



## GUATEMALA HUMAN RIGHTS COMMISSION/USA

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### **Judicial Persecution in Guatemala is Undermining Democracy**

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The Attorney General's Office, also known as the Public Ministry or the Public Prosecutor's Office, is led by Consuelo Porrás Argueta, who is serving her second term in office. She was elected for her first four-year term beginning in 2018 and was re-elected, over objections, in 2022.

The Attorney General has turned the Public Ministry into an instrument of political persecution and is jeopardizing the rule of law and the democratic stability of the country. In addition, she is violating the human rights of justice operators, journalists and human rights defenders, and of the dismissed prosecutors and people who have had to go into exile. With her actions, she is generating a climate of anxiety and legal uncertainty in the country.

The Attorney General attempted to obstruct the electoral process that culminated last January with the inauguration of President Bernardo Arévalo and is currently making efforts to undermine democracy.

- The Public Prosecutor's Office has attempted to strip the immunity of several magistrates of the Supreme Electoral Tribunal (TSE) and has conducted four raids on TSE facilities to seize documents related to the electoral process of June 25 and August 20, 2023.
- The Attorney General is investigating alleged electoral fraud in order to prosecute president-elect Arévalo, vice-president Karin Herrera, the elected representatives of the Semilla party, and members of his cabinet whom she considers political opponents.
- In this framework, she has managed, in collusion with judges linked to criminal networks, to suspend the Semilla party, improperly applying the Law against Organized Crime. In this way, she has prevented congressional representatives of Arévalo's Semilla party from serving in congressional leadership roles, presiding over legislative committees, or participating in the meetings of heads of legislative blocs.

#### **Efforts to Prosecute President Bernardo Arévalo**

It is evident that the electoral process through which President Bernardo Arévalo was democratically elected is being tarnished by actions that pose serious threats to the constitutional order and the rule of law. These actions are being carried out by the Attorney General with undue and arbitrary interference.

On August 21, 2024, the Public Prosecutor's Office requested that President Arévalo be stripped of his immunity for an alleged case of corruption in the Ministry of Communications.

This case is the latest in a series of cases brought against Arévalo. Eleven legal complaints have been filed against President Arévalo in only seven months of his administration. The Prosecutor's Office for Administrative Crimes received four of these cases, two of which are being prosecuted. Arévalo and his vice president, Karin Herrera, are also being investigated for posting on social media in relation to protests at the University of San Carlos. In this case, a request for impeachment against Arévalo was made last year.

The president of the Foundation against Terrorism (FCT), Ricardo Mendez Ruiz, who is on the Engel List, is the main accuser of President Arévalo. Mendez Ruiz has filed three complaints against Arévalo. Two of these were assigned to the Prosecutor's Office for Administrative Crimes on March 11 and April 10, for the crimes of illegal appointments and abuse of authority, respectively. Both complaints are in pre-trial status. However, the case for illegal appointments is already in the Ninth Court of First Criminal Instance. The third complaint against Arévalo is for presenting to the Congress of the Republic a reform to the Organic Law of the Public Ministry to create a procedure to remove Attorney General Consuelo Porras.

The Foundation against Terrorism was founded in 2013 with the objective of defending retired military personnel accused of crimes against humanity in the internal armed conflict. In 2016 it began opposing justice in cases investigated by the International Commission against Impunity (CICIG), and currently it has promoted criminal prosecution and criminalization against judges, prosecutors, journalists, and human rights activists. One of the cases in which the Foundation Against Terrorism (FCT) has participated is the trial against journalist and newspaper founder José Rubén Zamora Marroquín, who has been detained for more than two years.

### **Continuing Persecution of Semilla Party Members, Prosecutors, and Others**

- Semilla party member Ligia Hernandez Gomez was arrested on August 14, 2024 for the crime of unregistered electoral financing and remains in prison. Due process was violated in regards to her arrest, the lack of transparency in the charges, the assignment of judges close to the Public Ministry, and especially the abuse of pretrial detention.
- Journalist José Rubén Zamora Marroquín is still in prison, although the competent court confirmed his house arrest for the second time; procedures that could result in his release to house arrest continue to be suspended. Zamora has been in jail since July 2022. On July 1, 2024, the Working Group on Arbitrary Detention of the United Nations Human Rights Council deemed his detention arbitrary and called for his immediate release, after [concluding](#) that “his detention lacks legal basis, results from the exercise of his right to freedom of expression, does not comply with international standards of fair trial, and is discriminatory for reasons of political opinion.” Zamora had investigated cases of corruption involving former president Alejandro Giammattei, and these investigations led to [threats](#) against Zamora by Attorney General Consuelo Porras. In August 2024, United Nations experts [asked](#) to Guatemalan government to urgently attend to the inhumane conditions he is being kept in, which, the UN said, could amount to [torture](#). These conditions have caused a serious deterioration in his physical and mental health, rapid weight loss, and a deterioration of his vision.
- Prosecutor Stuardo Campos has three cases against him and has been in pretrial detention since May 2023. Most of his hearings have been suspended repeatedly due to actions filed by the Foundation Against Terrorism, which is a co-plaintiff in the case.

The attorney general and some of the officials closest to her are broadly acknowledged to be corrupt, as the following actions by the international community make clear.

- Visa and Economic Sanctions

In 2021, the US State Department included Consuelo Porras on the Engel List of corrupt and antidemocratic actors. In 2022 and 2023, the State Department also included on the list various officials close to Porras, such as Secretary General of the Public Ministry, Ángel Pineda, and two prosecutors with the Special Prosecutor's Office Against Impunity, Rafael Curruchiche and Cinthia Monterroso. To date, more than 40 countries have sanctioned Consuelo Porras, Prosecutor Rafael Curruchiche, and other Public Ministry officials, condemning their efforts to undermine democracy, the rule of law, and the fight against impunity. The European Union, Great Britain, Canada, and Switzerland have imposed both visa and economic sanctions on these individuals, and Mexico, Colombia, Brazil, Chile, and other countries have made statements of concern about these officials.

- Parliamentary and Congressional Resolutions

The European Parliament in its resolution on April 7, 2022, condemned the undue use of criminal law against prosecutors, anti-corruption judges, independent journalists, and human rights defenders. In a September 14, 2023 resolution, the European Parliament condemned the persecution and harassment carried out by the Public Ministry against the Supreme Electoral Tribunal and the Semilla party; such harassment and persecution put the electoral process at risk, the resolution noted, and undermined democracy. The US Congress, likewise, introduced [resolutions](#) in November 2022, [January 2024](#), and [April 2024](#), all making reference to the Attorney General's role in undermining democracy.

- IACHR Categorization

Recognizing the worsening of the rule of law, In 2021, 2022, and 2023, the Inter-American Commission on Human Rights (IACHR) placed Guatemala in Chapter IV.B of its annual report, a chapter reserved for serious violators of human rights. The IACHR cited Guatemala's backsliding in the fight against corruption and impunity and its systematic persecution of justice sector employees, including judges and attorneys dedicated to justice.

- IACHR Findings

The Inter-American Commission on Human Rights (IACHR) in July 2024 made an in loco visit to Guatemala to observe the impacts of the process of weakening democratic institutions and judicial independence in the country in the period since its last visit in 2017. In its [preliminary findings](#), the IACHR refers to the "instrumentalization of the justice system," which consists of the improper use of the penal system through the manipulation of the punitive power of state and non-state actors in order to hinder journalists, human rights defenders, and independent justice operators in their legitimate work." The IACHR notes, "According to the organizations and individuals with whom the IACHR met, the criminalization is motivated by a spirit of retaliation on the part of certain groups and power structures due to the investigations and prosecution of acts of corruption and serious human rights violations carried out in the recent past by the FECCI [Special Prosecutor's Office Against Impunity], the MP [Public Ministry] and the High Risk Courts with the support of the CICIG. This [is occurring] with the active intervention of certain private actors such as, for example, the Foundation Against Terrorism (FCT)...." In its recommendations, the IACHR said the government of Guatemala should "conduct an

independent review of the functioning of the Public Prosecutor's Office and its impact on human rights, taking into account the widely publicized allegations of lack of objectivity.”

- UN High Commissioner on Human Rights Statement

In September 2024, United Nations High Commissioner for Human Rights Volker Türk, during his intervention at the 57th session of the Human Rights Council, noted that the capture of the State of Guatemala in multiple ways by economic and political actors has serious consequences for human rights. “We see it, for example, in Guatemala, where criminal law and its processes are abused by some official actors, such as the Attorney General, Consuelo Porras, to pressure and persecute those involved in defending human rights and promoting accountability,” the High Commissioner said. Volker Türk made an official visit to Guatemala in July. During his visit he said that democracy is still in danger, and he asked Consuelo Porras to immediately stop the criminalization: “I urge the attorney general to take the necessary measures so that such persecution stops immediately.” He also referred to the dozens of Guatemalans forced into exile in recent years, saying “all exiles should be able to return in dignified and safe conditions.”

International condemnation and the sanctions that have been applied to date have done little to impede the Attorney General’s efforts to undermine democracy.

### **Recommendations for US Congress:**

a) Explore with the State Department the possibility of placing Magnitsky sanctions on Attorney General Consuelo Porras, Foundation Against Terrorism President Ricardo Mendez Ruiz, and head of the Special Prosecutor’s Office Against Impunity, Rafael Curruchiche. Additionally, Magnitsky sanctions should be explored against Secretary General of the Public Ministry Ángel Arnoldo Pineda Ávila and prosecutor Leonor Eugenia Morales Lazo De Sánchez, as well as judge Fredy Raúl Orellana Letona, all of whom have been sanctioned with visa removal and freezing of assets by the European Union.

b) Encourage the State Department to continue monitoring the Attorney General and other officials of the justice sector, since it is evident that they represent one of the greatest risks to the democratic stability of Guatemala. Appointing a point person at the US Embassy in Guatemala to take charge of such monitoring would be a good measure.

c) Maintain Engel List sanctions on the Attorney General and her staff, as well as on all the officials of the justice sector who continue to threaten the constitutional order and the rule of law.

d) Encourage the State Department to support the recommendations of the Inter-American Commission on Human Rights to investigate the Public Prosecutor’s Office. A mixed commission must be appointed, composed of 2 foreign experts proposed by the Inter-American Commission and 2 experts proposed by Guatemala’s Executive Branch, to carry out an independent examination of the functioning of the Public Ministry and the effects of its actions on human rights.

e) Urge the State Department to closely monitor the procedure and functioning of the Commissions for the Nomination of Supreme Court Justices and Judges of the Appellate Courts so that the selection process is carried out in accordance with Inter-American standards, under criteria based on merit and professional abilities and free of undue interference of any kind;

f) In communications with the Guatemalan government, whether in meetings with President

Arévalo or in communications with the Guatemalan Embassy, encourage and support the creation of a high-level commission to carry out the necessary protocols to guarantee the conditions for the care and return of exiled persons, including a comprehensive reparation plan.