



Peace Brigades International

Highlights of the State Department's 2021 Report on Guatemala

The State Department's Annual [Report on Guatemala](#) reflects the deterioration of the human rights situation in 2021. Some highlights, noting departures from previous years' reports, follow.

State Department Specifies Government Corruption

The State Department is frank in attributing acts of corruption to the government. Whereas the 2020 report cites “widespread corruption,” the 2021 report refers to “serious government corruption.” While the 2020 report finds that “lack of political will” was one of the factors that made meaningful investigation and prosecution of crimes, including corruption, involving public officials difficult, the 2021 report replaces “lack of political will” with the “undermining of anticorruption institutions and the judiciary by corrupt political actors.”

Killings by Police Increased

Reports of homicide by police increased, according to the State Department report; five complaints of killings by police were received in 2021, compared to three in 2020.

Ten Human Rights Defenders Were Killed from December to late November

The report, citing the Unit for the Protection of Defenders in Guatemala (UDEFEGUA), notes that from December through November 29, ten human rights defenders were killed, seven of whom were environmental, land, or indigenous rights defenders—“members of rural or indigenous activist groups,” in the State Department's words. (UDEFEGUA's [numbers](#) by December 14 put the toll of defenders murdered at eleven).

Arbitrary Arrests Increased More than 1000 Percent

Complaints of arbitrary arrests/illegal detentions shot up, from 2 in [2020](#) to 48 in the first eight months of 2021—an increase of more than 1000 percent. In 2019, by comparison, the number of such complaints over the same time period was 26.

State Department Reports “Substantial Interference” in Right to Peaceful Assembly

In the 2021 report the State Department notes “substantial interference with the freedom of peaceful assembly and freedom of association, including overly restrictive laws on the organization, funding, or operation of nongovernmental and civil society organizations.”

State Department Notes Threats and Surveillance of Prosecutors by Government Officials

In the section entitled “Denial of Fair Public Trial,” the State Department again lays the responsibility squarely at the government's feet. Whereas the 2020 states, “Judges, prosecutors,

plaintiffs, and witnesses continued to report threats, intimidation, and surveillance, most often from drug trafficking organizations,” the 2021 report trades out “drug trafficking organizations” for “government officials”: “Judges, prosecutors, plaintiffs, and witnesses continued to report threats, intimidation, and surveillance, including from government officials, such as harassment of prosecutors from the Office of the Special Prosecutor Against Impunity and judges from the High-Risk Court.”

The report goes on to delineate, over the course of four paragraphs, the persecution of judges and prosecutors and names the Attorney General’s Office and the Guatemalan Congress as the parties responsible in several cases. The cases mentioned include the surveillance of Judge Erika Aifan and leaking of details of cases she oversaw; the transfer by the Attorney General of Hilda Pineda from the Human Rights Prosecutor’s Office to the Office of Crimes Against Tourists; the refusal of Congress to swear in re-elected Constitutional Court Judge Gloria Porras; and the Public Ministry’s failure to provide protection for judges receiving threats related to their work on the Death Squad Dossier (Diario Militar) case.

Four additional paragraphs detail reprisals against former International Commission against Impunity in Guatemala lawyer Alfonso Carrillo, now living outside of Guatemala; police harassment of the parents of Juan Francisco Sandoval, former head of the Office of the Special Prosecutor Against Impunity (FECI); surveillance of Judge Aifan by the staff of officials implicated in cases she was presiding over; and the harassment of members of the Public Ministry’s Human Rights Department who were working on the Diario Militar case by individuals who followed them in unmarked vans and drivers in other vehicles who made threatening gestures.

The State Department report, in a departure over previous years, notes “credible reports of harassment of the families of officials.”

“Many Journalists. . . Had to Flee the Country”

The report also details the increase in attacks on journalists: “The law provides for freedom of expression, including for members of the press and other media, but the government did not always respect this right. The intimidation of journalists increased during the year and resulted in significant self-censorship. . . . Many journalists reported being followed or having to flee the country after publishing work that was critical of influential citizens. In August Marvin del Cid, an independent journalist, left the country after receiving threats due to the publication of a book he wrote exposing alleged improprieties in President Giammattei’s campaign funds in the 2019 presidential election.”

The State Department, in addition to mentioning allegations against Giammattei above, finds occasion to mention further along in the report allegations of corruption involving Giammattei. (See the end of the paragraph below.)

Government Violated Rights to Freedom of Association

According to the report, the government did not always respect freedoms of peaceful assembly and association: “In May the Constitutional Court allowed a controversial NGO law to go into

effect, which many NGOs and international observers claimed could be used to restrict their right to freedom of association. . . . On October 4 in El Estor, Izabal, a group of 20 Mayan Q’eqchi’ activists protested the continued operation of the Fenix mine and exclusion of the group from the court-ordered consultations over the operation of that mine. On October 23, more than 700 police officers fired tear gas at the crowd of approximately 120 protesters. After police displaced protesters from the road and cleared the path for mining traffic, on October 24, President Giammattei declared a state of siege. Congress approved the state of siege two days later and imposed a curfew from 6 p.m. to 6 a.m. In the five days following the declaration, the PNC conducted 26 raids and arrested 15 persons for crimes including starting wildfires, possession of drugs, and threatening violence.” The State Department also notes “some reports” of excessive use of force during protests in the summer of 2021, following Attorney General Maria Consuelo Porras’s firing of FECCI head Juan Francisco Sandoval, who—as the State Department bluntly explains—was investigating accusations of widespread corruption in the Giammattei administration.

The State Department again mentions the state of siege in El Estor under the Freedom of Movement category, pointing out that the state of siege prevented those who might have wanted to do so from moving freely or leaving the country: “Therefore, at certain points for up to 30 days, citizens in the affected areas did not have this right, such as in El Estor, Izabal, where on October 24, President Giammattei declared, and congress approved, a state of siege for 30 days that imposed a curfew from 6 p.m. to 6 a.m., limited large groups of persons from amassing, and allowed police to detain and interrogate those suspected of disturbing the peace with suspension of some due process.”

Although this characterization of the restrictions entailed in a state of siege lacks some detail, the repeated inclusion of mention of the state of siege in El Estor is significant and is a departure from the 2020 report, in which the eleven states of siege declared that year were mentioned by the State Department but not detailed.

State Department Specifies Populations at Risk of Internal Displacement

New this year in the section on internally displaced persons is an important assertion that indigenous populations and other specific populations are at risk for displacement and a mention of the fact that violence is one of the causes of displacement: “The government indicated a more open posture to discussing the issue, framed as a matter of vulnerable or “at-risk” communities, but critics claimed this definition did not address the full range of causes and effects of the movement of IDPs. Women, youth, and LGBTQI+ individuals, as well as indigenous populations, remained at heightened risk of displacement.”

Under “Protection of Refugees,” the 2021 report points out the government’s failings. Whereas the 2020 report states, “The government cooperated with UNHCR and other humanitarian organizations in providing protection and assistance to refugees,” the 2021 report states, “The government made efforts, with significant support from the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations, in providing protection and assistance to refugees, returning refugees, or asylum seekers, as well as other persons of concern. . . . UNHCR reported that identification and referral mechanisms for potential asylum seekers were inadequate and requirements to travel to Guatemala City for parts

of the process continued to limit access. Despite regulations published in 2019, there continued to be gaps and lack of clarity in the procedures for implementing the legal framework.” The report goes on to note that “although only 29 of the 486 cases filed in 2020 were adjudicated as of October.”

Report Focuses on Lack of Prosecution and the Undermining of Corruption Cases

Under the heading “Corruption and Lack of Transparency in Government,” the State Department points out that few cases of government corruption were prosecuted and efforts to address corruption were undermined: “Despite numerous allegations of corruption among the legislative and executive branches of the government, few high-profile cases were prosecuted during the year, and anticorruption efforts within the judiciary stalled. Prominent anticorruption prosecutors were fired or removed from significant cases, and corrupt actors threatened independent judges by filing complaints based on spurious charges to strip them of immunity to prosecution.” The report proceeds to explain in detail the attacks on Juan Francisco Sandoval, as well as mentioning attacks on independent judges, including threats and efforts to strip judges of their judicial immunity. Four additional paragraphs are devoted to explaining the lack of progress in high-level corruption cases.

Cases of Criminalization Doubled in 2021

Under “Governmental Posture Towards International and Nongovernmental Investigation of Alleged Abuses of Human Rights,” the State Department, citing UDEFEGUA’s figures, illustrates that cases of criminalization doubled in the first six months of 2021 compared to the previous year (26 cases of undue use of the criminal justice system were reported by UDEFEGUA from January to June 2021, compared to 13 cases over the same period in 2020).

In this section, the State Department makes its first mention of the change to mandate of the UN High Commissioner on Human Rights; although the mandate period was adjusted in 2020, this fact went unmentioned in the State Department’s 2020 report. The State Department’s 2021 report notes, “In 2020 the government reduced the OHCHR’s three-year mandate to one-year increments.”

The failure of the government to transfer important files related to institutions formed under the terms of the 1996 Peace Accords is highlighted in the 2021 report: “Starting in August 2020 the three governmental entities replaced by the Presidential Commission for Peace and Human Rights had 90 days to transfer their files to existing institutions such as the Office of the Human Rights Ombudsman and the Secretariat for Planning and Programming. As of November this had not been completed.”

State Department Nearly Doubles Frequency of the Word “Indigenous” in 2021 Report

The word *indigenous* is used 64 times in the 2021 State Department report, nearly double the number of times the word is mentioned in the 2020 report (38), reflecting more focus on and acknowledgment of systemic issues.

Six of these mentions occur in an expanded section on reproductive rights. According to the 2021 report, the maternal mortality rate in indigenous communities is 156 per 100,000 live births, compared with the national average of 108 per 100,000 live births.

The 2021 report's usage of the word *indigenous*, in fact, exceeds in frequency the usage of the word in all other years since 2002. Only the 2001 and 2002 reports revealed more focus on the indigenous (with 74 and 70 mentions, respectively). The low in terms of mentions is in the 2017 report, which featured 27 uses.

2021 Report Changes “Other Societal Violence” to “Systemic Racial or Ethnic Violence”

The category termed “Other Societal Violence or Discrimination” in the 2020 report is termed “Systemic Racial or Ethnic Violence and Discrimination” in the 2021 report. Under this heading are new and important inclusions: the mention of Afro-descendent people, apparently for the first time in a State Department report on Guatemala; and the acknowledgment that “[t]here are no laws, policies, or state programs that specifically contribute to the reduction of racism, according to international human rights organizations.”

State Department Makes First Substantive Mention of Peace Accords Since 2004

In the section cited above, the State Department mentions particular accords reached by the government and the insurgency in 1996 and their lack of fulfillment: “The government generally did not effectively enforce laws against discrimination. Of the 12 agreements that make up the Peace Accords signed in 1996, the two in which the government had made the least progress in implementing were those specifically dealing with matters related to indigenous persons: the Agreement on Identity and Rights of Indigenous Peoples and the Agreement on Socioeconomic Aspects and Agrarian Issues.”

This statement is the first substantive mention of the Peace Accords, from the perspective of compliance, in a State Department report since 2004. The 2020 report mentions the accords in the context of President Giammattei's closing of institutions set up to implement compliance with the accords. In the reports from 2007 to 2019, no mention at all is made of the accords.

2021 Report Uses Wording Reflecting Acknowledgment of Indigenous Rights

The report continues, “According to the OHCHR, there was a significant increase in attacks and incidents of defamation and intimidation against indigenous defenders of indigenous land, territory rights, and natural resources.” Although the State Department is citing the OHCHR, the choice to employ OHCHR's wording is important, given that it specifies that indigenous defenders being attacked are defending “indigenous land,” as well as “territory rights” and natural resources. This implicit acknowledgment of indigenous land and territory rights is a departure for the State Department in these reports. In 2020 the term “indigenous lands” was used only once, to say that these lands “were not effectively demarcated, making the legal recognition of titles to the land problematic.”

The report also notes that “[t]he executive branch lacked a coordinated approach to address poverty and unemployment concentrated mainly in indigenous and Afrodescendant communities,

although there were some government programs directed at the needs of these populations.”

State Department Brings Up El Estor Again, Noting the Consultation was Exclusionary

Under the heading of “Indigenous Peoples,” the State Department again brings up the state of siege in El Estor and, importantly, recognizes that the groups participating in the consultation regarding the mine were groups the “government designated as participants in the process”: “On December 10, the government declared the successful conclusion of the ILO 169 consultations with those indigenous groups they designated as participants in the process. The community’s self-determined governance structure, the Ancestral Council of Q’eqchi Peoples, was excluded from the consultations, and critics claimed that the government purposely neglected to include the group. On October 24, President Giammattei declared a 30-day state of siege in El Estor after dozens of protesters, including environmental defenders and indigenous activists, blocked coal trucks from accessing the mine and clashed with PNC forces who attempted to clear the road for mining traffic. According to local observers present at the scene, a police force outnumbering protesters by a ratio of seven to one broke up the protest and allowed mining traffic to continue along the road.”

The 2021 report hints at a new willingness by the State Department to engage more deeply with core issues of human rights violations in Guatemala, including the rights of Guatemala’s indigenous. While not perfect (no mention is made, for example, of the unjust imprisonment of indigenous leader [Bernardo Caal Xol](#)), the report is an encouraging sign of a new clarity in respect to Guatemala’s core problems. If not too little too late, and if backed up by action, this focus could help bring about change.

Peace Brigades International is a nongovernmental organization that 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 with its first project in Guatemala, PBI has worked in fourteen countries and on four continents. PBI’s international office in Brussels and advocacy staff in Geneva and around the world support efforts in the field to open space for peace and for the defense of human rights.