

Reforms to the Penal Code Could Free Prisoners Convicted of Crimes Against Humanity

According to reports, the Guatemalan Congress on March 20 plans to conduct the third reading of proposed legislation that would prevent the imprisonment of people older than seventy and limit pretrial detention to one year. Bills 5466 and 5474, which are amendments to the Penal Code, could result in the freeing of various former authorities convicted for crimes against humanity. On March 19, the Center for Justice and International Law (CEJIL) asked the Inter-American Court of Human Rights to urgently request information on these bills and their eventual impact on the state's compliance with the Court's ruling that it must investigate, try, and sanction all responsible for grave violations in the Molina Theissen case. Four former high-ranking soldiers were [sentenced](#) last year for aggravated rape and crimes against humanity in relation to Emma Guadalupe Molina Theissen, and for the forced disappearance of Marco Antonio Molina Theissen. The reforms to the Penal Code, which, according to the [International Justice Monitor](#), have been made into one [proposal](#), have passed the second reading in Congress and are set to undergo the third and final reading tomorrow, [after](#) which they could become law. A separate bill granting amnesty for crimes committed during the internal armed conflict had been brought before Congress for a final reading several times in the past few weeks and had faced strong international opposition (see p. 2, below).

Torres, McGovern, Cardin, Leahy Present Bill to Sanction Guatemalan Officials United States Representatives Norma J. Torres (D-CA) and James P. McGovern (D-MA) and US Senators Ben Cardin (D-MD) and Patrick Leahy (D-VT) on March 7 introduced the [Guatemala Rule of Law Accountability Act](#) to impose targeted sanctions on Guatemalan officials who have undermined the rule of law. The bicameral bill authorizes Global Magnitsky Human Rights Accountability Act sanctions against Guatemalan officials who have engaged in corruption, obstructed justice, misused U.S.-provided equipment, disobeyed Guatemalan Constitutional Court rulings, and interfered with the work of the US government. According to the offices presenting the bill, in Guatemala, the actions of a government facing corruption investigations have placed the country's stability and democracy in jeopardy and have undermined US-supported efforts to address the root cause of migration. The Guatemala Rule of Law Accountability Act would apply financial sanctions, including asset blocking and the denial of visas, to current or former corrupt Guatemalan officials. It would also ensure that the US can claw back any security equipment that is misused by the government of Guatemala.

Torres and McGovern were joined in introducing the bill by original co-sponsors Representatives Alan Lowenthal (D-CA), Ilhan Omar (D-MN), Deb Haaland (D-NM), Bobby L. Rush (D-IL), David Cicilline (D-RI), Mark Pocan (D-WI), Andy Levin (D-MI), Jim Himes (D-CT), Jamie Raskin (D-MD), Barbara Lee (D-CA), Earl Blumenauer (D-OR), Adriano Espaillat (D-NY), Jared Huffman (D-CA), Grace Napolitano (D-CA), Eleanor Holmes Norton (D-DC), Don Beyer (D-VA), Bonnie Watson Coleman (D-NJ), Hank Johnson (D-GA), Ruben Gallego (D-AZ), Peter A. DeFazio (D-OR), and Steve Cohen (D-TN). The Senate companion is co-sponsored by Senators Dick Durbin (D-IL), Tim Kaine (D-VA), and Chris Murphy (D-CT).

US Suspends Some Military Aid to Guatemala, Citing Incorrect Use of G8 Jeeps The US Defense Department has suspended military aid to Guatemalan police, citing incorrect use of armored vehicles donated by Washington. The US embassy told [reporters](#) in a text message that since August, Guatemala's Interior Ministry "has repeatedly used (the vehicles) in an incorrect way." Therefore, the department "has ceased transfer of equipment and training to the task forces," which are under the purview of the Interior Ministry and are charged with border enforcement and fighting smuggling and crime. The embassy added that future support for Guatemala's Ministry of Defense will be evaluated

on a case-by-case basis. These jeeps were used last August 31 to intimidate CICIG staff, human rights groups, and US embassy personnel. Rep. Eliot Engel tweeted “Better late than never. Glad to see #Trump Administration finally pump the brakes on military transfers to #Guatemala after misuse of US Jeeps, something I have called for since August #ReturntheJeeps.” Rep. Norma Torres tweeted, “For months, we've demanded a response to the Guatemalan authorities' flagrant misuse of US-donated Jeeps. @DeptofDefense has taken the first step by suspending assistance & training. My Guatemala Rule of Law Accountability Act must be passed to make sure this never happens again.”

Bill Restricting Work of NGOs Prompts Statement of Concern by UN High Commissioner

Soon to undergo a third reading in the Guatemalan Congress is a bill containing reforms to Decree 02-2003, the Law on Nongovernmental Development Organizations (5257), which attempts to limit the work of NGOs. On March 6, The UN High Commissioner on Human Rights, Michelle Bachelet, expressed concern that Congress might approve the law, which would considerably limit the work of human rights defenders and civil society in general. “The restrictions that these reforms entail contravene the obligation of the State to protect and guarantee the democratic space for civil society, an essential pillar for the promotion of human rights, democracy, and the rule of law,” Bachelet stated.

As the Inter-American Commission on Human Rights has explained in a press release, the bill seeks to implement limitations on and monitoring of NGOs’ activities in a way that is incompatible with the rights to freedom of expression and association. In the view of the Unit for the Protection of Human Rights Defenders in Guatemala (UDEFEGUA) and various international organizations, the reforms would prohibit freedom of expression and freedom of action by NGOs and their personnel. Human rights organizations in Guatemala have expressed concerns that the law would restrict the processing of international funds to NGOs working with any focus that was not determined to be strictly assistance. According to UDEFEGUA, the bill stipulates that NGOs need to be classified into particular categories, a requirement that could exclude human rights organizations or LGBTI rights organizations. Additionally, government institutions could effectively shut down an organization if they considered its work to fall outside their definition of the “public order,” a vague concept linked to repressive legislation of the 1970s, as UDEFEGUA notes. Other concerns civil society organizations have is that the law would give the Ministry of the Interior the power to shut down any organization not viewed as acting within the confines of its own stated mandate. Nongovernmental organizations in Guatemalan have also expressed concern about onerous registration requirements, which especially disadvantage NGOs in the countryside, as well as the fact that financial penalties for falling short of requirements or incurring infractions would apply to all involved with an organization, including volunteers.

Amnesty Bill Passes Second Reading in Guatemalan Congress, Putting Justice and Lives at Risk

On March 6, the Guatemalan Congress held its second reading of a global amnesty bill that would make justice for the victims and survivors of grave human rights abuses impossible; human rights abuses that occurred during the internal armed conflict, including crimes against humanity, would be amnestied under the law, and those currently in prison for such abuses would be freed within 24 hours. After a third reading, any bill becomes law. An attempt at the third reading was made on March 13. As in previous efforts, a critical number of congressional representatives left the floor, destroying the quorum needed for the reading.

Guatemala has faced intense international pressure related to the amnesty law. The US embassy on March 12 via tweet issued a statement opposing the passage of the bill: "The US reiterates its deep concern about the amnesty for human rights abuses and criminals that would result if the Congress of Guatemala amended the Law of Reconciliation tomorrow. We support Guatemalans in their struggle against impunity." The UN also issued an opinion, asserting that approval of the bill could seriously affect social cohesion and stability in Guatemala. The Inter-American Court of Human Rights ordered the Guatemalan government to scrap the bill, stating that approval of the bill would constitute a “grave, urgent and irreparable situation,” since there would be a serious failure on the part of Guatemala to comply with Court rulings in fourteen cases in which the court has issued sentences.

The National Reconciliation Law [reforms](#) (bill 5377) would include amnesty for genocide, torture, and forced disappearance. The [bill](#) violates article 117 of the Constitution, which establishes a prohibition on amnesty for such crimes, in accordance with international human rights doctrines. After the bill [passed](#) the first reading in Congress on January 17, United Nations High Commissioner for Human Rights Michelle Bachelet [expressed](#) serious concern. She called the bill the latest in a series of initiatives undermining the important achievements Guatemala has made in the fight against impunity. Bachelet also said she was “deeply worried that if this amendment is approved, it may lead to retaliation against all those courageous victims, witnesses, judges, public prosecutors, lawyers and organizations who have been promoting justice for past crimes in Guatemala.” Decree 145-96, the country’s National Reconciliation Law passed in 1996, includes the option of an amnesty for common crimes, but it expressly excludes crimes like genocide, forced disappearance and torture.

Sweden Recalls its Ambassador In mid-February, Sweden recalled its ambassador to Guatemala, citing the political situation in the country and the state of current bilateral relations. According to Foreign Minister Margot Wallstrom, the decision to recall Ambassador Anders Kompass [should be seen](#) as “a signal to Guatemala.” The diplomatic protest signified by the recall was made amid a dispute over the UN-backed International Commission Against Impunity in Guatemala (CICIG), which has been helping Guatemala’s public prosecutor’s office investigate criminal networks for over a decade. Sweden is a major donor to the CICIG. Guatemalan President Jimmy Morales ordered CICIG to leave the country in January, abruptly cutting short its mandate. Morales himself has come under investigation by CICIG for illegal campaign financing. The Constitutional Court ruled that CICIG must stay until its mandate ends in September, a decision Morales and high-level officials in his administration have openly defied. In January, as part of a statement made by thirteen countries (G-13—the United States didn’t opine) Sweden [called](#) on the government to respect the constitutional order, the rule of law, and the separation of powers.

European Parliament Expresses Extreme Concern and Obliquely Threatens Trade Sanctions

On March 14, in a Plenary Session in Strasbourg, France, the European Parliament in an overwhelming majority passed a resolution expressing extreme concern about the human rights situation in Guatemala and implying the possibility of sanctions. The resolution denounces the violence against human rights defenders, particularly those who defend land and territory rights, and calls on the Guatemalan authorities to “cease all acts of intimidation against Guatemalan civil society and human rights organizations in particular.” The European Parliament in the resolution cites 391 documented attacks against human rights defenders in 2018, including 147 cases of criminalization and 26 assassinations, a 136 percent increase over 2017.

In one of its twenty points, which include concerns about the failure of the executive branch to obey the orders of the Constitutional Court, the resolution denounces the misuse of criminal procedures in order to prevent or sanction the work of human rights defenders. The European Parliament “recalls the importance of an independent and effective justice system and the need to put an end to impunity; regrets the fact that the Guatemalan Government continues to breach the rule of law and the separation of powers; recalls that an essential principle of liberal democracies is the separation of powers and respect for the rule of law . . .” The resolution also notes pending restrictive legislation, such as the proposed Amnesty Law, and “deplores the fact that after more than 20 years, the Guatemalan Peace Accords still have not been implemented, and indeed are at risk of being dismantled.”

In the resolution the European Parliament also “expresses its concern about the complaints made regarding the lack of free, prior and informed consultations (ILO Convention 169); recalls the recommendation of the UN Special Rapporteur that the rights of indigenous peoples should be fully respected in accordance with international standards, which include the right to free, prior and informed consultation; recalls that national and international corporations are directly bound by treaties and other national and international rules on human rights and environmental rights throughout their value chains, and that, if companies are found to have caused or contributed to harm, they must provide for or participate in effective remedy processes for the individuals and communities affected;

notes that this includes restitution, compensation, rehabilitation and guarantees of non-recurrence; recalls that governments have the responsibility to protect human rights and to bring those who violate such rights to justice.” Finally, the European Parliament implies that trade sanctions may be imminent, reminding the Guatemalan Government “that the EU-Central America Association Agreement includes a human rights clause as an essential element and that membership may be suspended in the case of its violation” and calling for the European Union and its Member States to use the mechanisms laid down in the Association Agreement and the Political Dialogue and Cooperation Agreement to strongly encourage Guatemala to carry out an ambitious human rights agenda and the fight against impunity.”

PBI Guatemala Reports Deteriorating Human Rights Conditions Peace Brigades International’s accompaniment project in Guatemala has observed a deteriorating security situation for accompanied partner organizations, especially those that defend land and territory rights. In 2018, PBI Guatemala issued urgent alerts because of the high levels of threat faced by the Rural Coordinator Chortí Nuevo Dia (CCCND), in Chuiquimula; the Verapaz Union of Campesino Organizations (UVOC), in Alta Verapaz; the Peasant Committee of the Altiplano (CCDA), in Alta Verapaz; and the Peaceful Resistance of Cahabón, also in Alta Verapaz.

The three organizations in the department of Alta Verapaz all suffered serious incidents, including acts of intimidation, defamation, death threats, attacks in which their homes were fired on, imprisonment, and arrest warrants. Bernardo Caal, for example, one of the leaders of the Peaceful Resistance of Cahabón, which opposes the construction of hydroelectric dams on the Cahabón River, was sentenced to seven years in prison in November 2018, although multiple witnesses testified that he was not in the location where the supposed crime took place. Organizations accompanied by PBI, including La Puya, the Peaceful Resistance of Cahabón, and the Chorti Campesino Coordinator CCCND have reported an increase in the presence of military forces, including the elite Kaibil forces in their communities.

Women’s Organization Broken Into, Files Taken, After International Women’s Day March

After a March 7 demonstration celebrating International Women’s Day, members of the Womens’ Sector Political Alliance returned to their office, then turned out the lights and closed the office up. At 6:00AM, they found the door open and various windows broken. The desks were destroyed. Papers were strewn all around and all the computers, along with boxes and files, had been stolen. The organization characterized the break-in as an act of intimidation. Isabel Sáenz, project coordinator of the Alliance, [told](#) reporters, “Last night we had demonstrated, we said publicly that there is no justice for the fifty-six girls [[victims](#) of the 2017 fire in the Virgin of the Assumption youth shelter], for the women in Guatemala, and then this happens. Human Rights Procurator Jordán Rodas asked the Public Ministry and the Ministry of the Interior to investigate the break-in, which he also characterized as an act of intimidation.

Peace Brigades International sends teams of international observers to areas of conflict and repression to provide protective accompaniment to human rights defenders whose lives and work are under threat. Founded in 1981, PBI has worked in fourteen countries on four continents. PBI’s international office in Brussels and advocacy staff around the world support efforts on the ground to open space for peace and the defense of human rights.