



Advocacy for Human Rights in the Americas

Hope amidst the darkness: Victims continue to press for justice for wartime atrocities in Guatemala

By [Jo-Marie Burt](#) and Paulo Estrada

Over the past year, powerful elites have sought to reassert their control over Guatemala's justice system, removing and intimidating independent prosecutors and judges from their posts, while others face intimidation and unfounded efforts to criminalize them. Many have been replaced with loyalists willing to do the bidding of those elites, [undoing years of progress](#) in strengthening prosecutorial and judicial independence and combating corruption and impunity.

Despite these concerning setbacks in rule of law and anti-corruption efforts, several high profile transitional justice cases are presently before the courts of Guatemala. The May 2021 arrests of 12 senior and mid-ranking military and police officials in the [Military Diary case](#), which includes 195 victims of enforced disappearance, extrajudicial execution, torture and sexual violence between 1983 and 1985, is the [most dramatic](#) of these. A dozen other human rights cases connected to Guatemala's internal armed conflict (1960-1996) are currently making their way through Guatemala's courts, pressing forward against great odds in an increasingly hostile climate for justice efforts.

This is largely due to the persistence and empowerment of survivors and families of victims, and of the professionals still working in Guatemala's legal system who continue to do their job at great personal risk. However, [ongoing efforts](#) of retired military officials, conservative elites, and members of the oligarchy to block such trials and co-opt the justice system threaten the future of these cases.

This commentary discusses the surprising success of Guatemala's transitional justice process, the concerted attempts by powerful elites to put a stop to human rights trials, and summarizes the cases currently before the Guatemalan courts. It concludes with brief recommendations for the U.S. government and the international community to support Guatemala's ongoing transitional justice efforts.

Transitional Justice Success

Since the signing of the peace accords in 1996, Guatemalan courts have handed down [26 sentences in 21 cases](#) of conflict-era human rights violations, including genocide, massacres, forced disappearance, extrajudicial executions, sexual violence, and other crimes against humanity. Nearly 70 military personnel, soldiers, police and members of the civil defense

patrols (PAC) have been convicted for serious human rights violations. Among those convicted are senior military officials who designed and implemented counterinsurgency policies that resulted in serious atrocities against the non-combatant civilian population. In addition, the Inter-American Court of Human Rights (IACoHR) has issued 14 judgments against Guatemala for wartime human rights violations.

Convictions in Wartime Human Rights Cases in Guatemala, 1993-2021

Name of case	Date of sentence	Convicted	Authorship	Crimes
Ixtahuacán	1993	2 military commissioners	Material	Murder
Myrna Mack 1 st trial	1993	1 major sergeant	Material	Murder
Chorrojaj Massacre	1996	1 PAC	Material	Murder
Colotenango	1998	11 PAC	Material	Murder
Rio Negro Massacre 1 st trial	1999**	1 military commissioner, 2 PAC*	Material	Murder
Tululché Massacre	1999	1 military commissioner	Material	Murder
Nicholas Chapman Blake	2000	1 PAC	Material	Murder
Anabella Garniga Osorio	2001	1 military commissioner	Material	Murder
Monseñor Juan Gerardi	2001	1 colonel, 1 captain, 1 sergeant	Intellectual Accomplice	Extrajudicial killing

		1 civilian		
Myrna Mack 2 nd trial	2002	1 coronel**	Intellectual	Murder
Xamán Massacre	2004	1 sub lieutenant, 13 soldiers	Material	Forced disappearance, crimes against humanity
Rio Negro Massacre 2 nd trial	2008	5 PAC	Material	Murder, Crimes against humanity
Choatalum	2009	1 military commissioner	Material	Forced disappearance
El Jute	2009	1 colonel, 3 military commissioners	Intellectual	Forced disappearance, Crimes against humanity
Edgar Fernando García 1 st trial	2010	2 police agents	Material	Forced disappearance
Dos Erres Massacre 1 st trial	2011	1 lieutenant, three Kaibil soldiers	Material	Murder, Crimes against humanity
Plan de Sanchez	2012	1 military commissioner, 4 PAC	Material	Murder, Crimes against humanity
Dos Erres 2 nd trial	2012	1 Kaibil soldier	Material	Murder, Crimes against humanity
Edgar Enrique Sáenz Calito	2012	1 (former) chief of National Police	Intellectual	Forced disappearance, CAH
Edgar Paredes Cheguen Chiquimula	2013	1 military commissioner	Material	Forced disappearance, Crimes against humanity
Ixil Genocide	2013***	1 former head of state / army general	Intellectual	Genocide, Crimes against humanity

Edgar Fernando García 2 nd trial	2013	1 colonel, 1 former chief of National Police	Intellectual	Forced disappearance, Crimes against humanity
Spanish Embassy Massacre	2015	1 former chief of National Police	Intellectual	Murder, Crimes against humanity
Sepur Zarco Sexual Violence/ Sexual Slavery	2016	1 lieutenant 1 military commissioner	Intellectual Material	Murder, Crimes against humanity, Forced disappearance
Molina Theissen	2018	2 generals (1 former army chief, 1 former chief of military intelligence), 2 colonels	Intellectual	Crimes against humanity, Aggravated Sexual Assault, Forced disappearance
Las Dos Erres 3 rd trial	2018	1 Kaibil soldier	Material	Crimes against humanity

Source: J. Burt, *Strategic litigation in cases of gross human rights violations in Guatemala: Impact and lessons learned*, Impunity Watch (Guatemala, May 2021).

* PAC=Civil Defense Patrol.

** The convicted official escaped and remains a fugitive of justice.

*** Sentence overturned.

Several of these trials represent path breaking efforts to achieve justice for wartime atrocities. The [2013 prosecution of retired army general Efraín Ríos Montt](#) marked the first time a former head of state was put on trial in Guatemala, and the first time a domestic court prosecuted the crime of genocide. While a court [vacated](#) the Ríos Montt conviction, a second court [unanimously found](#) that the Guatemalan army committed genocide during his 17-month reign of terror.

The [2016 conviction](#) of two military officials in the Sepur Zarco sexual violence case was another ground-breaking moment for post-conflict justice. Fifteen Q'eqchi' women broke the silence about one of the least discussed aspects of the Guatemalan counterinsurgency war: Guatemalan army's practice of [deploying sexual violence against women as a weapon of war](#). This marked the first time a Guatemalan court prosecuted wartime sexual violence, and the first time that a domestic court prosecuted the crime of sexual slavery.

In the [2018 Molina Theissen trial](#), four senior military officials were [convicted](#) of crimes against humanity, aggravated sexual assault, and forced disappearance. This was the first time that members of the army High Command were prosecuted as the intellectual authors of wartime sexual violence and for the forced disappearance of a child, Marco Antonio Molina Theissen. Among those convicted were retired army general Benedicto Lucas García, the former chief of the General Staff of the Guatemalan army and the architect of the scorched-earth counterinsurgency policy that resulted in mass atrocities, and his chief of military intelligence, Manuel Callejas y Callejas.

Also in 2018, exmilitary official Santos López Alonso was [convicted](#) for his role in the 1982 Dos Erres massacre, in which the special forces unit known as the Kaibiles killed some 200 civilians, including women, children, and the elderly. López Alonso was put on trial after being deported from the United States in 2016. Ramiro Osorio Cristales, a child survivor of the Dos Erres massacre who was kidnapped and illegally adopted by López Alonso after the massacre, traveled to Guatemala from Canada to [testify](#) against the former Kaibil instructor. López Alonso is the sixth military official to be convicted in this case, with earlier convictions in 2011 and 2012.

These successful prosecutions [encouraged](#) victims of other wartime atrocities to seek justice in their cases. Under the leadership of then Attorney General Claudia Paz y Paz, the Human Rights Prosecutor's Office developed protocols to investigate war-time human rights violations, including crimes that are difficult to prosecute such as wartime sexual violence. In addition to

learning how to work with human rights organizations that represent victims, they also learned the importance of respecting the dignity of victims and ensuring that the process of seeking justice does not result in revictimization. Similarly, efforts to strengthen the independence of the judiciary, led by trailblazing magistrates such as César Barrientos and supported by the international community, encouraged victims to seek justice in Guatemalan courts.

Backsliding on rule of law and judicial independence

The [backlash](#) to these efforts from powerful former military officials, conservative political elites, and members of the oligarchy has been swift and fierce. The Constitutional Court decision that suspended the Ríos Montt trial after a verdict had been handed down, effectively erasing the genocide conviction, was evidence of this, as was the early removal of Claudia Paz y Paz from her post as Attorney General in 2014 and ongoing criminal suits against judges, prosecutors, and expert witnesses involved in the case. It seemed Guatemala's experiment in post-conflict justice was unlikely to progress further.

The [months-long protests](#) in 2015 demanding the resignation of then President Otto Pérez Molina, ultimately resulting in his arrest alongside dozens of senior government officials on corruption charges, generated new opportunities to prosecute wartime cases. Then Attorney General Thelma Aldana aggressively pursued convictions in the Sepur Zarco and Molina Theissen cases, and under her leadership the Human Rights Prosecutor's Office continued to investigate wartime atrocity cases. Yet countervailing forces [continued to press against transitional justice efforts](#).

For example, controversial judicial decisions led to the stalling of critical cases. This occurred with the CREOMPAZ case, the [largest mass forced disappearance case in Latin America](#). This case is based on the exhumation of the remains of 565 people from Military Zone No. 21 in Cobán, Alta Verapaz; to date over 160 have been identified as victims of forced disappearance. Pretrial judge Claudette Domínguez [ruled](#) that eight of the eleven senior military officials arrested in the case in 2016 should face trial on charges of crime against humanity and forced disappearance. However, her ruling excluded 80 percent of the victims and denied the civil party status of one of the associations of victims connected to the case, prompting a series of appeals that have not been resolved and ultimately leaving the case in a five-year [legal limbo](#).

The same judge [dismissed](#) the case against six former PAC members from Rabinal, who faced charges of sexual violence against 36 Maya Achi women in Rabinal in the early 1980s, resulting in their release in July 2019. The victims successfully [recused](#) Judge Domínguez in September 2019, and the case was [transferred](#) to a new pretrial judge, Miguel Ángel Gálvez. He has [ruled](#) to

send five men to trial in the case, including one who was deported from the United States. Several of the accused, including some of those released in 2019, remain at large.

The [efforts by corrupt elites to coopt Guatemala’s judicial institutions](#) is at this point quite notorious. The successful [shuttering](#) of the International Commission Against Impunity in Guatemala (CICIG) by the previous administration of Jimmy Morales (2016-2020) laid the groundwork for the [all-out assault against judicial independence](#) that has ensued under the current government of Alejandro Giammattei. In April, the sitting president of the Constitutional Court, [Gloria Porras](#), was prevented from taking her new position on the Court after having been re-elected to serve another five-year term. In June, head of the anti-corruption unit, [Juan Francisco Sandoval](#), was abruptly removed from his post, and he continues to face [efforts](#) to criminalize him. They join other former judges and prosecutors, including former attorneys general Claudia Paz y Paz and Thelma Aldana, who were forced to leave the country for doing their jobs: fighting crime, corruption, and impunity.

[Attacks](#) aimed at threatening the security of and undermining the work of justice operators currently in office—as has been the case with judges [Erika Afian](#) and [Pablo Xitumul](#) and Human Rights Ombudsman [Jordán Rodas](#), among others—demonstrate that such actions are part of a calculated strategy to rid Guatemala of officials who uphold the rule of law in order to guarantee impunity for corrupt actors as well as human rights violators. Judge Xitumul, president of High Risk Court “C,” was one of the judges who convicted Ríos Montt of genocide in 2013 and four senior military officials in the Molina Theissen case in 2018. He has [described](#) the efforts to lift his immunity as the work of those he’s convicted “seeking revenge.”

These same corrupt actors have conspired to end Guatemala’s experiment in post-conflict justice. In 2019, conservative members of the Guatemalan Congress with the backing of the Association of Military Veterans of Guatemala (Avemilgua) —which arose to oppose the peace process and later the work of the CICIG and the anti-corruption and anti-impunity efforts it helped put in place— sought to pass [legislative bill 5377](#). If this bill became law, it would have ended all current and future criminal prosecutions for war-time human rights abuses and freed all those who were facing charges or who had been convicted of such crimes. Survivors and families of the victims, along with local and international human rights organizations, [opposed](#) the bill and worked to prevent its approval. They appealed to the Inter-American Court for Human Rights, which [determined](#) that the bill violated Guatemala’s international human rights obligations and ordered the Congress to cease consideration of the proposal. The Constitutional Court later [ordered](#) Congress to shelve the bill. While the conservative proponents of the bill did not abide the Court’s ruling and continued to seek its passage into law, they ultimately failed to do so. In June 2021, however, just a week after the arrests in the Military Diary case, members

of Congress belonging to Valor, the party of Zury Ríos, the daughter of Ríos Montt and aspiring presidential candidate for 2024, presented [a new bill](#) that, like failed bill 5377, seeks to grant a blanket amnesty to shield those responsible for wartime atrocities during Guatemala's internal armed conflict from criminal prosecution.

In addition to the efforts to impose a new amnesty law, pro-impunity sectors are seeking out other ways to slow down or obstruct post-conflict justice efforts. In October 2021, the head of the Human Rights Prosecutor's Office, [Hilda Pineda](#), was transferred from her post to head a unit to investigate crimes against tourists. There was no explanation given for why a prosecutor with more than ten years of experience investigating and litigating cases of human rights violations, including key wartime cases such as the Maya Ixil genocide case and the Sepur Zarco sexual violence case, and who had successfully led other prosecutors under her watch to win convictions in landmark cases such as the Molina Theissen and the Dos Erres case, should be removed from her post. Her replacement, Tomás Ramírez López, a career prosecutor, has no experience in human rights cases, and it remains to be seen if he will protect or undermine the work of the Special Conflict-Era Cases Unit that investigates wartime human rights violations.

Post-conflict justice in a hostile environment

In the midst of this hostile counter-offensive by the oligarchy, conservative politicians, and former military officials against the rule of law, judicial independence, and anti-impunity efforts, survivors, families of the victims, and civil society organizations continue to press forward in their demands for justice. Despite this hostile environment, 13 criminal proceedings involving 11 cases of grave human rights violations are presently active in the courts of Guatemala (see table).

These active proceedings are at different phases of the judicial process. Five cases are at the public trial stage. In some instances, the dates for the initiation of the public trial have been set, including the Dos Erres massacre case, which is scheduled to begin on January 4, 2022. Another five cases are in the evidentiary phase, during which the pretrial judge hears the final accusation as well as the evidence and determines whether to send the defendants to trial. Two cases are awaiting arraignment proceedings. One case, in which a verdict was rendered in 2018, faces appeals from the defense.

Current Wartime Human Rights Cases Before the Courts of Guatemala, 2021

Case	Accused	Judicial Phase	Alleged Crimes	Number of Victims
Dos Erres Massacre	Alfonso Bulux Vicente – Patrulla Elite “Kaibil”	Arraignment proceedings	Homicide and Crimes against Humanity	201 victims
Tululche Massacre	Juan Alecio Samayoa (Comisionado militar – prófugo)	Arraignment proceedings	Crimes against Humanity	+10 victims
Maya Ixil Genocide– Ríos Mont	Luis Enrique Mendoza García (G3)	Evidentiary phase	Crimes against Humanity and Genocide	1771 victims
Maya Achi Sexual Violence	Felix Tum Ramírez, Simeon Enriquez Gomez, Pedro Sánchez Cortez – ex PAC	Evidentiary phase – Cassation	Crimes against Humanity	36 victims
Military Diary	Marco Antonio González Taracena (JAGSA-EMP); Rone René Lara, Edgar Corado Samayoa, Enrique Cifuentes de la Cruz (Especialistas AGSA); Jacobo Esdras Salán Sánchez (SubJEKaibil); Edgar Virginio de León Sigüenza y José Daniel Monterroso Villagrán (Especialistas DI); Víctor Augusto Vásquez Echeverría (Comandante ZM#302); Gustavo Adolfo Oliva Blanco (Jefe DIT); y, Juan Francisco Cifuentes Cano (Jefe BROE).	Evidentiary phase	Forced disappearance, Crimes against Humanity, Asesinato y tentativa de asesinato	195 victims
CREOMPAZ – ZM#21	Manuel Benedicto Lucas Garcia (JEMGE), César Augusto Cabrera Mejía, Juan Ovalle Salazar, Carlos Augusto Garavito Moran, José Antonio Vásquez García, Byron Humberto Barrientos Díaz, Raúl Dehesa Oliva y César Augusto Ruiz Morales	Evidentiary phase – Cassation	Crimes against Humanity and Forced disappearance	565 victims
Maya Ixil Genocide –Lucas García	Benedicto Lucas García (JEMGE), Manuel Antonio Callejas y Callejas (G2) [César Augusto Noguera Argueta (G3), died in custody 2020]	Public trial	Forced disappearance, Crimes against Humanity and Genocide	1110 victims

Dos Erres Massacre	Gilberto Jordán y Mardoqueo Ortiz – Patrulla Elite “Kaibil”	Public trial	Homicide and Crimes against Humanity	161 victims
Maya Achi Sexual Violence	Francisco Cuxum Alvarado, Damian Cuxum Alvarado, Benvenuto Ruiz Aquino y Bernardo Ruiz Aquino – ex PAC	Public trial	Crimes against Humanity	36 victims
Maya Achi Sexual Violence	Gabriel Cuxum Alvarado – ex PAC	Public trial	Crimes against Humanity	36 victims
Xamán Massacre	Julio César Armando López Rodríguez – Soldado de pelotón	Public trial	Extrajudicial execution y attempted extrajudicial execution	15 victims
Aldea Tambo, Tactic, Alta Verapaz	José Manuel Castañeda Aparicio – 2do. chief of military commissioners of Tactic	Public trial	Forced disappearance	3 victims
Molina Theissen	Benedicto Lucas García (JEMGE), Manuel Antonio Callejas y Callejas (G2), Luis Francisco Gordillo Martínez (Comandante ZM#17) y Ramiro Zaldaña Rojas (S2 – ZM#17)	Convicted – Ruling under appeal	Forced disappearance, crimes against humanity and aggravated sexual assault	2 victims

Source: Elaborated by the authors based on review of legal documents and our trial monitoring in the Courts of Guatemala.

These active transitional justice cases represent 3,908 people who were victims of different crimes, including genocide, forced disappearance, extrajudicial execution, attempted murder and other crimes against humanity, including sexual violence. Over 40 individuals have been charged in these cases, including senior and mid-ranking military and police officials, soldiers, military commissioners, and civil defense patrolmen.

Each of these cases and those participating in them —from the lawyers and the plaintiffs, to the prosecutors who have investigated them, the judges who oversee the different procedural

phases, and expert witnesses— face serious risk merely by virtue of their involvement. The traditional media pays little attention to these cases, so few people know that so many cases are currently active in the Guatemalan courts and the magnitude of risk for those involved.

These transitional justice processes are the result of the persistent struggle of survivors and relatives of victims, human rights organizations, and independent prosecutors and judges who have worked to guarantee victims' right to access justice. The support of the international community has also been key. But the forces of reaction have been pushing back, and hard.

Some of the post-conflict cases that are in the Guatemalan courts involve individuals who are connected to the [illicit networks](#) operating in Guatemala, revealing the deep connection between past and present crime in Guatemala. One example is former military intelligence chief and retired army general Manuel Callejas y Callejas, convicted in 2018 in the Molina Theissen case and awaiting his criminal trial in the Maya Ixil genocide case. When he was arrested in 2016 in the Molina Theissen case, *El Periódico* referred to him as the "[kingpin of kingpins](#)" for his alleged involvement in the Moreno Network and the *Cofradía*, or Brotherhood, an organized crime syndicate of former intelligence officials involved in human rights abuses, corruption, and drug trafficking. Another is retired general Marco Antonio González Taracena, the most senior of the military officers recently charged in the [Military Diary case](#). He is a co-founder and current vice-president of the Avemilgua, which has long argued that the peace accords included an amnesty for all war-related crimes, and he actively backed the efforts to impose an amnesty law in 2019. President Giammattei has been closely [associated](#) with Avemilgua and retired military hard-liners who staunchly oppose criminal trials for wartime atrocity cases and who, in some cases, are deeply entrenched in organized crime networks, including the *Cofradía*. Giammetti himself was [investigated](#) by CICIG and prosecuted for the 2006 Pavón prison massacre, but was ultimately acquitted.

Despite the laborious and dedicated work of human rights defenders, survivors and families of victims, and independent judges and prosecutors, the efforts to seek justice for wartime atrocities in Guatemala are at grave risk. The international community can play a critical role in pressuring Guatemala to fulfill its international obligations to guarantee victims access to truth and justice. This should include supporting the work of independent judges and prosecutors through public and private statements acknowledging the importance of their work on these transitional justice cases; providing financial or other support to the work of victims associations and human rights organizations and researchers who work side by side with victims in their pursuit of justice; meeting with Guatemalan justice leaders, victims and human rights defenders; and supporting the work of independent media tracking the dismantling of the rule of law in Guatemala. Through sanctions and visa restrictions for officials involved in grave

human rights violations, corruption, or obstructing corruption investigations, U.S. officials can also push back against corrupt government officials and the ongoing efforts to criminalize and defame victims, human rights defenders, and professionals in the justice sector. But there is no time to waste.

SUMMARIES OF WARTIME HUMAN RIGHTS CASES BEFORE THE COURTS OF GUATEMALA, 2021

Cases awaiting public trial

Maya Ixil Genocide Case during the government of Lucas García 1978-1982

In August 2021, Judge Miguel Ángel Gálvez of High Risk Court “B” [ruled](#) that there was sufficient evidence to initiate a criminal trial against retired generals Benedicto Lucas García and Manuel Callejas y Callejas for their role in the genocide, forced disappearance, and other crimes against humanity against the Maya Ixil population. Lucas García was chief of the General Staff of the Guatemalan Army between 1981 and 1982, while Callejas y Callejas was chief of military intelligence. Both were members of the Army High Command. Lucas García and Callejas y Callejas are currently in prison, serving [58-year sentences](#) for crimes against humanity, aggravated sexual assault and forced disappearance in the Molina Theissen case.

A third individual charged in the case, retired colonel and chief of military operations, César Augusto Noguera Argueta, was [arrested](#) in October 2019. The evidentiary phase hearings in the case took place in early 2020. However, the suspension of judicial hearings due to the pandemic resulted in a delay in the case. Noguera Argueta died in November 2020.

Judge Jasmín Barrios of High Risk Court "A" will preside over the public trial. A date for the start of the trial has not yet been set.

Dos Erres Massacre Case - Gilberto Jordán and José Ortiz Morales

In November 2020, pretrial judge Claudette Domínguez of High Risk Court “A” [ruled](#) that there was sufficient evidence to prosecute former special forces soldier Gilberto Jordán for his alleged role in the 1982 Dos Erres massacre, in which soldiers killed some 200 villagers they believed to be members of a guerrilla group. Jordán, who was [deported](#) from the United States in March 2020 after serving ten years in prison for immigration fraud and for lying on immigration forms about his role in the Dos Erres massacre, faces [charges](#) of crimes against humanity and

aggravated sexual assault. Jordán admitted to U.S. authorities that he had been the first to throw a child into the community well, setting off the gruesome killing spree at Las Dos Erres.

Judge Domínguez sent the case to High Risk Court “A,” where Yassmín Barrios is the presiding judge. However, since she previously ruled on the Dos Erres massacre, the case has been transferred to High Risk Court “D,” but the names of participating judges and the start date of the public trial have not yet been defined.

Another former Kaibil soldier accused in the Dos Erres massacre, [José Ortiz Morales](#), was deported to Guatemala in May 2021, after serving a one-year sentence for immigration fraud in the United States. He was also sent to trial before High Risk Court “A,” but his case will also likely be transferred. It is expected that Ortiz Morales will be prosecuted simultaneously with Gilberto Jordán.

This will be the fourth trial in the Dos Erres massacre case. To date, Guatemalan courts have [convicted](#) six men—five ex-Kaibil soldiers and one army official—for their responsibility in the massacre. As detailed below, another former soldier has been arrested as is facing criminal charges in the same case. Several other alleged perpetrators remain at large.

The de facto head of state at the time, Efraín Ríos Montt, had been indicted in this case on charges of genocide, murder and crimes against humanity, but he died in April 2018, ending the prosecution against him.

Maya Achi Sexual Violence Case - Francisco Cuxum Alvarado, Damian Cuxum Alvarado, Benvenuto Ruiz Aquino and Bernardo Ruiz Aquino

A trial is set to start on January 4, 2022, against four former civil defense patrolmen who are accused of committing crimes against humanity including systematic acts of sexual violence against 36 Maya Achí women in the military base at Rabinal, Alta Verapaz between 1981 and 1985.

Damian Cuxum Alvarado and brothers Benvenuto and Bernardo Ruiz Aquino were among the six men arrested in 2018 in the Maya Achi sexual violence case. On June 21, 2019, pretrial judge Claudette Domínguez of High Risk Court “A” [ruled](#) that there was not sufficient evidence of their participation in the alleged crimes, without taking into account the testimony of the women survivors who identified the six men as their material aggressors. Domínguez provisionally dismissed the charges against Damian Cuxum Alvarado and Benvenuto and Bernardo Ruiz

Aquino, while fully dismissing charges against the other three defendants, ordering their immediate release.

The Human Rights Prosecutor's Office and the lawyers for the victims, including Lucia Xiloj, of the Rabinal Community Legal Clinic, appealed the decision, resulting in the annulment of that ruling and the repetition of evidentiary phase hearings. They also accused Judge Domínguez of racism for failing to consider their testimonies as evidence in the case and successfully [recused](#) her from the case. The case was transferred to Judge Miguel Ángel Gálvez of High Risk Court "B". After new evidentiary phase hearings, Gálvez ruled that there was sufficient evidence to send the three men to trial.

In January, the United States [deported](#) a former member of the Rabinal civil defense patrol, Francisco Cuxum Alvarado, to Guatemala. Judge Gálvez [indicted](#) Cuxum Alvarado in February. Evidentiary phase hearings were delayed due to the pandemic, but were finally held in February 2021. Judge Gálvez [ruled](#) that there was sufficient evidence to send Cuxum Alvarado to trial.

The case against the four accused will be heard by High Risk Court "A", which is presided over by Judge Jasmín Barrios, and is set to start January 4, 2022. The plaintiffs hope that the court will incorporate Gabriel Cuxum Alvarado, who was recently sent to trial in this case, as described below, as a fifth defendant in the public trial.

Maya Achi Sexual Violence Case - Gabriel Cuxum Alvarado

In May 2021, ex civil defense patrolman Gabriel Cuxum Alvarado, who had been a fugitive of justice since 2018, was [captured](#) in relation to the Maya Achi sexual violence case, described above. Cuxum Alvarado attempted to avoid arrest using a fake identity document, but prosecutors identified him using his fingerprints. The eighth former PAC member accused in this case, he is the brother of Francisco Cuxum Alvarado, who was deported from the United States, as discussed above.

On November 16, 2021, presiding pretrial judge Miguel Ángel Gálvez ruled that there was sufficient evidence to send Cuxum Alvarado to trial. It is expected that Cuxum Alvarado will be prosecuted alongside the other four accused in the Maya Achi sexual violence case whose criminal trial is scheduled to begin on January 4, 2022.

Tactic Forced Disappearance Case - José Manuel Castañeda Aparicio

On September 21, 2021, José Manuel Castañeda Aparicio, the 2nd Chief of Military Commissioners of the municipality of Tactic, Alta Verapaz, was [captured](#) on an outstanding arrest warrant for the forced disappearance of Jacobo López Ac, Rodolfo López Quej, and Francisco Guerrero López, who were taken from their homes at night in the village of Tampo, Tactic in January 1983. Castañeda Aparicio's request to be released was denied and his case was sent to trial, though a date has not yet been set.

Castañeda Aparicio was first arrested in relation to these charges in 2012. The trial began in 2014, with the First Criminal Court of Coban, Alta Verapaz overseeing the proceedings, and the Human Rights Ombudsman's Office (PDH) and the Mutual Support Group (GAM) representing the victims. There were numerous security incidents during the course of the trial including the presence of heavily armed men just outside of the courtroom during the course of the proceedings. On June 3, 2014, the court acquitted Castañeda Aparicio, arguing, against Guatemalan and international law, that the statute of limitations for the crime of forced disappearance had expired, and ordering his immediate release.

In October 2017, the court's ruling was annulled by means of a "special appeal" for reasons of form and substance filed by the Human Rights Prosecutor's Office and the plaintiffs. Prosecutors' request that the case be transferred to the high risk courts was approved in 2019 and the case was taken over by High Risk Court "D," presided by Judge Sara Yoc Yoc. The tribunal issued a summons to Castañeda Aparicio, ordering him to appear in court. When he did not appear, the court declared him "in rebellion." He was captured at his home and is now awaiting a date for his retrial.

Xamán Massacre Case - Julio Cesar Armando López Rodríguez

On May 31, 2021, ex army soldier Julio César Armando López Rodríguez, was [captured](#), after being on the run from justice for more than two decades. López Rodríguez was one of several military officials accused of participating in a 1995 massacre against members of the "Aurora 8 de octubre" community, located in Finca Xamán, Chisec, Alta Verapaz. The community was established as part of a formal process allowing the repatriation of people who had fled the country due to the "scorched earth" counterinsurgency policies that predominated between 1978 and 1985, and included families who had returned from Mexico in 1994 as well as Q'eqchi' families from the region. The massacre occurred amidst celebrations of the one-year anniversary of the community's founding. Eleven people were killed and 18 others were severely wounded.

The Xaman massacre is notorious as the “last” massacre of Guatemala’s internal armed conflict and occurred in the context of ongoing peace negotiations. Then President Ramiro de León Carpio and a high-level commission of inquiry visited the site of the massacre the day after the tragic events. In November 1998, the Cobán Criminal Court, presided by Judge Héctor Gálvez Velásquez, initiated proceedings against 25 military officials on charges of homicide. The military high command asserted that the officials were innocent and hired lawyers to defend them.

In August 1999, a court found the 25 military officials guilty of homicide and sentenced them to between four and five years in prison, which was commutable by paying a bail of five quetzales per day, the equivalent of about 65 cents. In 2001, the ruling was overturned by the Constitutional Court. In 2003, the Alta Verapaz Criminal Court prosecuted 14 of the accused military officials; 11 others who did not appear in court, including López Rodríguez, were declared fugitives. The Supreme Court of Justice ratified the conviction in 2005. Since López Rodríguez was already indicted, the case will proceed directly to trial in the Criminal Court of Coban.

Cases at evidentiary (pretrial) stage

Ixil Genocide Case during the de facto Ríos Montt government 1982-1983

Retired general Luis Enrique Mendoza García, chief of military operations and third in command of the Guatemalan army during the government of dictator Efraín Ríos Montt (1982-1983), faces charges of genocide and crimes against humanity for his role in the Maya Ixil genocide. Originally accused in 2011 along with Ríos Montt and other members of the High Command, Mendoza García eluded arrest and was a fugitive until June of 2019, when he [was arrested](#) at a polling station while casting his vote during Guatemala’s general elections. The case is being heard by Judge Silvia de León of High Risk Tribunal “C.”

The case was [delayed](#) for over a year due to the pandemic. Since judicial hearings restarted, the court has repeatedly suspended the start of the intermediate stage hearings. Currently hearings are scheduled for February 2022. Judge de León granted Mendoza García substitution measures, against the will of the plaintiffs, which allows him to move freely in three departments in Guatemala.

Maya Achi Sexual Violence Case - Felix Tum Ramírez, Simeon Enriquez Gómez, and Pedro Sánchez Cortez

After a little over a year in custody on charges of crimes against humanity and systematic sexual violence against 36 Maya Achi women between 1981 and 1985, Felix Tum Ramírez, Simeon Enriquez Gómez, and Pedro Sánchez Cortez, along with three other former civil defense patrolmen, were released from custody after Judge Claudette Domínguez [dismissed the charges](#) against them on June 21, 2019. The plaintiffs succeeded in [recusing](#) Judge Domínguez and the case was transferred to Judge Miguel Ángel Gálvez of High Risk Court “B.”

The Human Rights Prosecutor’s Office and the plaintiffs are seeking the revocation of Judge Domínguez’s dismissal motion against the three defendants so that they can stand trial. A hearing scheduled for November 15, 2021, at which the parties were to present their respective arguments, was suspended after a quorum was not met in the Criminal Chamber of the Supreme Court of Justice.

Military Diary Case - 1983-1985

On May 27, 11 military and police officials were [arrested](#) in relation to 195 cases of forced disappearance, crimes against humanity, murder and attempted murder between 1983 and 1985 during the de facto government of [General Oscar Humberto Mejía Víctores](#). These atrocities are registered in the “death squad dossier,” also known as the Military Diary, which was made public in 1999. The defendants are also being [accused](#) of being part of the “clandestine and illegal structures” that operated at that time, which still have power in national politics. One official appeared in court during the pretrial hearings and was brought into custody. Six officials are fugitives in the case.

Beginning on [June 1](#) and lasting until [September](#) 2021, the arraignment hearings were split up into four different parts, with different groups of defendants in each phase. Judge Gálvez ruled that there was sufficient merit to the charges and sent 11 of the 12 military and police officials to the next phase of the judicial process. One official who suffers from severe health issues has not yet been arraigned; the judge ordered a special representative for him who will appear in his arraignment hearing at a yet undetermined date.

Also in September, a public hearing was held to hear arguments of the parties with regard to a defense motion to recuse Judge Gálvez from the proceedings. The Second High Risk Court of Appeals [rejected](#) the motion, and Judge Gálvez will preside over the intermediate phase hearings, which are scheduled to begin on January 12, 2022.

Among those indicted in the case are senior military officials with close connections to the clandestine structures of power that are seeking to rollback gains in Guatemala's battle against corruption and impunity.

CREOMPAZ Case - Military Zone No. 21 - 1981-1986

The mass forced disappearance case known as [the CREOMPAZ case](#), one of the largest cases of [enforced disappearance](#) in Latin America's history, centers on the discovery of the human remains of 565 individuals in 85 clandestine graves on the grounds of the former Military Zone No. 21 in Cobán, Alta Verapaz. To date, more than 160 of these have been positively identified as victims of the armed conflict.

Guatemalan officials arrested fourteen senior military officials in the case in January 2016. In June 2016, the pretrial judge, Claudette Domínguez of High Risk Court "A," [ruled](#) that there was sufficient evidence to proceed to trial against eight former military officials, while dismissing the charges against six officials. Among these indicted are former army chief Benedicto Lucas García, who in May 2018 was convicted in the Molina Theissen case and who also faces charges in the Maya Ixil Lucas genocide case.

Plaintiffs have challenged different aspects of Judge Domínguez's 2016 ruling, including the exclusion of nearly 80 percent of the victims from the original accusation. The courts have failed to resolve these appeals, leaving the CREOMPAZ case in a state of [legal limbo](#) since 2016. A public hearing was scheduled before the Criminal Chamber of the Supreme Court of Justice for November 4. Government prosecutors were going to present their arguments in favor of reversing the ruling that provisionally dismissed the charges of the six individuals who were then released in 2018. That hearing was suspended, however, and a new date has not yet been scheduled.

During the most intense months of confinement for Covid-19 in 2020, several defendants filed motions to lift their pretrial detention, claiming that they were at risk for various reasons, including health and age-related risks. Judge Domínguez [rejected](#) these requests.

In addition, the Constitutional Court has not yet resolved an appeal filed by the defense attorneys, who oppose the decision to accept the Coordinating Group of Victims of Alta Verapaz (CODEVI) as civil parties in the case after the victims' group filed a protective measure (*amparo*) protesting against their exclusion in the case. This *amparo* and appeal motion have kept the case in suspense for more than five years.

Cases awaiting arraignment

Dos Erres Massacre Case - Alfonso Bulux Vicente

In September 2020, authorities in Belize [captured](#) Alfonso Bulux Vicente, who had been charged by the Guatemalan Attorney General's Office of criminal responsibility in the Dos Erres massacre in December 1982 and was a fugitive of justice for several years. His arraignment was scheduled for October 12. Bulux Vicente's lawyer reported that his client has health problems, leading pretrial judge Claudette Domínguez of High Risk Court "A" to [suspend](#) the proceedings and order health examinations and a COVID-19 test. Judge Dominguez has rescheduled the arraignment a few different times.

To date, Guatemalan courts have [convicted](#) six men—five ex-Kaibil soldiers and one army official—for their responsibility in the massacre in four different criminal trials between 2011 and 2018. Several alleged perpetrators remain at large. Two other defendants have been ordered to trial in January 2022, as described above.

Tululche case, Quiche

In January 2020, a judge in the department of El Quiché [dismissed](#) charges against [Juan Alecio Samayoa Cabrera](#) for his role in the Tululché massacre and other grave crimes and ordered his immediate release. Prosecutors allege that Samayoa, who had been living in the United States for decades and was deported in late 2019, was a chief military commissioner in Chinique, El Quiché. While in U.S. custody, Samayoa [admitted](#) to having commanded a paramilitary unit of 500 men in Chinique, but claimed to be just “an assistant” during the proceedings in El Quiché.

The accusation against Samayoa was first presented by the Attorney General's Office in 1992. He and his associate, Candido Noriega, who were the heads of the military commissioners and civilian self-defense patrols in the municipalities of Chiche and Chinique, located in the department of El Quiche, were accused of participating in at least 150 serious human rights violations, including massacres, assassinations, rapes, and other crimes in the Tuluche state-run plantation. After a long and tortuous criminal process, Noriega was convicted and sent to prison. Samayoa, however, escaped. He resided in the United States for 25 years until he was deported to Guatemala in 2019 after being convicted of lying to U.S. immigration authorities.

The victims appealed the January 2020 decision, and on November 25, 2020, the pretrial judge [reissued the arrest warrant against Samayoa](#). A new arraignment proceeding was convened, but

Samayoa did not appear in court. The judge declared him a fugitive of justice, for a second time. In the meantime, the victims have requested that the judge hear their testimonies and introduce them into evidence to ensure their access to justice.

Cases with sentences under appeal

Molina Theissen case

On May 23, 2018, High Risk Court “C,” presided Judge Pablo Xitumul, [convicted](#) four senior military officials of crimes against humanity and aggravated sexual assault against Emma Molina Theissen and forced disappearance of Emma’s 14-year-old brother, Marco Antonio Molina Theissen, in reprisal for Emma’s escape from the military base where she was being held incomunicado. Among those convicted were members of the Guatemalan military’s top brass: retired army generals Benedicto Lucas García and Manuel Callejas y Callejas, who were the chief of the General Staff of the Guatemalan army and chief of military intelligence, respectively. Also convicted were Luis Francisco Gordillo Martínez and Hugo Zaldaña Rojas.

The convicted officials have filed a number of substantive and procedural [appeals](#) of the sentence. The appellate court has convened and then suspended hearings, or held hearings for a short time and then suspended them without any definitive resolution.

Currently, the Chamber of Appeals of the Supreme Court of Justice is reviewing an appeal filed by lawyer Karen Fisher, who has filed to be recognized as a civil party to the case and who has accused the Molinta Theissen family of presenting false evidence. She continues to affirm, with no evidence, that Marco Antonio Molina Theissen is alive and in hiding. In 2019, a judge [rejected](#) a similar appeal filed by Fisher.

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