes](#) and [burned their homes, belongings](#), and crops. Police also arrested Yolanda Choc Maquin for trying to defend her home and placed her five-year-old daughter in state custody. According to Citizens United Against Corruption (UCLC), "What the PNC in Guatemala is doing is a crime, even if they call it an eviction."

- *State of Prevention Declared for 15 Days*

Continuing the state crackdown against anti-mining protesters, President Giammattei declared a [state of prevention](#) for 15 days in El Estor on November 22. The declaration followed a 30 day state of siege that came into effect October 23. The state of prevention--like the state of siege--is one of the five "[states of exception](#)" outlined in the Guatemalan Constitution which allows for the "temporary suspension of certain rights and guarantees." There are five states of exception ranging in severity with state of war as the most restrictive, followed by state of siege, and state of prevention. The only difference between the state of siege and state of prevention is that the state of prevention allows for "freedom of movement" where the state of siege does not.

Community leaders, however, note the lack of change in their mobility given that the same police that have been [raiding their homes](#) and intimidating them for the past 30 days continue to occupy the community. Given that the state of prevention maintains police occupation of the community, organizations worry that these kinds of human rights violations will continue.

Criminalization and Attacks:

- *Public Ministry Mounts New Wave of Criminalization Against Defenders*

Over the last week, three human rights defenders have been criminalized for charges related to their involvement in a peaceful demonstration that took place on November 21, 2020. The popular demonstration--known as 21N and attended by thousands of frustrated citizens--protested the approval of the 2021 budget and called for the resignation of President Giammattei. Now, over a year later, the Public Ministry has accused Nanci Sinto, Juan Francisco Monroy, and Dulce Archila of [cultural depredation](#) for the alleged painting of the side of the Congressional building that took place during mobilization.

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. In the hearing, Public Ministry (MP) personnel presented their evidence and motioned to press charges against the two; MP employees justified the charges claiming that the damages caused could cost up to \$65,000. 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. 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 MP to silence dissent. According to the Unit for the Protection of Human Rights Defenders ([UDEFEQUA](#)), “The demonstration is not a crime, the arbitrary capture 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 (PNC) in full riot gear [attacking](#) Sinto at the protest; her complaints filed to the MP were met with silence and inaction. But to Sinto, this speaks to the selective nature of the justice system that criminalizes defenders and protects perpetrators of corruption, [stating](#) “I am not a criminal...today those who should be in prison are free.”

- *Human Rights Defender Murdered*

Human rights defender [Apolinario Quiroz](#) was found dead in Puerto de San Jose, 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 21st murder of a CODECA member since 2018. According to [Neftalí López](#), the violence is coming from “groups against CODECA seeking to counteract our organized struggle.” The Human Rights Ombudsman’s Office [condemned](#) the murder, offering its “deep and heartfelt condolences to his family and colleagues in the organization, several of whom have suffered threats and attacks because of the work they do.”

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

On November 30, the Public Ministry (MP) announced the [release of a warrant](#) for the arrest of former head of the Special Prosecutor’s Office Against Impunity (FECI) Juan Francisco Sandoval. [The warrant](#)--issued by the Fourth Pluri-personal Court of Criminal First Instance, Drug Trafficking and Crimes against the Environment of the department of Guatemala--is for the alleged crimes of “[abuse of authority, usurpation of powers, fraud and conspiracy](#).” In a statement published on twitter, the MP claimed that according to investigations, “it has been possible to establish the signing of effective collaborator agreements in fraud of the law, 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](#) following his arbitrary removal as head of the Feci by Attorney General Consuelo

Porras. This is the second warrant out 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 a [warrant for his arrest](#) for the crimes of “breach of duty” and “obstruction of justice.” Repudiating the attacks from the MP, Sandoval [tweeted](#), “the Attorney General prefers to persecute those of us who have dedicated all our energy and career to investigate the truth and build Justice.”

- *PNC Repress Protesters in Plurinational Strike*

Thousands of protesters blocked roads across [12 departments](#) Monday and Tuesday as part of a plurinational strike. The [strike--organized](#) by the Campesino Development Committee (CODECA)--denounced “extreme economic crisis, corrupt political officials, and the repression of the system headed by Giammattei and his members of Congress” and once again called for the President’s resignation. Mounted in solidarity with Maya Q’eqchi defenders in resistance to a mine in El Estor, protesters called for authorities to overturn the state of siege imposed on the community and respect the constitutional court ruling that upholds their right to consultation.

The National Civil Police ([PNC](#))--some [clad in full riot gear](#)--were dispatched to the protests across the nation and were reported in some areas to be using excessive force. For example, in [El Trebon](#) police reportedly attacked women and children with their clubs and one officer was seen carrying an unauthorized [knife](#). Guatemalan Congresswoman Vicenta Jeronimo [denounced](#) the repression saying, “A government that sends police into the streets to repress protesters in one that is violating our rights.”

- *Supreme Court Removes Immunity of Congressman Aldo Davila*

On November 17, the Supreme Court of Justice (CSJ) ruled to [remove the immunity](#) of Congressman Aldo Davila to allow the Public Ministry to open a case against him regarding an [altercation from 2020](#) where he allegedly assaulted a police officer during a demonstration. According to the Public Prosecutor’s Office, “The behavior of the denounced official could be framed as a crime of abuse of authority, because using his position as a congressman and abusing his position, he carried out arbitrary acts against a public employee...by pushing and uttering words of discrimination against an agent of the National Civil Police.”

Davila condemned the decision as “political, spurious, and illegitimate” and called out the Public Ministry for its [selective prosecution](#) against opposition leaders, human rights defenders and journalists while protecting political allies. Independent judges Erika Aifan and Pablo Xitumul have faced similar attacks against them as [processes to remove their judicial immunities](#) are underway. Meanwhile human rights defenders and journalists--without any sort of legal immunity--are left even more vulnerable to [criminalization](#) for their work denouncing corruption and human rights abuses and defending their right to life and territory.

Transitional Justice:

- *Victims of Internal Armed Conflict File Injunction Against Attorney General*

On November 22, victims and survivors of the internal armed conflict [filed an injunction](#) against Attorney General Consuelo Porras for her [arbitrary removal of Hilda Pineda](#) from her post as head Human Rights Prosecutor and subsequent transfer to the Prosecutor's Office for Crimes Against Tourists in early October. Serving ten years as [head of the Special Prosecutor's Office](#) on Human rights, Pineda played a vital role in prosecuting cases related to human rights violations from the internal armed conflict such as the [Death Squad Dossier](#), the [Rios Montt genocide case](#), and the [Dos Erres massacre](#). With many transitional justice cases still ongoing, victims and survivors see the transfer of Pineda as a major blow in their struggles for justice.

In a [press conference](#) announcing the injunction, the group denounced the transfer, arguing that this action by Consuelo Porras--in addition to the [forced removal](#) of head of the Special Prosecutor's Office Against Impunity (FECI) Juan Francisco Sandoval in July--was made to strategically dismantle access to justice for victims and protect perpetrators of crimes. [According to the victims and survivors](#), "Consuelo Porras not only intends to protect corrupt politicians and businessmen, but also wants to protect ex-military personnel accused in cases of serious human rights violations."

- *Judge Sends Ex-PAC Accused of Rape of Achi Women to Trial*

Judge Miguel Ángel Gálvez [ruled](#) that Gabriel Cuxum Alvarado must stand trial for the rape of two Achi women--sisters Margarita and Inocenta Alvarado Enríquez--that occurred in Baja Verapaz during the internal armed conflict. Alvarado faces charges for crimes against humanity, rape, and suppression and alteration of identity. The former member of the Civil Defense Patrol (exPAC) is one of five ex-PAC facing charges for their involvement in the Achi Women case; on March 25 Galvez ordered Damian Cuxum Alvarado and brothers Donald and Benvenuto Ruis Aquino to stand trial.

International Community and Guatemala:

- *USAID Announces \$300m Investment Initiative in Northern Triangle*

On November 4, USAID Administrator Samantha Power gave the [keynote address](#) at Georgetown University, announcing the new priorities for USAID under the Biden administration. To make USAID more responsive, she revealed three major goals: first to broaden and diversity partners and staff, second to shift USAID's focus to prioritize the needs of the most marginalized, and finally to listen to partners in partner countries. She announced the creation of various different programs, including a plan to "launch a centralized, flexible fund devoted to private sector engagement," which, according to

Powers, “will allow us to be far more nimble and strategic in mobilizing businesses around the world to advance our core priorities.”

Powers also revealed USAID’s newest initiative to combat root causes of migration--[Centroamerica Local](#)--which will invest \$300 million over five years in Guatemala, Honduras, and El Salvador. Aimed at empowering local organizations in the region, USAID plans to invest these funds into “programs to advance sustainable and equitable economic growth, improve governance, fight corruption, protect human rights, improve citizen security, and combat sexual and gender-based violence.” According to the [agency](#), “USAID is committed to strengthening local partners and providing hope and opportunity so that the people of the region can confidently build their lives at home to advance the vision laid out by Vice President Harris.” Funds will supposedly be invested in [local organizations](#); specifics on how and exactly to whom these funds will be invested has not been announced yet.

- *GHRC Supports Request to Guatemalan Government to Allow IACHR Site Visit*

On November 10, the Human Rights Ombudsman’s Office, supported by international organizations, [sent a request](#) to the Ministry of Foreign Affairs and the Presidential Commission for Peace and Rights of Guatemala (COPADEH) to “invite the Inter-American Commission on Human Rights (IACHR) to visit the country.” Fourteen human rights organizations, including GHRC, signed onto the request, emphasizing the need for action in the face of continued attacks against independent judges and prosecutors. Expressing a desire to facilitate a constructive dialogue with the State, as well as concerns about judicial independence, the Commission had suggested a site visit during a [hearing](#) that took place on October 28. The hearing--[featuring testimonies](#) from independent judges and prosecutors at risk for their work fighting corruption and impunity--was hosted by the IACHR and addressed the threats to the judicial system in Guatemala.

- *Indigenous Defenders Condemn their Exclusion from COP26 Discussions*

The 26th Conference of Parties to the UN Framework Convention on Climate Change ([COP26](#)) began in Glasgow on October 31, and for the past two weeks international leaders have been engaged in dialogue to set the global agenda on climate change for the next ten years. Noting the clear absence of Indigenous defenders from the discussions, human rights and Indigenous organizations condemned their exclusion. While [503 people with links to the fossil fuel industry](#) were accredited for COP26, members of [many groups representing Indigenous peoples](#)--including [the Indigenous Future Collective](#)--were denied full access to the conference and forced to watch the discussions virtually. (Read more on our [blog](#).)

Environmental defenders on the front lines of fighting climate change continue to face deadly consequences for their work protecting their ancestral territory and the environment. During the first week of COP26, [Indigenous activists held a vigil](#) for the 1,005 environmental defenders murdered in the last five years. In 2020 alone-- according to [Global Witness](#)--227 defenders were murdered. Last year was the deadliest year on record for defenders, yet the first draft of the Glasgow decision made no reference to the grave situation faced by those defending the environment. According to Susi Bascon, Director of Peace Brigades International UK, "The knowledge, perception, and invaluable experience of environmental human rights defenders can no longer be ignored . . . Partnering with them is a must."

Calling out the reliance on the very mechanisms that created the climate crisis to begin with, Indigenous and environmental defenders denounced "nature-based solutions" which promote private projects that threaten to further inflict violence in their territories. In an interview with *Democracy Now!* Maya K'iche' journalist Andrea Ixchú denounced these solutions as a continuation of colonialism, which will be "implemented through violence and without consultation." She demanded the recognition of Indigenous communities as "living solutions" to climate change and their participation as decision makers.

- *Department of Homeland Security to Likely Reinstate Remain in Mexico Program*

Following a court ruling, the Department of Homeland Security announced it will likely reinstate the [Migrant Protection Protocol](#) (MPP). More commonly known as the "Remain in Mexico Program," MPP is a Trump-era policy that forces asylum seekers that arrive at the southern border to wait out the decision on their cases in Mexico. Biden began [rolling back MPP](#) upon taking office in January, but in August a federal judge mandated reinstatement of the program after ruling on a [lawsuit](#) filed by the states of Texas and Missouri.

On October 29, Secretary of the Department of Homeland Security (DHS) Alejandro Mayorkas released a [40-page memo](#) justifying the [reasons for cancelling MPP](#), explaining that MPP imposed "substantial and unjustifiable human costs on the individuals who were exposed to harm while waiting in Mexico." He concluded that "there are inherent problems with the program that no amount of resources can sufficiently fix." In spite of this memo, DHS is being forced to comply with the federal ruling and announced that it will likely reinstate the program "in the coming weeks."