



## GUATEMALA HUMAN RIGHTS COMMISSION/USA

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### Situation of Human Rights Defenders:

- *2021 on Track to Be Worst Year for Human Rights Defenders in 20 Years*

According to the Unit for Protection of Human Rights Defenders of Guatemala (UDEFEGUA), in the first half of 2021, human rights defenders have been attacked at a rate suggesting this year may surpass 2020 to become the most violent year for human rights defenders in this century. From January to June, 551 attacks on human rights defenders were [documented](#) by UDEFEGUA. In 2020, the year with the most attacks against defenders since UDEFEGUA began [documenting](#) such attacks in 2000, the total number of attacks on defenders was 1,055.

The attacks documented in the first half of 2021 include five murders of defenders and three attempted murders. The majority of attacks, 137, were carried out against defenders working in the justice sector, followed by those attempting to secure their right to justice (104); journalists (87); and campesinos (49). In an alarming trend, women human rights defenders suffered 42 percent of the attacks. UDEFEGUA [cited](#) as concerns the systematic dismantling of public institutions set up to guarantee implementation of the Peace Accords and respect for human rights; the capture of fundamental state institutions; and the guarantee of impunity for actors who engage in corrupt and violent acts.

- *Guatemala Becomes Fourth Most Deadly Country for Environmental Defenders*

In 2020, thirteen environmental defenders were killed in Guatemala, according to Global Witness' recently released [report](#), "Last Line of Defense: The industries causing the climate crisis and attacks against land and environmental defenders." Last year proved to be the deadliest year on record for defenders globally--with 227 killings, more than double the number in 2013--and the situation in Guatemala proved to be no exception. Compared to [2019](#), Guatemala saw an increase in killings against defenders and moved from #6 on the list of countries with the most killings per capita to #4. According to Global Witness, on a global level, "In 2020 the disproportionate number of attacks against indigenous peoples continued once again--with over a third of all fatal attacks targeting indigenous people, despite only making up five percent of the world's population."

- *Land Defender in CODECA Leadership Role Shot and Killed*

Ramon Jiménez Lopéz--human rights and land defender--was [killed](#) on September 20 in the community of Volcan La Paz, Santa María Xalapán, Jalapa. After Jiménez failed to return home from work, his family went to search for him and found his body in a ditch. He had been shot several times and hacked with a machete. Lopéz was a [community leader](#) and part of the leadership in the Jalapa chapter of the Campesino Development Committee (CODECA). In a communique, the Human Rights Ombudsman called on the Public Prosecutor's Office to "conduct a prompt and effective investigation to ensure the identification of all responsible parties." CODECA in a [statement](#) condemned the murder and noted that since 2018, 21 members of CODECA have been killed. The committee denounced that "none of these cases has achieved justice."

- *Aggressors Attack Team and Prevent Exhumation of Massacre Site in Chiul, Quiché*

The [exhumation](#) of a clandestine grave scheduled for September 28 in Chiul, Quiché--a grave believed to contain the bodies of 116 children--was [prevented](#) by men who [attacked](#) the team of experts, human rights accompaniers, and journalists assembled to oversee the process. The exhumation--headed by the Public Ministry in coordination with the Guatemalan Forensic Anthropology Foundation (FAFG)--is part of an [investigation into a massacre](#) committed by the Guatemalan armed forces in 1988. During the massacre, 116 children in the village Cunén were reportedly tortured and thrown into a well to drown.

Upon the arrival of the team to the massacre site, a group of community members said to be [former civil patrollers blocked](#) their access, preventing them from beginning to exhume the remains of the victims. The situation escalated into violence and in the midst of the conflict, the aggressors illegally detained community journalist Jose Guarcas, who was documenting the events. Eventually, with the help of GHRC's team, which was present and coordinated with the Public Ministry, Guarcas was [released](#).

As Hector Reyes, of the Center for Human Rights Legal Action ([CALDH](#)), explains, "The Public Ministry showed a complete lack of understanding of the context and the risk in that region." In an alert released by [UDEFEQUA](#), the organization called on the Public Ministry to take action. UDEFEQUA later [condemned](#) the events that occurred and demanded that "the attacks and intimidations against those that seek justice stop."

- *UN Special Rapporteurs Ask Government for Answers in Case of Bernardo Caal*

Four UN Special Rapporteurs in a [letter](#) to the Guatemalan government demanded answers to questions involving due process and concerns related to the health of political prisoner Bernardo Caal Xol. The [letter](#)--from the Special Rapporteur on the rights of indigenous peoples, the President-Rapporteur of the Working Group on Business and Human Rights, the Special Rapporteur on the situation of human rights defenders, and the Special Rapporteur on the independence of judges and lawyers--was sent on June 21, 2021 and made public this week. The [UN Rapporteurs](#) in the nine-page letter called the

government's "urgent concern" to Caal's case. The UN experts expressed "serious concern over the allegations of the violations of the guarantees to due process in the legal proceedings of indigeneous defender Mr. Bernardo Caal Xól," and well as "the state of health of Mr. Caal Xól that has deteriorated in a concerning manner." They requested information from the Guatemalan government on nine specific aspects of Caal's case. In closing, they urged the government to "adopt all necessary measures to to protect the rights and freedoms" of Caal and to "investigate, try, and adequately punish any person responsible for the alleged violations."

The Guatemalan Government [responded](#) on August 19, failing to fully answer the concerns expressed. Regarding concerns expressed by the Rapporteurs about overcrowding in the prison and the risk of COVID-19, for example, the Guatemalan government was silent. The government did attempt to explain the multiple legal delays in Caal's case; yet days after the government sent UN experts its letter, another such delay occurred. Rather than closing the case as Caal's lawyers had asked, given that there is no evidence against him, the court on August 24 [suspended](#) proceedings for another six months. Caal's imprisonment continues.

Named a [prisoner of conscience](#) by Amnesty International in 2020, Caal is imprisoned for his role as leader in the peaceful resistance to two hydroelectric projects on the Cahabón River in northern Guatemala. In 2018, the court sentenced him to more than seven years in prison on spurious charges. Caal's defense team filed an [appeal](#), but multiple delays have plagued the process. No evidence links Caal to any [supposed crimes](#) occurring at a demonstration in 2015. As the UN Special Rapporteur on the rights of indigenous peoples noted in 2018, the kinds of irregularities that characterize his case "are consistent with the patterns of criminalization directed at those that defend their land and the environment." His latest appeal was denied.

### **Attacks on Independent Judges, Prosecutors and Rule of Law**

- *Arrest Warrant Issued for Ousted Anti-Corruption Prosecutor Sandoval*

On September 3, after accusations made by Guatemala's Attorney General, a Guatemalan Court issued [an arrest warrant](#) for Juan Francisco Sandoval, former head of the Special Prosecutor's Office Against Impunity (FECI). The warrant came just a day after Attorney General Consuelo Porras announced that she was launching an investigation into the former prosecutor for "[leaking confidential information](#)." Ousted in July, Sandoval fled to the US after his abrupt and illegal [dismissal](#), fearing for his safety.

The warrant charges Sandoval with the [crimes](#) of breach of duty and obstruction of justice. Consuelo Porras explained that Sandoval broke the [law](#) by sharing allegations that the President accepted a bribe from Russian businessmen, violating his right to a fair "pretrial" as established in the Guatemalan Constitution. She stated, "It's unfortunate that Mr. Sandoval Alfaro uses the media to generate a campaign of revenge, misinformation, and discredit."

Sandoval published a [statement](#) in response to the warrant, explaining, “Attorney General Consuelo Porras is at the head of a strategy to criminalize and pursue all the people that contributed for years to the strengthening of justice and the fight against corruption and impunity.”

Guatemalans [organized protests](#) on September 4 to once again demand the resignation of Attorney General Consuelo Porras and President Giammettei.

- *Constitutional Court Ruling Leaves Judge Erika Aifán Open to Charges*

On September 16, , the Constitutional Court [rejected](#) an injunction filed by high-risk court judge Erika Aifán, a ruling which could leave her open to charges. Last July the Institute of Appeals Court Judges [requested](#) that her immunity be removed in order to open a [case against her](#) alleging that she launched “illegal proceedings” against lawyers who were candidates for the Supreme Court and the Court of Appeals. She filed an [injunction](#) to stop the proceedings against her, and the Constitutional Court granted a provisional injunction in 2020. However, the [unanimous](#) decision by the newly elected Constitutional Court to strike down the injunction allows [Aifán to be stripped of her immunity](#), meaning she could be removed from her position or even face [prison](#) time while investigations are underway.

According to UDEFEGUA, this is the latest move in “a process of breaking up the constitutional order in the country.” In a [statement](#) of solidarity, UDEFEGUA condemned the attack against Aifán who, “in her quality as a judge has raised important cases against criminal structures dedicated to the illicit financing of political parties, corruption, and impunity.” The US Department of State Awarded Aifán an [International Woman of Courage Award](#) this year, [stating](#) that “despite the strong opposition she has faced throughout her tenure . . . [she] has become an icon in Guatemala in the fight against corruption, efforts to increase transparency, and actions to improve independence in the justice sector.”

### **Evidence of High-Level Corruption:**

- *US Department of State Adds Attorney General Consuelo Porras to the Engel List*

On September 20, the US Department of State in a [press release](#) named Guatemalan Attorney General Consuelo Porras and six other Central American officials to the [Engel List](#). The other officials named include Ángel Pineda, Secretary General of the Public Ministry. The State Department cited both for obstructing investigations. According to the State Department, “Porras’ pattern of obstruction included ordering prosecutors in Guatemala’s Public Ministry to ignore cases based on political considerations and actively undermining investigations carried out by the Special Prosecutor Against Impunity, including by firing its lead prosecutor.”

President Giammettei responded with a [series of tweets](#) in defense of the Attorney General and Secretary General Pinedas, claiming they were named to the list without proper evidence. He [condemned the actions](#) of the State Department, arguing that the naming of the officials to the list constituted “a lack of respect towards international relations that, first, makes an accusation without proof or support; second, violates human rights; and, third, gives value to the declarations of those who have personal interests and pending processes in Guatemala.” The Attorney General’s Office echoed the president’s sentiments in a [statement](#), characterizing as “regrettable” what it called “these types of actions, whose objective is not the fight against corruption, but rather political, biased and ideological actions.”

On September 22, several opposition political parties, including Bancada Winaq, introduced a [resolution](#) in the Guatemalan Congress that urged Attorney General Porras to immediately present her resignation, since her impartiality and independence had been compromised. Congress [did not have a quorum](#), however, and did not vote on the resolution. Outside of the Attorney General’s Office, [protesters](#) gathered to demand her resignation.

- *Public Prosecutor’s Office Opens Investigation into President Giammettei*

On September 3, the Public Prosecutor’s Office announced the opening of an [investigation](#) into [allegations](#)--originally raised by Sandoval--that Russian businessmen paid a bribe to President Giammettei in order to obtain a dock in one of the country’s main ports. Investigations will seek to reportedly uncover the validity of the allegations to determine if there is enough evidence to conduct further investigations. Spokesman for the Attorney General Juan Luis Pantaleón [explained](#), “The investigation is not against the president because he has immunity, but it is to determine if this supposed crime existed.”

Sandoval denounced Attorney General Porras for [interfering](#) in his attempted investigations into the [incident](#). Sandoval’s team had determined that a [witness](#), who said he had personally delivered a carpet to the president stuffed with cash, had likely stumbled upon a plot by a Russian-backed mining company to bribe the president for the right to operate part of a key port. The Public Prosecutor’s Office [denied](#) any investigations into President Giammettei until this week. The US [stopped aid](#) to the Public Prosecutor’s Office in July following the arbitrary removal of Sandoval, and aid remains suspended.

## US Immigration Policy in Guatemala:

- *Dropping Migrants at Guatemalan Border will Continue Through September*

The first week of September, the US and Guatemala came to an [agreement](#) that the US would send migrants expelled from the US Southern border directly to Guatemala City by air. Since the beginning of August, Mexican authorities have been [bussing](#) over 300

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migrants a day from southern Mexico, where they were [flown](#) by the US after being expelled, to the Guatemalan border. On September 4, the Guatemalan migration authorities released a [statement](#) announcing that the new agreement would take effect on September 30.

Between August 22 and 29, [2,061 people arrived](#) in El Ceibo by bus via Mexico according to the Guatemalan Human Rights Ombudsman's Office. The Ombudsman [previously noted](#) the lack of capacity to accept returned migrants at the remote border town, especially those from Honduras and El Salvador. According to the agreement, Mexican Authorities will bus migrants from Honduras and El Salvador through Guatemala to return them to their countries of origin.

#### **Key Cases:**

- *Former Military Officers Stand Charges in Ixil Genocide Case*

On September 29, the Prosecution Team--headed by the Public Ministry--finished [presenting its evidence](#) in the latest hearing in the intermediate phase of the Ixil Genocide Case. Former military officers César Noguera, Benedicto Lucas, and Manuel Antonio Callejas are charged with genocide, enforced disappearance, and crimes against humanity against the Maya Ixil people of Guatemala.

The Justice and Reconciliation Association (AJR) filed a complaint in 2000 after the Commission for Historical Clarification reported that the military campaign conducted against the indigenous populations under the dictatorship of Romeo Lucas from 1981 to 1982 [constituted genocide](#). The criminal proceedings against them began in 2019. The latest hearing featured [dozens of testimonies](#) from survivors of reported massacres, executions, violence, rape, and torture. In the next hearing the defense will present its evidence. The date for the next hearing has not yet been set.

- *Motion to Recuse Judge in the "Death Squad Diary" Case Rejected*

On September 22, the Second Chamber of the Court of Appeals for High Risk Proceedings heard and [unanimously denied](#) a [motion](#) filed by retired military officers Jacobo Esdras Salán Sánchez and José Daniel Monterroso Villagrán to recuse Judge Miguel Ángel Gálvez. Gálvez is currently serving as one of the judges in the trial against eleven former military and police officers accused of forced disappearance and crimes against humanity. (Read NISGUA's report on the case [here](#).) The defense had argued that Gálvez had "[ideological reasons](#)" to harm the retired military and former police officers and therefore needed to be recused from the case. Families of the victims in a [press release](#) argued that seeking to remove the judge was a delay tactic. The case [will now move](#) on to the evidentiary phase, in which evidence is presented to determine if the case can be brought to trial.

- *Judge Rules to Close Case Against Criminalized Women Human Rights Defenders in Joyabaj*

Maya K'iche' journalist and human rights defender Anastasia Mejia [faced baseless charges](#) in a blatant attempt by the Mayor of Joyabaj--who is named on the [Engel List](#) for subverting democracy in Guatemala--to criminalize her. On September 3, the judge [dropped the charges](#) against her and fellow human rights defender Patrona Siy Castro for lack of evidence.