

WOLA

Advocacy for Human Rights in the Americas



FUNDACION
MYRNA
MACK



AP Photo: Moisés Castillo

HUMAN RIGHTS PROTECTIONS IN GUATEMALA

Evaluating State Capacity to Protect and
Promote Human Rights

DECEMBER 2019 | SERIES 1



TABLE OF CONTENTS

INTRODUCTION	4
KEY FINDINGS	6
HUMAN RIGHTS PROTECTIONS IN GUATEMALA: EVALUATING STATE CAPACITY TO PROTECT AND PROMOTE HUMAN RIGHTS	8
HUMAN RIGHTS CONDITIONS IN GUATEMALA	9
Criminalization of Human Rights Defenders	11
Hate Speech	13
STATE SYSTEM FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS	14
STATE CAPACITY TO INVESTIGATE AND SANCTION HUMAN RIGHTS VIOLATIONS	16
The Capacity of the Specialized Public Prosecutor’s Office	18
FORMAL COMPLAINTS AND MANAGEMENT OF CASES INVOLVING HUMAN RIGHTS VIOLATIONS	21
Public Prosecutor’s Office for Human Rights	22
Management of Cases Involving Specific Crimes	26
Violations Perpetrated by State Agents	29
PARADIGMATIC CASES	33
ABBREVIATIONS AND ACRONYMS	36
NOTES	37

INTRODUCTION

In the last decade, the problem of insecurity and impunity has deeply affected the people of Guatemala, El Salvador and Honduras, making this region (known as the Northern Triangle of Central America) one of the most violent in the world. High levels of violence, corruption, and impunity have eroded the capacity of the states to develop accessible and efficient institutions, and address the needs of their populations.

The absence of effective responses has weakened citizens' confidence in state institutions, leading to an alarming number of people who have been internally displaced or forced to migrate to other countries to escape the violence and lack of economic opportunities.

Against this backdrop, the Washington Office on Latin America (WOLA), the Myrna Mack Foundation (FMM) of Guatemala, the University Institute for Public Opinion (Iudop) of the José Simeón Cañas Central American University (UCA) of El Salvador, and the University Institute on Democracy, Peace and Security (IUDPAS) of Honduras have developed a tool for monitoring and evaluating the policies and strategies currently being implemented in Guatemala, Honduras, and El Salvador to reduce insecurity and violence, strengthen the rule of law, improve transparency and accountability, protect human rights, and fight corruption. This initiative has been made possible thanks to the support of the Latin America Division of the Swiss Agency for Development and Cooperation, the Tinker Foundation, the Seattle International Foundation (SIF), and the Moriah Fund.

THE CENTRAL AMERICA MONITOR

The Central America Monitor is based on the premise that accurate, objective, and complete data and information are necessary to reduce the high levels of violence and insecurity, and establish rule of law and governance in a democratic state. This will allow efforts to move beyond abstract discussions of reform to specific measures of change.

The Monitor is based on a series of more than 100 quantitative and qualitative indicators that allow a more profound level of analysis of the successes or setbacks made in eight key areas in each of the three countries.¹ More than a comprehensive list, the indicators seek to identify a way to examine and assess the level of progress of the three countries in strengthening the rule of law and democratic institutions. The indicators seek to identify the main challenges in each of the selected areas and examine how institutions are (or are not) being strengthened over time. The Monitor uses information from different sources, including official documents and statistics, surveys, interviews, information from emblematic cases, and analysis of existing laws and regulations.

The indicators were developed over several months in a process that included an extensive review of international standards and consultation with experts. The eight areas analyzed by the Monitor include:

1. Strengthening the capacity of the justice system;
2. Cooperation with anti-impunity commissions;
3. Combatting corruption;
4. Tackling violence and organized crime;

5. Strengthening civilian police forces;
6. Limiting the role of the armed forces in public security activities;
- 7. Protecting human rights;**
8. Improving transparency.

The Monitor reports are published by area and by country. The first series of reports will serve as the baseline for subsequent analysis, which will be updated annually. Each annual series of reports will be analyzed in comparison with reports from the previous year. This allows researchers, civil society organizations, and other actors to assess the level of progress in strengthening the rule of law and reducing insecurity.

The first round of Monitor reports will primarily focus on data sets from an approximate 4-year time period, 2014 to 2017, in order to provide a snapshot of Central America's institutions.

The Monitor will serve as a tool for searchable, easy-to-comprehend data, delineating trends, progress, patterns, and gaps within and between the three countries of the Northern Triangle. The data, graphics, charts, and reports will be available on the Monitor's website.

This report from the Central America Monitor, produced by the Myrna Mack Foundation, will provide a baseline assessment for indicators related to human rights conditions in Guatemala, and the performance of government institutions in promoting and protecting human rights.

ABOUT THE RESEARCH FOR THIS REPORT

We obtained research for this report via official requests for information from government institutions studied in this report. We also obtained research via reports from national and international organizations that assess issues related to attacks and threats against human rights defenders in Guatemala, hate speech, criminalization, preventative security measures, and human rights conditions in general. We also conducted interviews for further details on advances and setbacks on transitional justice issues.

After compiling and reviewing information for each indicator, we developed a comprehensive baseline analysis on human rights conditions for the 2014-2017 time period. Each year, we will collect information on these same indicators to allow for comparative analysis over time. The main points of our research and synthesized in key findings in the following pages.

It is important to note that government institutions did not fully comply with requests for public information. Some institutions did not release the information we requested, while we were unable to collect complete information for some indicators, factors which affect our analysis and indicators. Analysis on government capacity to investigate and punish threats and attacks against human rights defenders is based on information provided by the Public Prosecutor's Office (*Ministerio Público*, MP). The judicial branch did not provide concrete data on cases involving human rights defenders; this is due to the way the judicial system tracks cases, which currently does not classify whether victims are human rights defenders. The judiciary also did not provide complete data on specific crimes, preventing their comprehensive analysis.

KEY FINDINGS

- Between 2014 and 2017, civil society group the Human Rights Defenders Protection Unit (UDEFEQUA) recorded a total of 2,062 aggressions against human rights defenders, including 529 cases of intimidation and 131 threats (made in person, in writing, or by telephone). In addition, the organization documented a worrisome increase in the number of violent deaths: murders rose from 7 in 2014 to 12 in 2015, 14 in 2016, and 52 in 2017. According to UDEFEQUA, the inability of state institutions to hold the perpetrators of these crimes accountable continues to fuel ongoing violence against defenders.
- The four-year period (2014–2017) saw some positive advances in terms of strengthening the capacity of the Public Prosecutor’s Office for Human Rights (*Fiscalía de Derechos Humanos*). The office was significantly expanded, so that it now has seven special prosecutor’s units dedicated to various categories of human rights-related crimes: 1) Prosecution Unit on Crimes of Discrimination (*Unidad Fiscal contra Delitos de Discriminación*); 2) Unit on Special Cases from the Internal Armed Conflict (*Unidad de Casos Especiales del Conflicto Armado Interno*); 3) Special Prosecution Unit on Crimes against Trade Unionists (*Unidad Fiscal Especial de Delitos Contra Sindicalistas*); 4) Unit on Crimes against Journalists (*Unidad de Delitos contra Periodistas*); 5) Prosecution Unit on Crimes against Human Rights Activists (*Unidad Fiscal de Delitos contra Activistas de Derechos Humanos*); 6) Prosecution Unit on Crimes against Human Rights (*Unidad Fiscal de Delitos contra los Derechos Humanos*); and 7) Prosecution Unit on Crimes against Justice Officials (*Unidad Fiscal de Delitos contra Operadores de Justicia*).
- The human rights prosecutor’s office registered a sustained increase in staff levels during the time period in question, under the administrations of former Attorneys General Claudia Paz y Paz and Thelma Aldana.
- Guatemala has existing laws needed to investigate and punish human rights violations. However, these laws aren’t being applied effectively, resulting in a high degree of impunity for crimes against rights defenders and journalists.
- Between 2014 and 2017, the Public Prosecutor’s Office for Human Rights recorded a total of 6,248 cases involving human rights-related crimes. The office filed 364 charges, obtaining 99 convictions and 18 acquittals. The low number of convictions can be attributed to both the complexity of the investigations and the heavy caseload facing prosecutors. Justice authorities should carry out a profound administrative, technical, and financial analysis in order to determine how to best strengthen the capacity and effectiveness of the human rights prosecutorial units.

- Important progress has been made in terms of seeking justice for grave human rights crimes that occurred during Guatemala's internal armed conflict, as seen in the so-called CREOMPAZ, Molina Theissen, and Sepur Zarco cases.
- Guatemala currently lacks an integrated system or database that records human rights crimes and the status of investigations in a standardized way, compiling information from the various government agencies that work in this area. Creating this kind of standardized database, featuring accurate and reliable information, could help inform public policy decisions for the prevention, investigation, and sanction of human rights crimes.
- The criminalization of human rights defenders in Guatemala is a major concern, and a practice that hampers the defense of human rights.
- Judicial branch institutions should adopt measures that would allow for the monitoring, identifying, and dismissal of cases in which human rights defenders are criminalized on spurious and groundless accusations. This phenomenon gravely increases the risks faced by defenders, threatening their security, dignity, liberty, integrity, and, unfortunately, their lives as well.
- Another major concern is the widespread use of social media campaigns to persecute, harass, threaten, and employ hate speech against human rights defenders, which serves to delegitimize their work and discourage support. Between 2014 and 2017, UDEFEGUA recorded 428 cases in which rights defenders were criminalized, including 74 illegal detentions, 104 judicial detentions, 106 arbitrary detentions, and 244 cases of defamation.
- Between 2014 and 2017, Guatemala lacked a public policy aimed at increasing protections for human rights defenders by better coordinating collaboration between various state institutions. There are some institutions dedicated to promoting interagency cooperation, including the Agency for Analysis of Attacks on Human Rights Defenders (*Instancia de Análisis de Patrones y Ataques contra Defensores de Derechos Humanos*) and a protection system managed by the Ministry of the Interior (*Ministerio de Gobernación*). However, these initiatives faced multiple challenges, which must be overcome before they can function more effectively.

HUMAN RIGHTS PROTECTIONS IN GUATEMALA

Evaluating State Capacity to Protect and Promote Human Rights

Human rights defenders play a crucial role in building democracy and the rule of law. However, the observance of human rights in Guatemala continues to represent an enormous challenge. The difficult and important task carried out by rights defenders is increasingly subject to smear campaigns on social media and in media outlets, threats, illegal tracking and surveillance, and intimidation. At the same time, criminal justice institutions and disproportionate criminal offenses are used against them.

Central American countries influenced by a national security doctrine, such as Guatemala, are perfectly familiar with how to stigmatize the “internal enemy,” a concept used during the armed conflict when grave human rights violations were committed against people labeled in that category.

Many of the dynamics that played out in that context have resurfaced, this time to delegitimize and discourage social struggles for rights and, naturally, the people leading them. The Illegal Groups and Clandestine Security Structures (*Cuerpos Ilegales y Aparatos*

Clandestinos de Seguridad, CIACS), present since the armed conflict, have managed to evolve into illicit political-economic networks that operate between public and private spheres and continue to act outside the law, gaining impunity for themselves.

In a country like Guatemala, where overall development conditions are limited for its inhabitants and where high indices of impunity and corruption are alarming and undermine the rule of law, the role of human rights defenders is indisputably necessary – and therefore must be protected.

This study by the Central America Monitor seeks to analyze the human rights situation in Guatemala from 2014 through 2017, including the state’s capacity to investigate and sanction human rights violations in a timely fashion and the efficacy of the state protection mechanisms at the disposal of human rights defenders so they can exercise their right to defend rights.

HUMAN RIGHTS CONDITIONS IN GUATEMALA

Conditions for human rights defenders in Guatemala has been of great concern to diverse regional and international institutions. The people who defend human rights perform their work in an adverse environment and are constantly exposed to different types of risks, which range from murder to threats, harassment, reprisals, and criminalization. Rights defenders are also victims of stigmatization and smear campaigns, aimed at ruining their reputation and delegitimizing their work. In the case of Guatemala, the sectors most vulnerable to aggression are those defending the rights of indigenous peoples, the land, and the environment; the rights of children and young people; and the right to justice.

The Human Rights Ombudsperson’s Office (*Procuraduría de Derechos Humanos*, PDH) and UDEFEGUA – a civil society organization that provides services and comprehensive support to human rights defenders in the country to empower them regarding the management and self-management of their security² – have produced their own analyses and reports related to attacks on human rights defenders in Guatemala.

Table 1 examines findings from analyses and reports by the PDH and UDEFEGUA.

TABLE 1
ATTACKS ON HUMAN RIGHTS DEFENDERS

Year	PDH	UDEFEGUA
2014	<p>By September 2014, the Public Prosecutor’s Office for Human Rights received 1,075 formal complaints, which it assigned to the following sub-units:</p> <ul style="list-style-type: none"> ● Human Rights Activists: 53 ● Human Rights: 109 ● Trade Unionists: 652 ● Justice Officials: 188 ● Journalists: 73 	<p>Reported a 23.75% increase in aggressions versus 2013.</p> <p>Recorded 813 attacks on human rights defenders.</p> <p>Those most affected: defenders of the environment 62.65%.</p> <p>The department of Guatemala registered the largest number of aggressions (64.86%).</p> <p>6 male and 1 female rights defenders lost their lives. 245 cases of intimidation and 12 cases of threats were recorded.</p> <p>Intimidation and property damage were the most common offenses reported.</p>

Year	PDH	UDEFEQUA
2015	<p>By late October 2015, the Public Prosecutor's Office for Human Rights reported receiving 164 formal complaints, which it assigned to the following sub-units:</p> <ul style="list-style-type: none"> ● Human Rights Activists: 40 ● Human Rights: 1 ● Trade Unionists: 52 ● Justice Officials: -- ● Journalists: 71 <p>159 threats and 5 aggressions were recorded.</p> <p>The majority of attacks targeted defenders of indigenous peoples.</p>	<p>Recorded 493 attacks on rights defenders.</p> <p>The department of Guatemala accounted for the largest share of aggressions with 72.62%.</p> <p>The most reported violation was the violation of liberty and security.</p> <p>12 rights defenders were murdered, and 8 attempted murders took place.</p> <p>156 cases of intimidation and 29 cases of threats were recorded.</p>
2016	<p>The Public Prosecutor's Office for Human Rights assigned 95 cases to the following sub-units:</p> <ul style="list-style-type: none"> ● Human Rights Activists: 95 ● Human Rights: -- ● Trade Unionists: -- ● Justice Officials: -- ● Journalists: -- <p>The offenses recorded include 2 crimes against life, 47 threats, 26 instances of coercion, 5 injuries, 3 thefts, 2 shootings, 2 abuses of authority, 1 robbery, 1 illegal detention, and 6 others.</p> <p>Attacks include defamation and intimidation on social media. Another reported form of intimidation was taking photos and recording videos without consent.</p>	<p>Recorded 263 attacks, the majority of which involved cases of criminalization of human rights defenders.</p> <p>14 murders, 54 cases of intimidation, and 37 cases of threats were recorded.</p> <p>Environmental defenders were those most targeted.</p> <p>4 of the country's departments accounted for the greatest number of aggressions, led by the department of Guatemala.</p>

Year	PDH	UDEFEGUA
2017	<p>The number of murders rose. Citing UDEFEGUA, the PDH reported the 328 attacks recorded as of October 2017 involved the following: 73 related to defamation; 52 murders; 48 threats; 44 cases of intimidation; 42 arbitrary judicial complaints; 8 murder attempts; 26 illegal or arbitrary detentions.</p> <p>45 of the murders were committed against women.</p> <p>A lack of respect for the individual and collective right to defend human rights persisted.</p>	<p>Recorded 493 attacks, which represented 230 more than in the prior year. Once again, most of the cases involved the criminalization of human rights defenders.</p> <p>52 murders of human rights defenders were recorded, along with 74 cases of intimidation and 53 cases of threats.</p> <p>Defenders of the rights of children and adolescents were the most targeted.</p> <p>5 departments accounted for the largest number of complaints, led by the department of Guatemala.</p>

Source: Prepared by the authors with data and information obtained from reports by the PDH and UDEFEGUA

The data reveals that, between 2014 and 2017, UDEFEGUA recorded a total of 2,062 aggressions against rights defenders, including 529 cases of intimidation and 131 threats (made in person, in writing, or by telephone). During the period examined, the organization documented a worrisome increase in the total number of violent deaths: murders rose from 7 in 2014 to 12 in 2015, 14 in 2016, and 52 in 2017. UDEFEGUA reports that the majority of murders resulted from ongoing violence against the rights defenders that was not properly addressed by state institutions.³

The data presented in the table also suggests that the indicators evaluated by the organizations are complementary and must be interrelated. In addition, and as this report will describe in greater detail, there are differences between the figures recorded by national human rights organizations and those recorded by the MP. One of the reasons is that, on occasion, cases are initiated at different prosecutorial offices where they end up remaining until they are closed.

CRIMINALIZATION OF HUMAN RIGHTS DEFENDERS

According to the Inter-American Commission on Human Rights (IACHR), criminalization consists of initiating unfounded investigations or judicial actions, whether by state or non-state actors, with the purpose of controlling or hindering the exercise of the right to defend human rights.⁴ This occurs amid a lack of proper responses to address the legitimate demands of vulnerable sectors and of society in general.

UDEFEGUA reports that criminalization is carried out through defamation, stigmatization, hate speech, unfounded judicial complaints, and legal reforms aimed at criminalizing specific actions or weakening criminal definitions.⁵

Table 2 shows data from UDEFEGUA's reports on criminalization during the period analyzed.

TABLE 2**CASES OF CRIMINALIZATION OF HUMAN RIGHTS DEFENDERS, 2014-2017**

Year	Number of Cases	Type of Cases
2014	138	Illegal Detention: 53 Judicial Detention: 29 Defamation: 47 Arbitrary Detention: 9
2015	159	Illegal Detention: 7 Judicial Detention: 12 Defamation: 56 Arbitrary Detention: 84
2016	90	Illegal Detention: 0 Judicial Detention: 21 Defamation: 68 Arbitrary Detention: 1
2017	141	Illegal Detention: 14 Judicial Detention: 42 Defamation: 73 Arbitrary Detention: 12

Source: Prepared by the authors based on data from UDEFEGUA

Judicial institutions must adopt mechanisms and internal measures that would allow for monitoring, identifying, and averting cases that criminalize human rights defenders, based on spurious and groundless accusations, taking into account that such actions will cause clear harm to rights defenders in terms of their security, dignity, liberty, integrity, and, unfortunately, their lives as well.

With regard to criminalization, during the period subject to analysis, both the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the IACHR⁶ stressed their concern regarding the improper use of criminal offenses that do not allow for alternative measures to be granted, including the crimes of

abduction, kidnapping, and aggravated robbery. Consequently, this means that people who are criminalized must remain in pre-trial detention while their legal situation is resolved. As an example, in 2014, in Montaña de las Granadillas (in the department of Zacapa), landowners accused 14 community leaders defending the right to water of the crime of aggravated robbery. Although the MP did not find enough evidence to bring charges, the case remained open.⁷

With regard to the alternative measures granted, experts point to the imposition of high economic sanctions, even though the majority of rights defenders have few resources and this violates the Rules of Criminal Procedures

(Código Procesal Penal).⁸

Specifically, the PDH⁹ has reported that the majority of cases criminalizing human rights defenders are related to the defense of the environment by indigenous peoples, whose primary demand is the right prior consultation before administrative, economic, or production-related measures are implemented in places where they live or in surrounding areas. According to the PDH, criminalization is utilized as a mechanism to impede the exercise of the right to defend rights.¹⁰

Criminalization produces negative effects, both on an individual and collective level, which can last for a long time and even become permanent. These include physical and mental effects (fear, anguish, anxiety, depression, isolation, and insecurity, among others); negative impacts on rights defenders' interpersonal relations; and economic costs. On a collective level, criminalization can affect leadership, the capacity and functioning of organizations and communities, and it can discourage other rights defenders from carrying out their work for fear of reprisals.¹¹

HATE SPEECH

As UDEFEGUA describes, in Guatemala, hate speech is another mechanism that seeks to delegitimize and discourage the defense of human rights. Technological developments have facilitated the spread of campaigns of harassment, intimidation, and disparagement via various social networks – either directly via the accounts of people who open them and make public statements against human rights defense, or via many fake accounts that end up forming interconnected account networks known as “net centers.”

The American Bar Association (ABA) carried out interviews and developed social media monitors on online hate speech against human rights defenders in Guatemala.¹²

This study analyzes patterns on two social media platforms, Facebook and Twitter, establishing that campaigns of persecution, harassment, and threats against human rights defenders are indeed being waged in the country. Many of these campaigns are accompanied by hate speech and messages alluding to the era of the internal armed conflict, meaning that in disparaging the work of rights defenders, they are labeled as being criminals, terrorists, or Communists. In this sense, the intention is to pigeonhole the role of human rights in purely ideological terms.

According to the study, this harassment is not only publicly perpetrated online. Human rights defenders also have their accounts hacked or their photographs altered.

With regard to the accounts that engage in hate speech and attacks on human rights defenders, the ABA's analysis establishes that many of them are associated or “aligned” with the government, or seek to amplify state messages.¹³

On the matter of hate speech, the ABA reports that it has an incendiary effect, citing as an example a case in which a local activist was shot during a protest to defend the environment against a mining project. The study identified that the Foundation Against Terrorism (*Fundación Contra el Terrorismo*, FCT)¹⁴ – a far-right group primarily made up of former military officials – published statements attacking the organization that had represented the community against the mining company, and ultimately, the police violently evicted the demonstrators, wounding some of them in the process.

The PDH¹⁵ indicates that the ongoing acts of defamation, slander, intimidation, threats, attacks, and murder of rights defenders are one of the factors triggering more and more conflicts. Also, there is a growing trend in the media to create a new “internal enemy.”

In fact, in August 2013, the Human Rights Ombudsman issued a resolution declaring Ricardo Rafael Méndez Ruiz Valdés responsible

for publications, made on his own and on behalf of the FCT, recommending that he not make additional statements criminalizing the work of human rights defenders. Méndez Ruiz filed an application for an appeal (amparo) against this resolution that was ultimately taken up by the Constitutional Court (*Corte de Constitucionalidad*). On January 19, 2016, the Constitutional Court confirmed the lower court judge’s ruling in favor of the PDH.¹⁶

STATE SYSTEM FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS

Guatemala has taken important steps toward developing measures and initiatives to protect human rights defenders. However, the information gathered for this study reveals that numerous challenges remain.

Various government entities have specific responsibilities in terms of protecting human rights defenders. These include the Presidential Commission Coordinating the Executive’s Policy on Human Rights (*Comisión Presidencial Coordinadora de la Política del Ejecutivo en Materia de Derechos Humanos*, COPREDEH), the body responsible for designing public policy proposals, for monitoring the state’s obligations in this realm, and recommendations of international mechanisms for case oversight; the MP, which is responsible for criminal prosecution; the Judiciary, which issues rulings on related cases and grants security measures; and the Ministry of the Interior, which is in charge of providing public protection.¹⁷

During the study period, Guatemala did not have a public policy for protecting human rights defenders that coordinated the different state agencies and institutions that are obligated to provide protection. In 2014, the Inter-American Court of Human Rights ordered the state to develop a public policy for the protection of

human rights defenders during the *Case of Human Rights Defender et al. v. Guatemala*.¹⁸ The creation and approval of this instrument is important for reducing the risks involved in exercising the right to defend human rights. The Court indicated that it should be designed with the participation of rights defenders, organizations, and experts.

At the urging of civil society, the process to develop this public policy began in 2016 under COPRODEH’s leadership. It continued into 2017, initiating the first of five phases planned for the policy’s development, which included discussing the proposal with civil society organizations and state entities, with the support of the PDH and OHCHR.¹⁹ By the end of that year, the Guatemalan state had still not approved this policy.²⁰

Although the policy was still pending, during the period examined, interagency spaces to exchange information and analysis began to open up in Guatemala, and the country had a protection system for people who face situations of risk, human rights defenders among them.

One interagency coordination space worth mentioning is the Body for the Analysis of Attacks on Human Rights Defenders, a

temporary unit created in 2008 via Ministerial Agreement No. 103-2008 to analyze patterns of attacks on human rights defenders and identify measures for protection and rapid response. The entities that participate in this body's meetings are the Ministry of the Interior, the Criminal Investigation Division of the National Civilian Police (*Dirección de Investigación Criminal de la Policía Nacional Civil*, PNC), the Public Prosecutor's Office, two human rights organizations, an organization for international cooperation, as well as the PDH and OHCHR as observers.

The Body has been a useful space for coordinating and requesting rapid responses to address situations of risk. However, experts indicated that its ability to analyze trends and attack patterns needs strengthening. At the same time, the space faced serious problems in 2016 and 2017, after the Ministerial Agreement expired in early 2016.²¹

There is also a protection system for people who face situations of risk coordinated by the Ministry of the Interior, through the PNC's Division of Protection of Individuals and Security (*Dirección de Protección de Personas y Seguridad*, DPPS). The state has a process for receiving, analyzing, and granting protection measures to rights defenders via the DPPS of the Office of the Assistant Director General for Operations (*Subdirección General de Operaciones*). The Risk Analysis Unit of the DPPS is in charge of carrying out the relevant risks assessments and recommends security measures in the case of risks to a person's life or integrity. At the Body's weekly meetings, the Ministry of the Interior has been in charge of reporting on the cases being weighed by the protection system.

Protection measures are granted based on complaints filed by rights defenders with the PDH, the MP, or the PNC. During the procedure for risk analysis, the Risk Analysis Unit classifies

the risk as "low," "medium," "high," or "serious."

Despite having requested it, information could not be obtained for this study regarding the protection system's budget, human resources, or the complaints it received and processed in order to be able to examine its capacities more closely.

However, secondary sources, including OHCHR reports, provide information on some of the protection system's main areas of progress and its shortcomings during the period studied. Among them, it is worth noting the difficulties the DPPS had in sufficiently documenting and providing follow-up to cases so as to evaluate ongoing risks and determine the efficacy of security measures. In addition, the risk analysis processes did not always take into account the culture and gender of rights defenders, or the overall social and political context in which they work.²² The roster of available protection measures only includes three options: measures for personal security (the designation of one or several PNC officers), perimeter security measures (periodic patrols of the workplace and/or residence), and a permanent station (the permanent designation of one or several PNC officers to carry out security tasks, with the cost of their lodgings and food sometimes covered by the rights defenders).

At the same time, the OHCHR and other experts indicated that the mechanism still lacked protocols for action and unified criteria for requesting protection measures,²³ which means that the person who receives the complaint has the discretion to make an official request to provide protection, or not. The IACHR corroborated this issue in 2017.²⁴

There was also concern regarding the lack of a standardized methodology to carry out risk analyses, and the lack of transparency and informed participation by rights defenders in

the decision to grant protection measures. The rights defender only receives notification of the measures granted when a favorable decision is reached, but the decision itself nor its justification is provided to them.

In addition to the DPPS and the Body for the Analysis of Attacks on Defenders, in 2012 the state committed itself to creating a protection program for journalists in light of escalated attacks. To that end, in 2014, the Social Communication Secretariat of the Presidency (*Secretaría de Comunicación Social de la Presidencia*) convened a High-Level Roundtable, with COPREDEH, the Ministry of the Interior, and the MP, and inviting the OHCHR, the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the PDH. In 2014, the group developed a work plan and timeline for activities, and by the following year, the technical committee finalized a proposal for establishing the mechanism, which should be independent, based on a legal framework, and provided with the necessary resources.²⁵ However, by the end of the study period, this proposal still pending approval.

In Guatemala, there is also a Standing Trade

Union Roundtable on Comprehensive Protection (*Mesa Técnica Sindical Permanente de Protección Integral*), made up of the Ministry of Labor and Social Security (*Ministerio de Trabajo y Previsión Social*, MTPS), the MP, the Ministry of the Interior, the Vice Presidency of the Republic, and trade unions. In 2014, the group worked on drafting a new Protocol for the Implementation of Immediate and Preventive Security Measures for Unionized Workers and Union Leaders (*Protocolo de Implementación de Medidas de Seguridad Inmediata y Preventivas en favor de Trabajadores Sindicalizados y Líderes Sindicales*), which was adopted by the Ministry of the Interior in 2016.²⁶

Finally, during the period analyzed, the IACHR granted 14 precautionary measures to people or groups of people who defend human rights, the majority granted in 2016 and 2017.²⁷ The PDH increased requests for precautionary measures to avert further violations of the human rights of rights defenders. Those who defend the environment, territory, and justice are particularly at risk. In general, the measures granted are implemented through national protection mechanisms, which means they face the same challenges described previously.

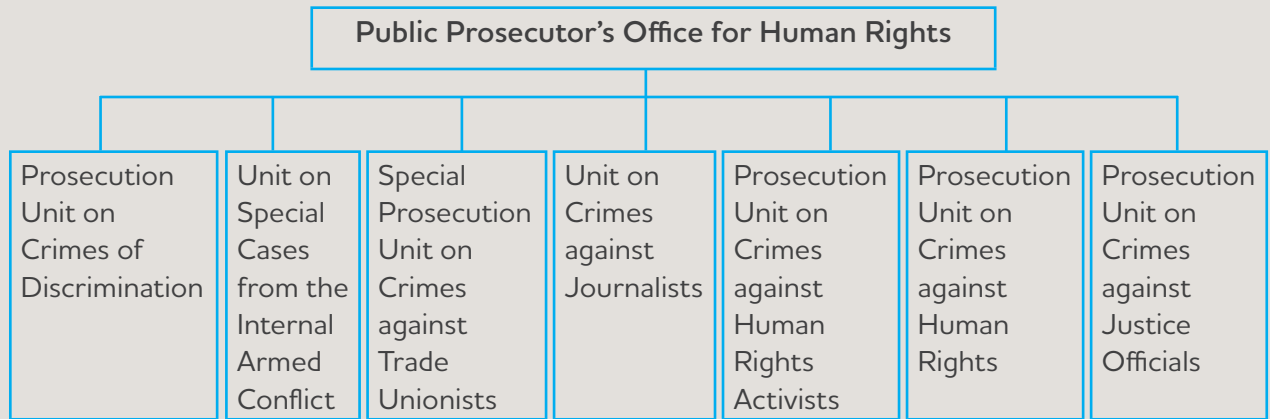
STATE CAPACITY TO INVESTIGATE AND SANCTION HUMAN RIGHTS VIOLATIONS

In principle, the Guatemalan government must guarantee that the population can fully exercise its human rights, since this is its very grounds of its existence, according to the Political Constitution of the Republic. But when, for whatever reason, these rights are infringed upon, the state must also have an efficient capacity to restore them, clarify the circumstances in which they were violated, sanction those responsible, and adopt the measures needed to ensure that such incidents do not recur.

In Guatemala, the power to investigate crimes lies with the **Public Prosecutor's Office (MP)**. This Office leads criminal investigations and prosecutions. In the case of crimes against human rights, the MP has a specialized prosecution office, the Public Prosecutor's Office for Human Rights, which is recognized in the Organic Law of the Public Prosecutor's Office,²⁸ created via Agreement number 03-2005 of the Council of the Public Prosecutor's Office. Between 2014 and 2017, the Public Prosecutor's Office for Human Rights grew to 7 units (see Figure 1).

FIGURE 1

UNITS OF THE PUBLIC PROSECUTOR’S OFFICE FOR HUMAN RIGHTS



The Prosecution Unit on Crimes of Discrimination is in charge of investigating and criminally prosecuting this crime, established via a Penal Code reform in 2002, which added Article 202 bis.²⁹ The Unit on Special Cases from the Internal Armed Conflict is responsible for investigating grave human rights violations committed by state agents during the armed conflict. Meanwhile, the Special Prosecution Unit on Crimes against Trade Unionists handles and investigates complaints over criminal acts perpetrated against people in trade-union organizations. The Unit on Crimes against Journalists is in charge of investigating crimes against journalists and communicators. The Prosecution Unit on Crimes against Human Rights Activists is in charge of processing complaints related to criminal acts in which human rights activists are harmed, while the Prosecution Unit on Crimes against Human Rights is in charge of investigating cases of extrajudicial execution, forced disappearance, and torture that occurred after the signing of the Peace Accords (1996). Finally, the Prosecution Unit on Crimes against Justice Officials is in charge of investigating all crimes committed against officials and employees of security and justice institutions.

The **Judiciary** (*Organismo Judicial*) also performs an essential role in fighting impunity for cases involving human rights defenders. According to Articles 203 and 204 of the CPRG, courts are responsible for presiding over issuing rulings in such cases.

With regard to transitional justice, as will be addressed in a later section, significant progress has been achieved in criminal sanctions for the grave human rights violations committed during the armed conflict. The role of the High Risk Courts (*Tribunales de Mayor Riesgo*),³⁰ created in 2009 to handle high-risk criminal cases, has been critical to this progress. The Courts have exhibited an important degree of judicial independence. However, in general, impunity over crimes against human rights defenders persists, which stems in part from structural shortcomings in the administration of justice, such as the lack of judicial independence and effective access to justice, particularly by sectors that face discrimination.³¹

In addition to the MP and the judiciary, another relevant institution is the Human Rights Ombudsperson’s Office (PDH), created via congressional Decree number 54-86, the Law on the Human Rights Commission

of the Congress of the Republic and on the Human Rights Ombudsperson's Office (*Ley de la Comisión de Derechos Humanos del Congreso de la República y del Procurador de los Derechos Humanos*) to defend human rights. This law establishes that the Ombudsperson's Office, in the fulfillment of their duties, is not subordinate to any agency, institution, or official, and will act with full independence.

Within its purview, the PDH has the ability to investigate any kind of complaint regarding human rights violations, presented to it by any individual. It is worth clarifying, however, that this investigative role – except in the case of Special Investigative Procedures (*Procedimientos Especiales de Investigación*)³² – does not entail carrying out criminal prosecution, since this corresponds to the Public Prosecutor's Office (MP). However, if in the course of a human rights investigation, the PDH establishes there are signs that a criminal act was committed, the MP is immediately informed.

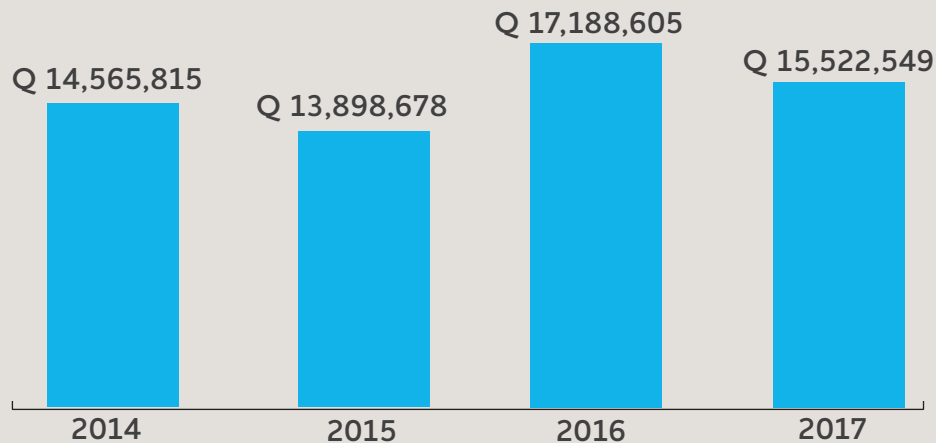
The PDH must issue statements on moral reproach regarding behaviors contrary to human rights protection or promotion. The PDH must also produce a detailed report on human rights conditions in Guatemala each year, including analysis on conditions for human rights defenders.

THE CAPACITY OF THE SPECIALIZED PUBLIC PROSECUTOR'S OFFICE

For the purposes of this study, we requested the annual budget allocated to the Public Prosecutor's Office for Human Rights, broken down by Prosecution Unit via the MP's Access to Public Information Unit (*Unidad de Acceso a la Información Pública*). However, the information provided only contains budget data for the overall Office, without the requested breakdown. The information provided by the MP is available in Graphs 1 and 2.

GRAPH 1

ANNUAL BUDGET OF THE PUBLIC PROSECUTOR'S OFFICE FOR HUMAN RIGHTS



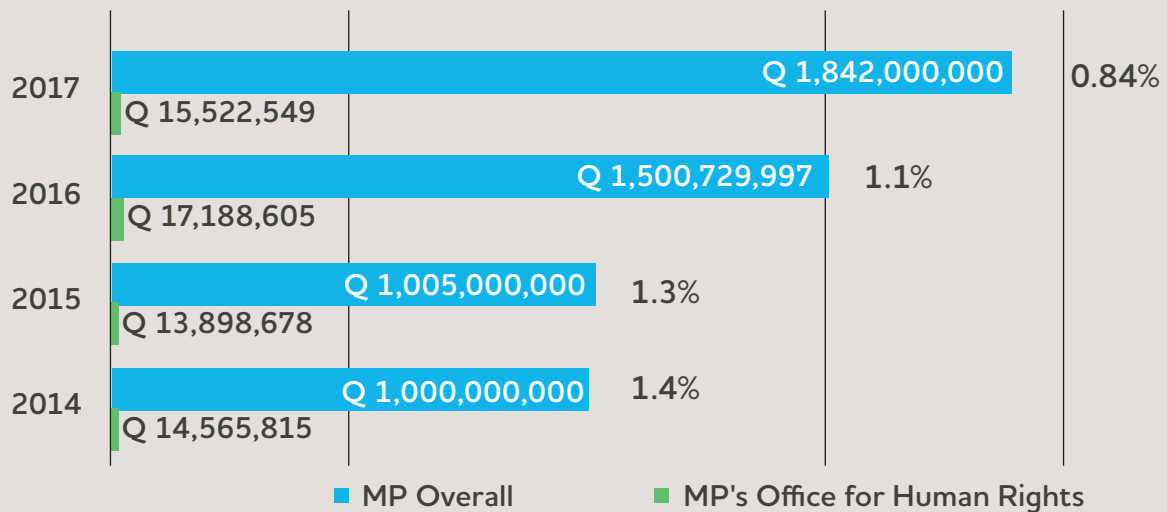
Source: Prepared by the authors with information provided by the MP

The year with the largest budget allocation was 2016 (17,188,605 quetzales or \$2,239,292), while the smallest was in 2015 (13,898,678 quetzales or \$1,810,688). In comparison to the total amount of revenue received by the MP annually, the budget allocated to the Public

Prosecutor’s Office for Human Rights varied between 0.84% and 1.4% of that total budget. The greatest percentage allotted to the Public Prosecutor’s Office for Human Rights was in 2014.

GRAPH 2

THE BUDGET OF THE PUBLIC PROSECUTOR’S OFFICE FOR HUMAN RIGHTS AS A PROPORTION OF THE MP’S INSTITUTIONAL BUDGET



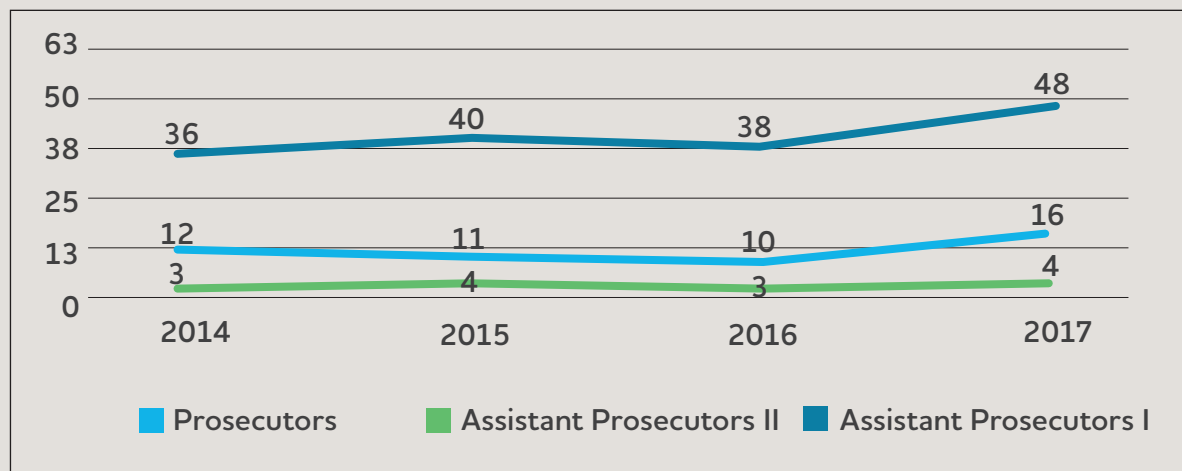
Source: Prepared by the authors based on data from the MP³³

As explained later in the text, the number of complaints related to crimes against human rights defenders warrants an adequate budget so they can be handled promptly and effectively. Clearly, the MP must tend to all the areas needed to fulfill its constitutional mandate on public criminal prosecution, and the budget allocations to the various prosecution offices reflect the priorities of that institution and of the state’s overall criminal justice policy.

With regard to available human resources, adding up the four years of the period analyzed, the MP’s Prosecution area had a total of 8,821 people.³⁴ Of these, 225 (between prosecutors and assistant prosecutors I and II) were assigned to the Public Prosecutor’s Office for Human Rights, or 2.55% of all prosecutorial staff. The MP did not provide information broken down by prosecution unit. See Graph 3 for data on the Public Prosecutor’s Office for Human Rights according to official information provided.

GRAPH 3

STAFF ASSIGNED TO THE PUBLIC PROSECUTOR'S OFFICE FOR HUMAN RIGHTS



Source: Prepared by the authors based on data from the MP

A considerable increase was recorded in the case of the assistant prosecutors I and the prosecutors assigned to the Public Prosecutor's Office for Human Rights, which is positive primarily because Prosecutors are in charge of orienting the lines of investigation that the Assistants I must develop. Therefore, the Assistants carry out the tasks and operational

management of the cases assigned to them. In the case of the assistant prosecutors II, who support litigation efforts before the courts, their numbers held steady over the four years. Given the quantity of hearings and judicial proceedings linked to the Office's workload, the MP must recognize the need to expand their ranks.

FORMAL COMPLAINTS AND MANAGEMENT OF CASES OF HUMAN RIGHTS VIOLATIONS

In Guatemala, criminal justice processes can be set in motion by a formal complaint (*denuncia*), a lawsuit (*querrela*), a court motion (*conocimiento de oficio*), and/or through police prevention (*prevención policial*).³⁵ In all of these scenarios, the case is taken up by the MP as the entity in charge of criminal prosecution, which proceeds to record it in its computer system under "cases filed." For each case that is filed, there may be more than one person affected; that is why the figure in the category of "individuals harmed" tends to be higher than the number of cases filed.

Each case that is filed must be managed by the Unit in charge, and as long as the Public Prosecutor's Office for Human Rights makes no procedural decisions regarding the status of the case, it will appear in the "under investigation" category. The figures reported for this indicator do not include just the cases filed that year; they may also include cases filed in previous years (due to delays or carryover). According to legislation on criminal procedure, if the acts denounced do not constitute a crime or the case is unable to proceed, the charges must be dismissed.³⁶ If the accused is arrested and is sat before competent


judge, and there is not enough evidence for them to be charged, a “lack of merit” must be ordered in their favor.³⁷ In this case, the accused will no longer be legally linked to the case, but the investigation may continue. When people are subject to this process and the Prosecutor’s Office has enough evidentiary grounds for discussing the case in an oral and public trial, then it files charges³⁸ before the judge and requests a trial, explaining in detail the acts attributed to the accused and the elements of proof to be presented during the trial. There are also alternative dispute resolution mechanisms to the ordinary criminal justice process, including the criterion of opportunity (*critério de oportunidad*),³⁹ the conditional suspension of criminal prosecution, a request for dismissal,

or a request for special proceedings, such as abbreviated procedures.⁴⁰


The MP provided data related to the way cases are managed at the Public Prosecutor’s Office for Human Rights overall and disaggregated by the Prosecution Unit on Crimes against Human Rights Activists, the Special Prosecution Unit on Crimes against Trade Unionists, and the Prosecution Unit on Crimes against Human Rights, over the 2014-2017 period. However, it did not provide the information requested regarding the Unit on Crimes against Journalists and the Prosecution Unit on Crimes against Justice Officials, even though it was solicited in a timely fashion (see Table 3).

TABLE 3

CASELOAD OF THE PUBLIC PROSECUTOR’S OFFICE FOR HUMAN RIGHTS, 2014-2017



	Cases Filed	Claimants	Charges Filed	Cases Under Investigation	Lack of Merit	Requests for Closure
2014	1,591	2,454	73	532	8	2
2015	1,674	2,345	117	727	0	3
2016	1,531	2,165	105	531	11	5
2017	1,452	2,191	69	592	9	20
Total	6,248	9,155	364	2,382	28	30



	Requests for Criterion of Opportunity	Requests for Suspension of Prosecution	Requests for Dismissal	Convictions	Acquittals
2014	12	1	2	17	3
2015	56	0	0	28	1
2016	49	3	8	18	9
2017	55	0	18	36	5
Total	172	4	28	99	18

Source: Prepared by the authors based on data from the MP

PUBLIC PROSECUTOR'S OFFICE FOR HUMAN RIGHTS

Overall, the largest number of cases in the Public Prosecutor's Office for Human Rights were filed in 2015 (1,674 cases), while smallest number of cases filed was recorded in 2017 (1,452 cases). 2014 marked the highest figure for the amount of people harmed (claimants) by crimes committed against human rights (2,454 people).⁴¹

The table illustrates that, while there has been a relatively gradual increase in the number of cases ending in conviction in relation to the entire universe of active cases filed with this Prosecutor's Office (including those from years prior to the period examined), that percentage is still low. The same is true regarding the charges presented by this Office. For example, in 2015, a total of 1,674 cases were filed, and 117 charges were presented that same year, which represents 6.98% of the cases filed. The complexities of investigating and prosecuting crimes committed against human rights cannot be overlooked; these include, for example, the amount of time that has passed since the crime was committed, the profile of the people denounced, and the institutions involved, among other factors.

As the table also shows, the Public Prosecutor's Office for Human Rights utilizes alternative mechanisms to the ordinary criminal justice process to a lesser extent than charges.⁴² This is due to the very nature of human rights-related complaints, which largely do not permit using alternative mechanisms, according to procedural rules.


PROSECUTION UNIT ON CRIMES AGAINST HUMAN RIGHTS ACTIVISTS

This Unit, in charge of handling cases of crimes against activists and human rights defenders, saw the greatest number of cases filed in 2016 (157 cases), which represents a 78% increase versus 2014, when the smallest number of cases was filed (88 cases). Meanwhile, 2014 was the year in which the largest number of people were harmed by crimes related to human rights violations (246).


Similar to the pattern seen in the administration of the Public Prosecutor's Office for Human Rights overall, this Unit shows a low percentage of charges presented in relation to the universe of cases filed. In 2016, 157 cases were recorded and 13 charges were presented that same year, representing 8.28%. Meanwhile, the number of cases categorized as under investigation increased. It is important to mention that the Unit showed a slight increase in convictions during the last two years of the period analyzed, although this still represents a low percentage of all the cases filed. With regard to requests for closure and for the conditional suspension of criminal prosecution, according to the information provided by the MP, all those figures appear as zero (see Table 4).

TABLE 4

CASELOAD OF THE PROSECUTION UNIT ON CRIMES AGAINST HUMAN RIGHTS ACTIVISTS, 2014-2017



	Cases Filed	Claimants	Charges Filed	Cases Under Investigation	Requests for Dismissal
2014	88	246	7	15	0
2015	116	152	4	38	0
2016	157	239	13	44	0
2017	155	217	10	63	6
Total	516	854	34	160	6



	Requests for Criterion of Opportunity	Lack of Merit	Convictions	Acquittals
2014	0	0	5	0
2015	0	0	1	0
2016	6	2	5	1
2017	3	0	7	1
Total	9	2	18	2

Source: Prepared by the authors based on data from the MP

SPECIAL PROSECUTION UNIT ON CRIMES AGAINST TRADE UNIONISTS


This Unit handles and investigates complaints over criminal acts perpetrated against the human rights of those who belong to a trade-union organization. The unit handled the largest number of cases filed in 2014 (948) and the smallest number in 2017 (677), while reporting the largest quantity of people harmed also in 2014 (1,165). The number of cases under investigation at the Unit is above 50% in relation to the total number of cases filed, although a decline is seen in 2016 and 2017. As before, the cases in which charges are presented represent a small proportion of all the cases


filed. Furthermore, the Unit reported just one conviction during the four years studied, and 16 acquittals.

The data also shows that, in contrast to the other prosecution units analyzed, the Unit on Crimes against Trade Unionists frequently uses the criterion of opportunity as an alternative mechanism to the ordinary criminal justice process. This is largely due to the fact that the Unit is in charge of handling processes related to the crime of disobedience that employers commit upon refusing to pay unionized workers their employment benefits; once that payment obligation is met, the Prosecutor’s Office proceeds to award these criteria of opportunity (see Table 5).

TABLE 5

CASELOAD OF THE UNIT ON CRIMES AGAINST TRADE UNIONISTS, 2014-2017

	Cases Filed	Claimants	Charges Filed	Cases Under Investigation	Lack of Merit	Requests for Dismissal
2014	948	1165	16	464	0	1
2015	944	1156	43	609	0	2
2016	792	1005	18	398	1	5
2017	677	1001	20	380	0	3
Total	3361	4327	97	1851	1	11

	Requests for Criterion of Opportunity	Requests for Suspension of Prosecution	Requests for Dismissal	Convictions	Acquittals
2014	6	1	2	1	0
2015	47	0	0	0	9
2016	28	1	1	0	2
2017	27	0	1	0	5
Total	108	2	4	1	16

Source: Prepared by the authors based on data from the MP


PROSECUTION UNIT ON CRIMES AGAINST HUMAN RIGHTS

This Unit is in charge of investigating cases of extrajudicial execution, forced disappearance, and torture that occurred after the signing of the Peace Accords (1996). According to the information provided by the MP, the Unit received the largest number of cases in 2017 (133), a significant increase over the 15 cases recorded


in 2016 and the 23 in 2015. The highest figures for the number of people harmed occurred in 2014 (246) and 2017 (228). The table illustrates that few cases are categorized as being under investigation. As with the previous Units, there is a low percentage of charges presented. During the first three years of the period examined, the Unit had not obtained any convictions, whereas in 2017 it secured four; nonetheless, this represents a small proportion of all the cases filed (see Table 6).

TABLE 6

CASELOAD OF THE PROSECUTION UNIT ON CRIMES AGAINST HUMAN RIGHTS, 2014-2017



	Cases Filed	Claimants	Charges Filed	Cases Under Investigation	Requests for Dismissal
2014	73	246	8	5	0
2015	23	44	10	2	0
2016	15	28	4	8	0
2017	133	228	2	11	10
Total	244	546	24	26	10



	Requests for Criterion of Opportunity	Lack of Merit	Convictions	Acquittals
2014	0	0	0	n/d
2015	0	0	0	n/d
2016	0	0	0	n/d
2017	4	3	4	n/d
Total	4	3	4	n/d

n/d – The data requested was not provided by the MP

Source: Prepared by the authors based on data from the MP

Although Guatemala has an institutional framework to investigate and sanction human rights violations, the OHCHR⁴³ claimed that high levels of impunity persist in criminal justice processes for violations committed against rights defenders and journalists.

The individual performance of the Units analyzed reflects the behavior of the Public Prosecutor’s Office for Human Rights in general. The complexity of the cases denounced along with the Office’s heavy annual workload, displayed in the tables, warrant carrying out an imperative administrative, technical, and financial analysis to strengthen the Office, with the objective of providing more effective responses to the cases being handled.

During the four-year period under study, institutions began important initiatives to improve the capacity for investigating and criminally prosecuting crimes committed against human rights defenders. Presented to the Attorney General in 2015, civil society organizations UDEFEGUA and the Center for Justice and International Law (*Centro por la Justicia y el Derecho Internacional*, CEJIL) supported the development of a Protocol for investigating crimes committed against human rights defenders in Guatemala. As of 2017, the MP had put a General Instruction into effect to guide prosecutors in the investigation of attacks on rights defenders. However, by the end of that year, the instruction had not been submitted to the Attorney General, who must approve

and promote its implementation nationwide. The Public Prosecutor’s Office also included and institutionalized the Human Rights and Transitional Justice Policy (*Política de Derechos Humanos y Justicia de Transición*) within the strategic guidelines of its 2015–2019 Strategic Plan, another positive step.

The Protocol and Human Rights Policy were approved (via a General Instruction) by former Attorney General Thelma Aldana in 2018. These instruments will be analyzed and addressed in the Monitor’s next report, corresponding to that period.

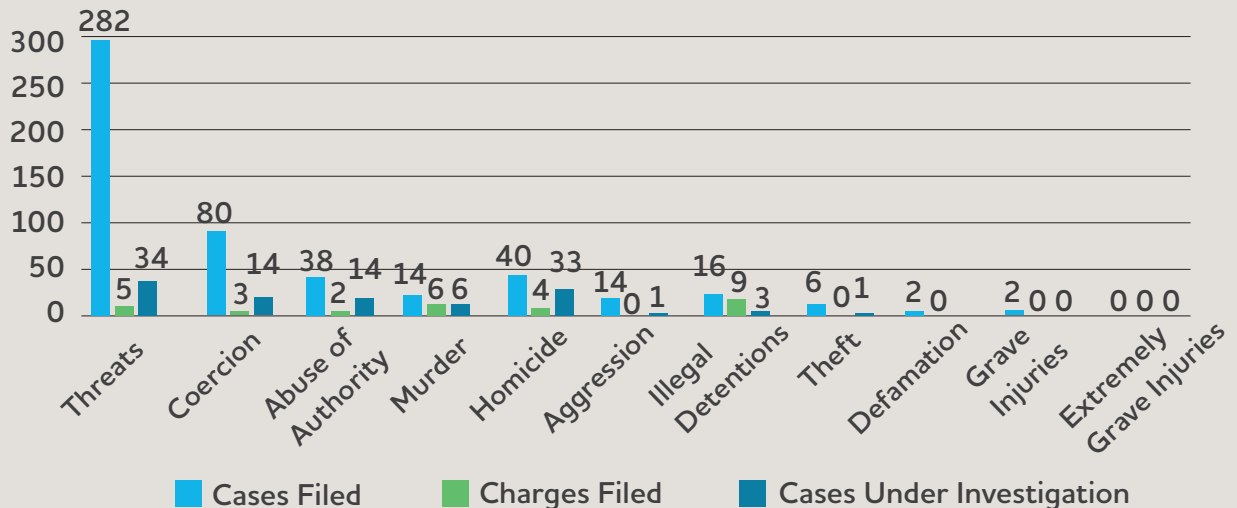
MANAGEMENT OF CASES INVOLVING SPECIFIC CRIMES

Of the long list of crimes that the Public Prosecutor’s Office for Human Rights handles within its jurisdiction (according to the information provided by the MP), 11 criminal offenses⁴⁴ have been selected, based on their recurrence and seriousness, for the purpose of analyzing how they were managed during the period under study.

Overall, during the 2014–2017 period, the MP recorded 62 murders, 86 homicides, and 1,199 cases of threats against human rights defenders, among other types of attacks.

GRAPH 4

CASES HANDLED BY THE PUBLIC PROSECUTOR’S OFFICE FOR HUMAN RIGHTS, 2014



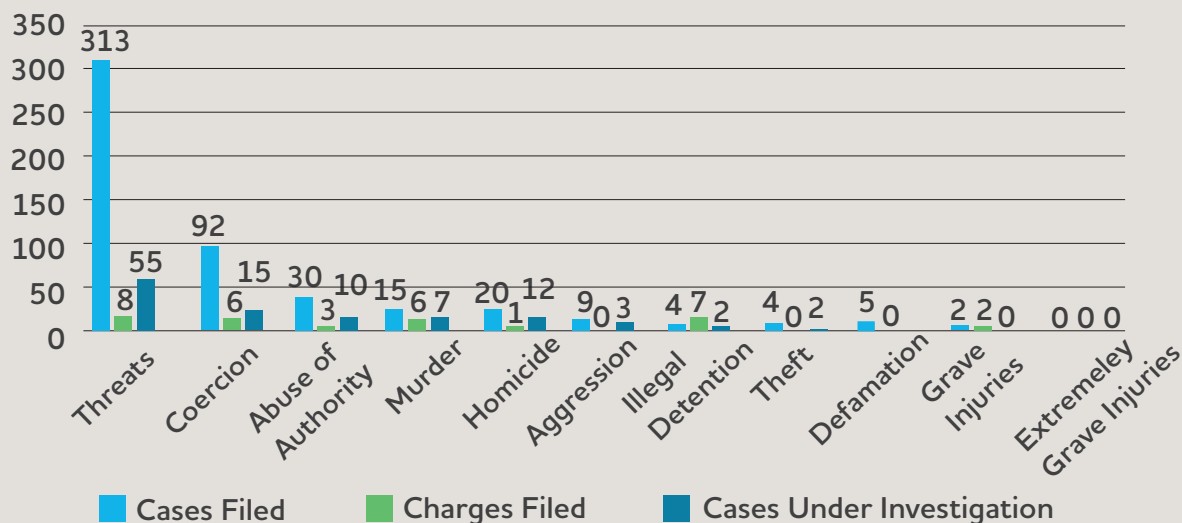
Source: Prepared by the authors based on data from the MP

In 2014, 40 homicides and 14 murders were recorded, as the graph indicates. Also, human rights defenders were vulnerable to being victims of crimes against their integrity, dignity, liberty,

honor, and assets, reflected in the 282 cases of threats. Graph 4 illustrates the low percentage of cases that are under investigation, with an even lower percentage of charges presented.

GRAPH 5

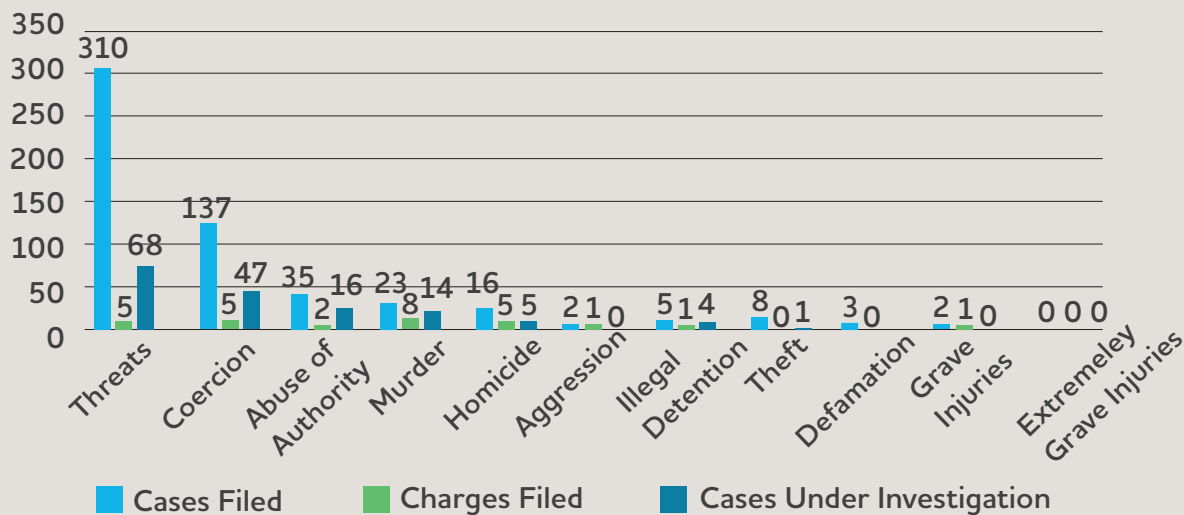
CASES HANDLED BY THE PUBLIC PROSECUTOR'S OFFICE FOR HUMAN RIGHTS, 2015



Source: Prepared by the authors based on data from the MP

GRAPH 6

CASES HANDLED BY THE PUBLIC PROSECUTOR'S OFFICE FOR HUMAN RIGHTS, 2016



Source: Prepared by the authors based on data provided by the MP through its Access to Public Information Unit

As shown in Graph 5, in 2015, 50% fewer homicide cases were recorded compared to the previous year; however, crimes that involve a threat to integrity and liberty, such as threats and coercion, show higher figures than in 2014. As in the prior year, there is a low percentage of cases under investigation and of charges presented.

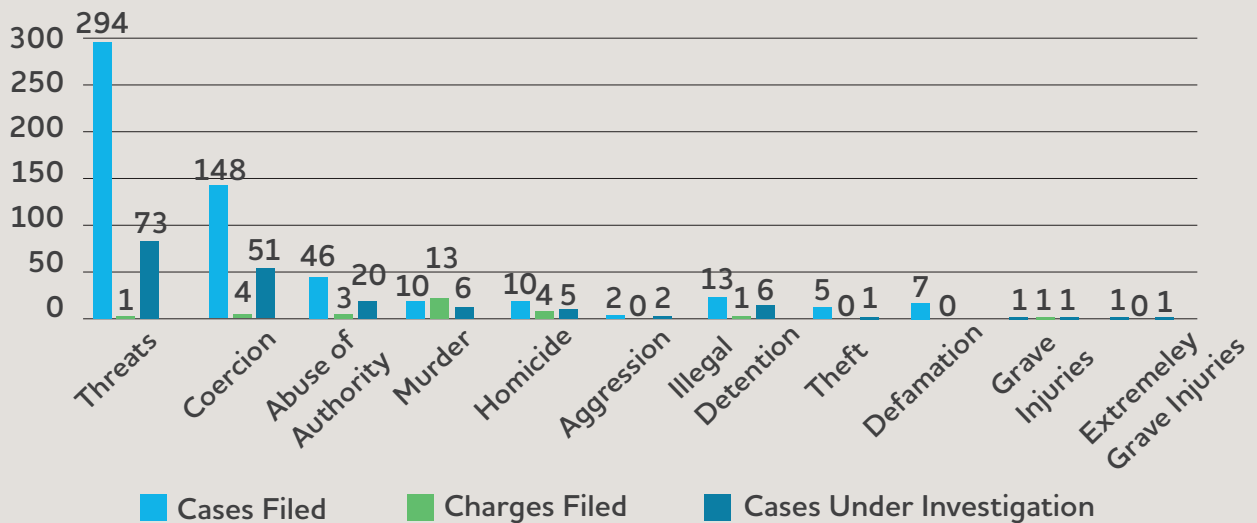
In 2016, the average number of threats held steady, while murders increased versus 2015 along with cases of coercion and abuse of authority (see Graph 6). Once again, the

percentage of cases under investigation and of charges presented is low. For example, for the crime of threats, the MP's data shows that 21% are under investigation, and charges represent just 1.61% of all cases filed.

Finally, Graph 7 shows that, in 2017, the number of homicides and murders declined, but the figures for threats and coercion remained high, and cases involving the abuse of authority increased. Throughout the four years studied, the percentage of cases under investigation and of charges presented remained invariably low.

GRAPH 7

CASES HANDLED BY THE PUBLIC PROSECUTOR'S OFFICE FOR HUMAN RIGHTS, 2017



Source: Prepared by the authors based on data from the MP

As the OHCHR indicated in its report on the conditions of human rights defenders in Guatemala (*Situación de las personas defensoras de derechos humanos en Guatemala: Entre el compromiso y la adversidad*), the figures from the Public Prosecutor's Office for Human Rights only represent a minimal proportion of possible crimes against rights defenders, since other prosecution offices do not record whether

the victim was a rights defender or not. This happens, for example, in the case of crimes against people's life and integrity. The lack of an interagency database that would allow for gathering accurate statistics on violence against rights defenders and on progress regarding those investigations, poses an obstacle to understanding the situation of impunity and developing adequate responses.⁴⁵

Accurate and reliable information is indispensable for any decision that seeks to strengthen institutional capacities or to develop and implement public policies for the prevention, investigation, and sanction of human rights violations. For that reason, a system or an integrated database that records standardized information in an interagency way is necessary.

VIOLATIONS PERPETRATED BY STATE AGENTS

This study also analyzes the Public Prosecutor's Office for Human Rights' handling of the crimes of forced disappearance, extrajudicial execution, and torture. According to Guatemala's Criminal Code, these three crimes can be committed by state agents or non-state actors. With this in mind, the data provided by the MP makes no

distinction between whether the perpetrators are state agents. It is common for other prosecution offices to be assigned to, handle, and process cases in which non-state actors commit these crimes.

Taking this information into account and based on the data provided by the MP, the following findings emerge:

FORCED DISAPPEARANCE

During the four years analyzed, a total of 23 cases of forced disappearance were filed with the MP, representing 91 individuals. During that period, the MP presented a total of 12 charges, the majority (11 cases) in 2016, and 1 verdict was handed down in 2016 via the regular procedure (see Table 7).

BOX 1


CRIMINAL CODE OF GUATEMALA FORCED DISAPPEARANCE (ART. 201 TER)

A person commits the crime of forced disappearance when, on the orders of state authorities or with their authorization or support, he/she deprives one or more persons of their liberty in any way for political reasons, hiding their whereabouts, refusing to reveal their fate or recognize their detention; also committing this crime is the public official or employee, whether or not he/she belongs to state security forces, who orders, authorizes, supports, or acquiesces to such actions.


The deprivation of liberty of one or more persons, even when no political motive is involved, constitutes the crime of forced disappearance when it is committed by elements of the state's security forces, while they are fulfilling their duties, when they act arbitrarily or with abuse or excessive force. Likewise, members of groups or organized gangs with terrorist, insurgent, subversive, or any other criminal intent commit the crime of forced disappearance when they engage in abduction or kidnapping, participating as members or collaborators of these groups or gangs.

TABLE 7

CASES OF FORCED DISAPPEARANCE, 2014-2017



	Cases Filed	Claimants	Charges Filed	Cases Under Investigation
2014	7	23	1	4
2015	5	15	0	4
2016	4	25	11	4
2017	7	28	0	6
Total	23	91	12	18



	Conditional Suspension	Verdicts – Regular Procedure	Verdicts – Abbreviated Procedure	Verdicts – Simplified Procedure
2014	0	0	0	0
2015	0	0	0	0
2016	0	1	0	0
2017	0	0	0	0
Total	0	1	0	0

Source: Prepared by the authors based on data from the MP

EXTRAJUDICIAL EXECUTION

From 2014 to 2017, a total of seven cases of extrajudicial execution were filed with the MP. The records show that a total of 27 people were

harmed. During that period, two charges were presented, both in 2015, and one verdict was obtained via the regular procedure in 2014 (see Table 8).

BOX 2


CRIMINAL CODE OF GUATEMALA EXTRAJUDICIAL EXECUTION (ART. 132 BIS)

A person commits the crime of extrajudicial execution when, on the orders of state authorities or with their authorization, support, or acquiescence, he/she, by any means, takes the life of one or more persons for political reasons; likewise, this crime is committed by the public official or employee, whether or not he/she belongs to state security forces, who orders, authorizes, supports, or acquiesces to the commission of such acts.


Depriving one or more persons of life, even when no political motive is involved, constitutes the crime of extrajudicial execution when it is committed by elements of the state's security

forces, while they are fulfilling their duties, when they act arbitrarily or with abuse or excessive force. Likewise, the members of groups or organized gangs with terrorist, insurgent, subversive, or any other criminal intent commit the crime of extrajudicial execution when their actions lead to the death of one or more persons.

TABLE 8
CASES OF EXTRAJUDICIAL EXECUTIONS, 2014-2017



	Cases Filed	Claimants	Charges Filed	Cases Under Investigation
2014	3	8	0	1
2015	1	2	2	1
2016	1	10	0	1
2017	2	7	0	2
Total	7	27	2	5



	Conditional Suspension	Verdicts – Regular Procedure	Verdicts – Abbreviated Procedure	Verdicts – Simplified Procedure
2014	0	1	0	0
2015	0	0	0	0
2016	0	0	0	0
2017	0	0	0	0
Total	0	1	0	0

Source: Prepared by the authors based on data from the MP

TORTURE

In the four years studied, the Public Prosecutor’s Office for Human Rights recorded 5 cases filed for the crime of torture, which represent 6 people harmed, and 1 set of charges were presented in 2017. During this period, no verdict was handed down via any of the judicial procedures (see Table 9).

Regarding data on the three crimes analyzed – and, of course, the Office’s workload in general – the gap between the number of cases filed with the MP and verdicts reached constitutes a challenge that must be tackled with institutional strengthening. In addition, on top of the new cases filed each year, the Public Prosecutor’s Office for Human Rights must also handle and process the cases under investigation that have accumulated from previous years.

BOX 3


CRIMINAL CODE OF GUATEMALA TORTURE (ART. 201 BIS)

A person commits the crime of torture when, on the orders of state authorities or with their authorization, support, or acquiescence, he/she intentionally inflicts serious pain or suffering, whether physical or mental, on someone with the aim of obtaining information or a confession from him/her or from a third party, for an act that he/she committed or that it is suspected he/she may have committed, or that seeks to intimidate that person or, by the same means, other people. Likewise, the members of groups or organized gangs with terrorist, insurgent, subversive, or any other criminal intent commit the crime of torture.


The perpetrator(s) of the crime of torture will be tried as well for the crime of kidnapping.

TABLE 9

CASES OF TORTURE, 2014-2017



	Cases Filed	Claimants	Charges Filed	Cases Under Investigation
2014	1	1	0	1
2015	1	2	0	0
2016	1	1	0	1
2017	2	2	1	1
Total	5	6	1	3



	Conditional Suspension	Verdicts – Regular Procedure	Verdicts – Abbreviated Procedure	Verdicts – Simplified Procedure
2014	0	0	0	0
2015	0	0	0	0
2016	0	0	0	0
2017	0	0	0	0
Total	0	0	0	0

Source: Prepared by the authors based on data from the MP

PARADIGMATIC CASES

In the history of Guatemala, the internal armed conflict represents the darkest time for human rights because of the grave abuses committed against the population during those years. Within the framework of the Peace Accords, the investigative work of the Commission for Historical Clarification (*Comisión de Esclarecimiento Histórico*) tallied more than 200,000 victims.⁴⁶

According to the report on the Situation of Human Rights in Guatemala presented by the IACHR⁴⁷ 20 years after the signing of the Peace Accords, the commitments assumed by the state have not been comprehensively fulfilled, particularly on the matters of reparation, truth, justice, and non-repetition.

For that reason, the strengthening of transitional justice cannot be delayed, and progress made in this area is of special interest to this study. The following sections succinctly describe several emblematic cases taken to court during the period analyzed:

MOLINA THEISSEN CASE⁴⁸

On October 6, 1981, armed men entered the home of the Molina Theissen family located in Guatemala City. One of these men shackled 14-year-old Marco Antonio Molina Theissen, who was later taken away in the back of a truck with official license plates and never seen again. The detention and subsequent disappearance of Marco Antonio was likely an act of vengeance after his sister, Emma Guadalupe, fled the barracks in the military zone of Quetzaltenango, where she had been tortured and raped earlier that year.

In 1982 and 1983, their relatives filed a series of domestic claims, and in 1998, they presented a petition to the IACHR. The process culminated

in 2004, when the Inter-American Court issued a judgment condemning the Guatemalan state and ordering, among other reparations, that it investigate and prosecute those responsible.

In 2016, five retired military officials were detained and accused of being responsible for the crimes. Among those charged was Manuel Benedicto Lucas García, who headed the Army as Chief of Staff between 1981 and 1982. He is also the brother of former President Fernando Romeo Lucas García, who governed from 1978 to 1982. Manuel Antonio Callejas y Callejas was the head of military intelligence at the time Marco Antonio was disappeared. Meanwhile, Francisco Luis Gordillo served as the commander of the Quetzaltenango military base where Emma had been detained. Gordillo formed part of the military triumvirate led by General Efraín Ríos Montt that was created after the 1982 coup d'état.

In July 2017, after the intermediate stage of proceedings had concluded, the judge in charge of the case ordered that the process enter the trial phase. With assistance from the PDH, it surfaced that the military officials' defense lawyers used malicious litigation practices that suspended the proceedings on various occasions. At least eight *amparo* motions were filed by the defense lawyers, delaying the normal course of the process. These motions sought to prevent a High Risk Court from handling the case and prevent the case from going to trial, among other things. As in the CREOMPAZ case, the technical defense of the accused sought to extinguish criminal liability – despite the lawyers' familiarity with the constitutional criteria, based on precedents in the Inter-American Human Rights System, that clearly establish that amnesties cannot be granted in these cases. Important precedents have been set on this issue, establishing that

this legal instrument to exempt people from responsibility is not applicable to those accused of committing grave human rights violations.

In addition, the technical defense of the accused, questioning the legitimacy of the procedure, tried to keep Emma Theissen – Molina’s widow and the mother of the two victims (Marco Antonio and Emma Guadalupe) – from acting as a co-plaintiff in the case. Taken together, these actions reveal the intention to block progress on this criminal justice process.

In the PDH’s 2017 report, the Ombudsman also reported that the Solicitor General’s Office (*Procuraduría General de la Nación*, PGN), as the state’s lawyer, sought to keep the Guatemalan state from being called as a Civilly Liable Third Party (*Tercero Civilmente Demandado*). It even pursued an amparo motion and an appeal before the Constitutional Court with the aim of removing the state from the case. However, none of these actions were successful.

The trial took place in 2018 and ended in the conviction of four of the defendants.

CREOMPAZ CASE⁴⁹

Between 1981 and 1988, more than 500 people were disappeared by members of the Army. These people were taken to Military Zone No. 21, located in the Chicoyogüito village in Cobán, Alta Verapaz, where they were extrajudicially executed and buried without their families knowing their whereabouts.⁵⁰

The place where Military Zone No. 21 was located functions today as the Regional Training Command for Peacekeeping Operations (*Comando Regional de Entrenamiento de Operaciones de Mantenimiento de la Paz*, CREOMPAZ). Starting in 2012, 565 skeletal remains were found, 15% of which correspond to children and adolescents who died as a result

of gunshots, cut wounds, and blunt trauma. Complaints that victims’ relatives had presented at the time were uncovered in the Historical Archive of the National Police (*Archivo Histórico de la Policía Nacional*, AHPN).

In January 2016, 18 retired military officials were detained and accused of being responsible for these horrible crimes. Among those detained was Manuel Benedicto Lucas García, the brother of former President Fernando Romeo Lucas. The other people implicated were: Ismael Segura Alburach, Byron Humberto Barrientos Díaz, Gustavo Alonso Rosales García, José Antonio Vásquez García, Carlos Humberto Rodríguez López, Pablo Roberto Saucedo Mérida, César Augusto Ruiz Morales, Juan Ovalle Salazar, Édgar Rolando Hernández Méndez, Carlos Augusto Garavito Morán, Luis Alberto Paredes Nájera, César Augusto Cabrera Mejía, and Raúl Dehesa Oliva. Also implicated was former Colonel Edgar Justino Ovalle Maldonado – a member of the Association of Military Veterans of Guatemala (*Asociación de Veteranos Militares de Guatemala*, AVEMILGUA), founder of the National Convergence Front (*Frente de Convergencia Nacional*, FCN) party, and a congressman at the time. However, Ovalle fled after he was stripped of his immunity in March 2017 to enable his prosecution.

During the IACHR’s on-site visit to Guatemala in 2017, the Commission was informed about progress on the case and told that eight of the former military officials detained had been sent to trial.

A series of ordinary and extraordinary motions and appeals, as well as distinct legal actions taken by the defendants’ lawyers, have effectively halted the case. These include at least ten applications for amparo measures with their respective appeals before the Constitutional Court, questioning the competence of the court in charge and the decision to go to trial,

among other things. In addition, the defense lawyers have made unconstitutional arguments that seek to extinguish criminal liability, even though this is not applicable according to the constitutional precedents developed in previous trials.

In June 2016, Judge Claudette Domínguez – without taking into account that the Public Prosecutor’s Office for Human Rights had presented investigative elements substantiating more than 140 criminal acts attributable to the accused, many of which even include positive DNA results – decided to embrace the arguments of the defense, allowing just 29 criminal acts affecting the same number of victims to move forward. This decision, on June 10, 2016, prompted a challenge by the Office and the organizations acting as plaintiffs. As this report was being finalized, the case was being debated before the Constitutional Court, where efforts are being made to reincorporate the rest of the victims whose right to justice was denied by the judge back into the process.

SEPUR ZARCO CASE⁵¹

Between 1982 and 1983, the military garrison located in Sepur Zarco, El Estor, in the department of Izabal, served as a resting place for Army members who enslaved and sexually assaulted several Mayan q’eqchi’ women after disappearing and/or murdering their husbands and destroying their belongings.

In June 2014, a former lieutenant colonel and a former military commissioner were detained and accused of being responsible for these crimes. In October of that same year, Judge Miguel Ángel Gálvez sent both of them to trial.

When the public trial concluded in February 2016, they were found guilty. Esteelmer Francisco Reyes Girón was convicted of crimes against humanity in relation to sexual violence and the humiliating and degrading treatment of 11 Mayan q’eqchi’ women. And Heriberto Valdez Asig was found guilty of crimes against humanity in relation to sexual violence and humiliating and degrading treatment, and of forced disappearance.

This verdict sets an important precedent for transitional justice in Guatemala, since it is the first case involving sexual violence-related crimes against humanity committed during the internal armed conflict handled and tried by a national court. To achieve this, the Public Prosecutor’s Office for Human Rights closely coordinated with the organizations acting as co-plaintiffs who accompanied the victims throughout the process.

Providing for the transportation, lodgings, and protection of victims throughout the process also required effective interagency coordination, including with the National Civilian Police, to ensure proper logistical conditions. The Sepur Zarco case therefore serves a good example, demonstrating it is possible to achieve the right synergy between public institutions and civil society organizations for the sake of the victims.

In 2017, the IACHR was able to verify that the Chamber of Appeals for High Risk cases ratified the historic verdict in this case, dismissing the challenges set forth by those convicted.

ACRONYMS AND ABBREVIATIONS

COPREDEH	Presidential Commission Coordinating the Executive's Policy on Human Rights
CREOMPAZ	Regional Training Command for Peacekeeping Operations
DPPS	Division of Protection of Individuals and Security
IACHR	Inter-American Commission on Human Rights
MP	Public Prosecutor's Office
OHCHR	Office of the United Nations High Commissioner for Human Rights
OJ	Judiciary
PDH	Human Rights Ombudsperson's Office
PNC	National Civilian Police
UDEFEGUA	Human Rights Defenders Protection Unit – Guatemala
WOLA	Washington Office on Latin America

NOTES

- ¹ A detailed list of indicators is available at www.wola.org/cam.
- ² Website of the Human Rights Defenders Protection Unit (Unidad de Protección a Defensoras y Defensores de Derechos Humanos – Guatemala, UDEFEGUA). <http://udefegua.org/quienes-somos>
- ³ UDEFEGUA. Soy Defensora, Soy Defensor Promuevo Derechos Humanos, Informe sobre situación de Defensoras y Defensores de Derechos Humanos Enero a Diciembre de 2014. http://udefegua.org/wp-content/uploads/2015/08/informe_final_2014.pdf; UDEFEGUA. Mi esencia es la resistencia pacífica, soy defensora – soy defensor, Informe sobre situación de Defensoras y Defensores de Derechos Humanos, Enero a Diciembre de 2015. http://udefegua.org/wp-content/uploads/2015/08/informe_final_2015.pdf; Claudia Samayoa and Jorge Santos. Informe sobre situación de Defensoras y Defensores de Derechos Humanos Enero a Diciembre de 2016. January 2017. <http://udefegua.org/wp-content/uploads/2017/05/Informe-Genaral-2016-FINAL6.pdf>; Jorge Santos, Claudia Samayoa, and the UDEFEGUA team. Informe sobre Situación de Defensoras y Defensores de Derechos Humanos Enero a Diciembre de 2017, Guatemala. May 2018. http://udefegua.org/wp-content/uploads/2018/07/Informe-2017.FINAL_5.compressed.pdf
- ⁴ Inter-American Commission on Human Rights (IACHR). Second Report on the Situation of Human Rights Defenders in the Americas. 2011. <https://www.oas.org/en/iachr/defenders/docs/pdf/defenders2011.pdf>
- ⁵ UDEFEGUA. Informe Criminalización en Guatemala, Análisis de situación 2012 – 2017. <http://udefegua.org/wp-content/uploads/2017/12/Informe-Criminalizacio%CC%81n-Guatemala-2012-2017-FINAL3.pdf>
- ⁶ IACHR. Situation of Human Rights in Guatemala. 2017. <http://www.oas.org/en/iachr/reports/pdfs/Guatemala2017-en.pdf>
- ⁷ Office of the United Nations High Commissioner for Human Rights (OHCHR) in Guatemala. Report of the United Nations High Commissioner for Human Rights on the activities of his office in Guatemala. 2014. <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/002/93/PDF/G1500293.pdf?OpenElement>
- ⁸ Article 264 of the Rules of Criminal Procedures establishes that bail can be avoided in light of the accused person's state of poverty or lack of means.
- ⁹ Human Rights Ombudsperson's Office. 2014. Page 134.
- ¹⁰ Human Rights Ombudsperson's Office. 2016. Page 200.
- ¹¹ IACHR. Criminalization of the Work of Human Rights Defenders. December 21, 2015. <http://www.oas.org/en/iachr/reports/pdfs/Criminalization2016.pdf>
- ¹² American Bar Association, Center for Human Rights. Invisible Threats: Mitigating the Risk of Violence from Online Hate Speech Against Human Rights Defenders in Guatemala. 2019. https://www.americanbar.org/content/dam/aba/administrative/human_rights/invisible-threats-guatemala-may-2019.pdf
- ¹³ American Bar Association, Center for Human Rights. Invisible Threats.
- ¹⁴ American Bar Association, Center for Human Rights. Invisible Threats.
- ¹⁵ Human Rights Ombudsperson's Office. 2014. Page 236.
- ¹⁶ Carlos Álvarez. "CC rechaza amparo de Méndez Ruiz contra la PDH". Prensa Libre. January 27, 2016. <https://www.prensalibre.com/guatemala/justicia/cc-rechaza-amparo-de-mendezruiz-contra-la-pdh/>
- ¹⁷ Human Rights Ombudsperson's Office (PDH) and the OHCHR in Guatemala. Situación de las personas defensoras de derechos humanos en Guatemala: Entre el compromiso y la adversidad. https://www.oacnudh.org.gt/images/CONTENIDOS/ARTICULOS/PUBLICACIONES/Informe_personas_defensoras.pdf
- ¹⁸ Inter-American Court of Human Rights. Case of Human Rights Defender et al. v. Guatemala. http://www.corteidh.or.cr/docs/casos/articulos/seriec_283_ing.pdf
- ¹⁹ PDH. Informe Anual Circunstanciado de Actividades y Situación de Derechos Humanos, 2017. January 2018. <https://www.pdh.org.gt/biblioteca-digital-informes-informes-anales/>
- ²⁰ IACHR. Situation of Human Rights in Guatemala. 2017.
- ²¹ OHCHR in Guatemala. Report of the High Commissioner. 2014.
- ²² OHCHR in Guatemala. Report of the High Commissioner. 2014.
- ²³ OHCHR in Guatemala. Report of the High Commissioner. 2014.
- ²⁴ IACHR. Situation of Human Rights in Guatemala. 2017.
- ²⁵ PDH. Informe Anual Circunstanciado. Situación de los Derechos Humanos y Memoria de Labores. 2015.
- ²⁶ Ministry of the Interior. "Protocolo de Implementación de Medidas de Seguridad Inmediatas y Preventivas en Favor de Trabajadoras y Trabajadores Sindicalizados, Dirigentes, Directivos, Militantes, Líderes y Líderes Sindicales, Personas Relacionadas con la Defensa de los Derechos Humanos, así como los Espacios Físicos donde Realizan Sus Actividades". October 27, 2016. <http://files.constantcontact.com/f41b5ebc001/b43bdb52-41d6-4184-a47e-975d4dc9137a.pdf>
- ²⁷ See the IACHR website, Statistics. <http://www.oas.org/en/iachr/multimedia/statistics/statistics.html>
- ²⁸ Congress of the Republic of Guatemala. Organic Law of the Public Prosecutor's Office, Decree number 40-94, Article 30. https://www.oas.org/juridico/mla/sp/gtm/sp_gtm-mla-leg-publico.pdf
- ²⁹ The Article establishes: "Discrimination will be understood as any distinction, exclusion, restriction, or preference based on gender, race, ethnicity, language, age, religion, economic situation, illness, disability, marital status, or any other motive, reason, or circumstance, that hinders or hampers the exercise by a person or group of persons or associations, of a legally established right, in accordance with the Political Constitution of the Republic and International Treaties on human rights..."

- ³⁰ Judicial bodies created via Agreement 30-2009 of the Supreme Court of Justice, with the objective of safeguarding the security of judicial personnel, such as prosecutors, defense lawyers, defendants, witnesses, judicial assistants, and other people who intervene in the process.
- ³¹ PDH and OHCHR in Guatemala. *Situación de las personas defensoras de derechos humanos*. Page 47.
- ³² The Supreme Court of Justice has the power to grant the PDH a mandate to pursue a Special Investigative Procedure (Procedimiento Especial de Averiguación), when a habeas corpus motion is filed, and the person on whose behalf it was filed is not found and there are sufficient reasons to suspect that he/she has been detained or held illegally in detention by a public official, members of the state security forces, or by regular or irregular agents, without his/her whereabouts being accounted for.
- ³³ Central America Monitor. *Guatemala's Justice System: Evaluating Capacity Building and Judicial Independence*. Washington Office on Latin America (WOLA) and the Myrna Mack Foundation. June 2019. Page 57. https://www.wola.org/wp-content/uploads/2019/07/Informe_cam_english_final7.1.pdf
- ³⁴ Central America Monitor. *Guatemala's Justice System*. Page 11.
- ³⁵ Rules of Criminal Procedures. Legislative Decree No. 957. Second Book, Title I, Chapter III. https://www.unodc.org/res/cld/document/per/1939/codigo_de_procedimientos_penales_html/Codigo_procesal_penal.pdf
- ³⁶ Rules of Criminal Procedures. Article 10.
- ³⁷ Rules of Criminal Procedures. Article 272.
- ³⁸ Rules of Criminal Procedures. Article 332.
- ³⁹ Rules of Criminal Procedures. Article 25.
- ⁴⁰ Rules of Criminal Procedures. Article 27.
- ⁴¹ The difference between the number of cases filed and the number of people harmed has an explanation that has already been mentioned: there are cases in which more than one victim is affected by the commission of a criminal act, which is why the quantity of people harmed is greater than the number of cases filed.
- ⁴² ASIES has summarized these mechanisms as follows: “an alternate mechanism refers to several different ways of ending a criminal case that excludes a criminal punishment. It happens to be the general and most-known rule, in adherence to the law and observing established legal procedures. For example, there are: ‘de-judicializing’ measures, which include the criteria of opportunity for a quick resolution to criminal cases in cases with minimal social impact, with the goal of greater benefit to society; conversion of public criminal action to private, such as transferring cases from the MP and greater inclusion of claimants or victims through a specific process, and the suspension of criminal prosecution under certain conditions; dismissals, which include judicial dismissals, when the act does not constitute a crime or may not proceed with judicial authorizations, and the dismissal takes place in the prosecutor’s office in adherence to the law and relevant, established internal guidelines; closing the cases; dismissal or provisional closure of the case, due to lack of evidence to pursue a public trial against the accused; and referral to justices of the peace, which the MP may do when it does not have jurisdiction over the case and, therefore, will not begin criminal proceedings.” ASIES. *Current Challenges in Criminal Justice. Process to Strengthen the Justice System, Advances, and Weaknesses, 2015-2016. Tenth Study on Justice*. Lorena Escobar Noriega, María Fernanda Galán Maldonado, Gustavo García Fong, Violeta Hernández y Carlos Fredy Ochoa. Guatemala: ASIES, 2018. http://www.asies.org.gt/download.php?get=desafios_actuales_de_la%20justicia_penal_10o_estudio_de_justicia.pdf
- ⁴³ OHCHR and reports by the Office of the High Commissioner and the Secretary-General. *Annual report of the United Nations High Commissioner for Human Rights on the activities of his office in Guatemala*. February 19, 2016. <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/030/94/PDF/G1603094.pdf?OpenElement>
- ⁴⁴ The criminal offenses analyzed in this report include: threats, coercion, abuse of authority, murder, homicide, aggression, illegal detentions, theft, defamation, grave injuries, and extremely grave injuries.
- ⁴⁵ PDH and OHCHR. *Situación de las personas defensoras*. Page 46.
- ⁴⁶ Commission for Historical Clarification. *Guatemala: Memory of Silence. Report of the Commission for Historical Clarification, Conclusions and Recommendations*. United Nations Office for Project Services (UNOPS). June 1999. <https://hrdag.org/wp-content/uploads/2013/01/CEHreport-english.pdf>
- ⁴⁷ IACHR. *Situation of Human Rights in Guatemala*. 2017.
- ⁴⁸ PDH. 2016. Page 104; Marcos González Díaz. “La desaparición del niño Marco Antonio Molina Theissen hace 36 años, con la que Guatemala revive uno de los episodios más oscuros de su historia”. BBC. March 1, 2018. <https://www.bbc.com/mundo/noticias-america-latina-43232751>
- ⁴⁹ PDH. 2016. Page 103; EFE. “Arrestan a 18 exmilitares por al menos 558 desapariciones forzadas en Guatemala”. January 6, 2016. <https://www.efe.com/efe/america/politica/arrestan-a-18-exmilitares-por-al-menos-558-desapariciones-forzadas-en-guatemala/20000035-2804479>

⁵⁰ Prensa Comunitaria. “Caso CREOMPAZ: militares acusados de desaparición forzada y delitos contra los deberes de humanidad”. January 11, 2016. <https://comunitariapress.wordpress.com/2016/01/11/caso-creompaz-militares-acusados-de-desaparicion-forzada-y-delitos-contra-los-deberes-de-humanidad/>

⁵¹ PDH. 2014. Page 57; Asier Vera Santamaría. “Tres testigos identifican a los dos militares juzgados en Guatemala como responsables de violaciones a mujeres”. El Mundo. February 2, 2016. <https://www.elmundo.es/nacional/2016/02/02/56b041ee22601d84728b4624.html>; Unión Nacional de Mujeres Guatemaltecas (UNAMG). “Caso Sepur Zarco”. <https://unamg.org/caso-sepur-zarco>; and IACHR. Situation of Human Rights in Guatemala. 2017. In addition to written sources, an interview was carried out on September 6, 2019, with the Head of the Public Prosecutor’s Office for Human Rights, Hilda Elizabeth Pineda García, who provided details about the legal actions filed by the defense lawyers, as a mechanism to delay the process.

ABOUT THE ORGANIZATIONS

THE MYRNA MACK FOUNDATION is a Guatemalan nongovernmental organization that develops and produces research and policy proposals aimed at furthering the fight against impunity, strengthening the rule of law, and consolidating peace and democracy in Guatemala.

THE WASHINGTON OFFICE ON LATIN AMERICA (WOLA) is a leading research and advocacy organization advancing human rights in the Americas. We envision a future where public policies protect human rights and recognize human dignity, and where justice overcomes violence.

ABOUT THE PROJECT

The Central America Monitor is a subregional project that seeks to assess the level of progress being made by the countries of Guatemala, Honduras and El Salvador in the areas of strengthening the rule of law, reducing violence, combating corruption and organized crime, and protecting human rights through the use of a series of indicators. The project also monitors and analyzes international cooperation programs in the aforementioned areas.

ACKNOWLEDGEMENTS

We would like to thank the Latin American Division of the Swiss Agency for Development and Cooperation, the Seattle International Foundation, the Tinker Foundation, and the Moriah Fund for their financial support and excellent advice that has made this project possible.

For more information, visit www.wola.org/cam