

New Yorker article exposes endemic corruption of Guatemalan judiciary and government, staunch ‘democratic ally’ of US, Canada and “international community”

<https://mailchi.mp/rightsaction/new-yorker-article-exposes-corruption-of-guatemalan-judiciary>

Despite corruption and organized crime infiltrating all branches of the Guatemalan government, state and judiciary, governments and actors in the “international community” – notably the US, Canadian and European Community governments, the World Bank, IMF and IDB, and transnational companies in the sectors of mining and resource extraction, for-export food production – maintain full political, economic and military relations with Guatemala, calling it a “democratic ally”.

Every land and environmental defense struggle, every human rights and justice struggle that Rights Action supports in Guatemala plays itself in these inter-generational conditions of government and economic elites corruption and repression ... all enabled by and beneficial to Guatemala’s “international community” backers and partners.

Our recently published book “TESTIMONIO: Canadian Mining in the Aftermath of Genocides in Guatemala” documents just some of this endemic corruption as it pertains to and benefits the Canadian-led, global mining industry.

The Exile of Guatemala’s Anti-Corruption Efforts A group of prosecutors and judges who investigated the country’s most powerful officials have been forced to flee to Washington, D.C.

By [Jonathan Blitzer](#), The New Yorker, April 29, 2022

<https://www.newyorker.com/news/dispatch/the-exile-of-guatemalas-anti-corruption-efforts>



Since 2018, twenty-two Guatemalan judges and anti-corruption prosecutors have gone into exile. The largest share is concentrated in and around D.C. Photographs by Greg Kahn for The New Yorker

One morning in January, Rudy Herrera, a thirty-seven-year-old federal prosecutor, was working in his office on the fourth floor of the Public Ministry, in downtown Guatemala City, when a colleague pulled him aside to ask about a case. They stepped into a nearby bathroom, where no one else was around. The case in question, known as “comisiones paralelas,” involved a group of political operatives and public officials who illegally conspired to place favorable judges on two high courts.

The country’s elite anti-corruption unit, where Herrera worked, had exposed the perpetrators, and brought them to trial. But some members of the current government were clearly agitated. Herrera’s colleague asked if there had been anything irregular about the investigation. Eventually, it became clear that he wanted damning information about two people in particular.

One of them was Herrera's former boss, Juan Francisco Sandoval, who'd been in charge of the anti-corruption unit at the time of the investigation. The other was the judge hearing the case, Erika Aifán, one of the most respected jurists in the country. "Either you give up something on them, or you're going to be in trouble," Herrera's colleague said.

By then, Herrera told me, "there wasn't a night when I wouldn't get a message from someone telling me that the next day the authorities would be coming after us [anti-corruption] prosecutors." He and his wife had developed a routine.

Before dawn, Herrera would drive to a nearby gas station and wait in the parking lot with a cup of coffee until around six, when his wife would send him a text confirming that there weren't any police cars in the driveway. Only then would Herrera return to get dressed and head into the office. "The whole thing had us in a kind of psychosis," he said.

Herrera is trim and clean-cut, with close-cropped hair, dark eyes, and a slight lisp. Born and raised in the capital, he is the son of a bus driver and a stay-at-home mother. When he was a teen-ager, the study of law appealed to his bookish nature; at university, he took an internship at the Public Ministry, the country's equivalent of the Department of Justice, and eventually made his way to the anti-corruption office. "The cases were serious and important," he told me. "It was opening a new door."

For the next nine years, he couldn't imagine doing anything else. But, when some of his colleagues began receiving threats, he made contingency plans: twice, he got in touch with a representative from the United Nations High Commissioner for Refugees to open a preliminary file for himself and his family, just in case he came into the crosshairs.

What made the situation so striking was that he worked for the government, yet it was the government itself that he'd grown most afraid of.

In [Guatemala](#), officials who cross special interests have often been targeted with bogus lawsuits, arbitrary firings, or physical threats. But, in recent years, the

campaign against them has intensified, owing to a wider crackdown within Guatemala's Public Ministry.

The attorney general, a conservative named María Consuelo Porras, had already served half of her four-year term when Alejandro Giammattei, the President of Guatemala, assumed office in January, 2020. They seemed to be in instant alignment.

With Consuelo Porras at the Public Ministry, the government targeted lawyers and judges who were involved in the state's own fight against corruption, in some cases arresting them outright.

In July, 2021, Consuelo Porras fired Sandoval for insubordination, forcing him to flee to El Salvador in the middle of the night to avoid arrest. Key personnel at the Special Prosecutor's Office Against Impunity (FECI), where Sandoval and Herrera worked, were replaced or transferred.

A few days after Herrera's colleague approached him in the bathroom, Aifán, the judge on the comisiones paralelas case, was served with a fresh set of impeachment charges; the Public Ministry was also trying to revoke her judicial immunity, which is typically a prelude to being arrested.

In early February, Herrera quit his post and began to make plans to leave for the U.S. with his wife and their daughter. On the night of February 5th, a Saturday, he received a phone call on Signal from a friend with knowledge of the inner workings of the ministry. "We're seeing information that they're going to come after you," his friend said. "On Monday morning, you must leave with your family."

The next day, they visited doctors and squared away their paperwork. Herrera drove to his parents' house to explain the situation. "I'd rather have a son who's alive and in exile than one who dies in jail," his mother told him. There was only one problem. That afternoon, his wife tested positive for COVID; she wouldn't be allowed on a plane. They agreed that Herrera would go first, and that his wife and daughter would follow a week later. Nine days after he left, and a day before his family arrived in Washington, D.C., the government published its official order calling for his arrest.

On a rainy Thursday afternoon last month, I met Herrera at a row house in Washington, where Sandoval, his former boss, had arranged a meeting of colleagues living in the area.

Since 2018, twenty-two Guatemalan judges and anti-corruption prosecutors have gone into exile. Many of them are living in Mexico, El Salvador, and Spain, but the largest share is concentrated in and around D.C.

Sandoval, short and bespectacled, with a wry sense of humor, is forty and the group's social center. There's a WhatsApp chat thread, and its members often gather at the house of Vicki Gass, an American who used to work at the Washington Office on Latin America. She had set out cookies and coffee on the dining-room table when I arrived, just after lunchtime, and in a small living room some chairs were arranged in a circle.

The fate of Guatemala's justice system has long been tied to Washington. In 2007, at the behest of Guatemalan human-rights advocates, the United Nations established the [International Commission Against Impunity in Guatemala](#) (CICIG), an independent anti-corruption body, to investigate criminal groups that had come to dominate the country after three decades of civil war.

Its mandate, according to "El Experimento," a podcast about the history of the CICIG, was "to collaborate with national institutions," such as the police, the Public Ministry, and the existing court system. But, because many of these offices were controlled by organized crime, top lawyers working with the CICIG created new institutions.

One was the special prosecutor's office known as the FECI, which Sandoval would head; another was a set of courts, such as the one where Aifán later presided, that handled complex investigations.

By 2015, the legal fight against corruption in Guatemala was reaching its high-water mark. That April, the country's then attorney general, Thelma Aldana, together with the CICIG, announced a criminal investigation into the President and Vice-President, accusing them of running a huge smuggling operation through the customs offices. The Vice-President resigned the following month; at one of

her legal hearings, prosecutors played a wiretapped phone call that directly implicated the President in the bribery-and-kickback scheme. Thousands took to the streets to call for his ouster, and he was [eventually arrested](#).

Later that year, a political outsider named Jimmy Morales, a former comedian with no prior public-service experience, won the Presidential election by campaigning on the slogan “Neither corrupt nor a thief.”

The U.S. publicly supported the work of the CICIG, which lent the organization a certain amount of protection. At the time, the Obama Administration was investing some seven hundred and fifty million dollars in the region, under a program called Alliance for Prosperity, to address, among other things, an increase in asylum seekers arriving at the U.S. southern border. People emigrated for all sorts of reasons—violence, poverty, persecution—but one of the common threads was government mismanagement and a climate of corruption so pervasive and stultifying that people felt they couldn’t stay.

The CICIG was confronting what those in Washington called “root causes” of emigration. “The CICIG was a barrier of protection that was very important,” one Guatemalan judge told me. “It had the support and credibility of the international community. They couldn’t be investigated. They couldn’t be charged with crimes. And that gave them a crucial guarantee. They helped insure the rule of law.”

That consensus lasted until 2018, when the CICIG opened an investigation into members of Morales’s own family. He responded by shuttering the CICIG and expelling its chairman from the country. With Donald Trump in office, and the State Department in disarray, the political calculus in Washington had changed. Morales faced no resistance; he had earlier earned praise from the Trump Administration on another issue: two days after the White House moved the U.S. embassy in Israel from Tel Aviv to Jerusalem, Morales had followed suit. Now, after more than a decade in existence, the CICIG was gone.

Those in attendance on Thursday provided dramatic testimony of the country’s travails ever since. In addition to Herrera and Sandoval, there was another ex-prosecutor from the FECI named Andrei González, who fled in 2019. He’d been investigating an illegal campaign-financing scheme involving the former First Lady of Guatemala.

Next to him sat Aldana, the former attorney general, who'd been a leading candidate for the Presidency, in 2019, before her own work with the CICIG led to an opposition campaign that forced her to quit the race and leave the country. As the attorney general who preceded Consuelo Porras in the post, she'd been in charge of the Public Ministry while Herrera, Sandoval, and González worked at the FECl. During the meeting, they still referred to her as jefa.

In the opposite corner of the room was the newest addition to the group: Erika Aifán. The prosecutors in attendance used to bring their cases to her court, and they treated her with obvious deference. Everyone seemed particularly pained that she was now among them—in Washington rather than Guatemala City. As a judge on Guatemala's so-called high-risk court, which hears the country's most significant criminal and corruption cases, Aifán faced threats for most of her career.

"Court personnel have leaked case information," she told me. "I've been followed by unmarked cars. I've been filmed and recorded, and the videos have been posted on social media." A lawyer she'd never met routinely filed lawsuits against her on behalf of unnamed clients; death threats were commonplace. She travelled with bodyguards. "The Guatemalan state has never seriously investigated any of this," she said.

Known for her implacability, she did not scare easily and had taken a single week of vacation in the previous five years. "As long as she was still there, we knew our cases were being taken care of," Sandoval said. "But now the light is no longer on."

The main challenge for anyone trying to understand the morass of corruption in Guatemala is the degree to which all of these cases are tangled together. "The original sin is illegal financing," González said.

In his view, the place to start was a case known as the *multicausa*, or the multi-indictment. Case-file No. 359—its more official designation—was under Aifán's jurisdiction.

It concerns a criminal network that spans all three branches of the government and goes back to 2017. Investigations revealed a scheme to put sympathetic judges on the federal bench (this was the case that Herrera had once worked on); illegal enrichment operations in Guatemala's Congress; and a rug stuffed with cash [found](#) in a house in the old colonial city of Antigua Guatemala, which implicated President Giammattei. (He denies wrongdoing.)

In 2020, while still at the FECCI, Sandoval discovered evidence of sixteen million dollars in kickbacks paid by construction companies to authorities at the government's Ministry of Communications, Infrastructure, and Housing. At the time, since the money was in cash, Sandoval couldn't figure out who else in the government was implicated.

But, on May 18, 2021, at a closed hearing before Aifán, a former confidante of Giammattei, known only as Witness A, accused the President of negotiating bribes from some of the same construction companies to finance his 2019 campaign. (The news outlet El Faro first [reported](#) the story of the testimony earlier this year.)

For months, the record of the testimony remained locked in a safe in Aifán's court. According to her, the government pressured her to reveal the identity of the witness, but she refused. "They asked me for the envelope with the witness's identity," she told me. "I have information that was part of the work they were doing to eliminate witnesses and victims."

In mid-January, 2022, Consuelo Porras, at the Public Ministry, moved directly against Aifán, filing two requests to strip her of judicial immunity from prosecution.

A week later, a murky private organization, called the Foundation Against Terrorism, filed a third.

The allegations were that Aifán had abused her authority by hearing cases brought by the FECCI. By then, Sandoval's replacement, who was handpicked by Consuelo Porras, had already sent out a memo to his entire staff instructing them to share any information they had "relating to the delivery of cash money" to President Giammattei.

The breaking point for Aifán came after two hearings at an appellate court in early March. At one of them, she later said, the presiding judge attempted to rewrite the court record to exclude key aspects of her testimony. Her requests that the hearings be public were denied.

In an interview given after she left the country, she [told](#) the reporter José Luis Sanz that the judge “had already made a decision against me before the hearings.” Eventually, her case was supposed to come before the thirteen judges on the Supreme Court, who would vote on whether or not she should be stripped of her immunity. Seven of them were defendants in a corruption case that Aifán was currently adjudicating.

On March 8th, International Women’s Day, Aifán prepared her resignation but wasn’t yet ready to make it public. The attacks and abuse against her, she told me, centered on her identity as a judge and as a woman. Internet trolls associated with the far right were now openly advocating physical attacks against her, and, with her legal defense stymied at the Supreme Court, it was only a matter of time before the Public Ministry could issue a warrant for her arrest.

She put in a formal request for a brief vacation, an opportunity to temporarily leave the country and make a plan, and left Guatemala on March 10th, with a single suitcase. Soon after leaving, she realized she couldn’t return. On March 21st, while in Washington, she announced her resignation in a short video posted on her Twitter account. “This is something I never wanted to do,” she later told the Washington Post. The camera angle is awkward, and she looks down at her computer as she speaks; a red ceiling fan hangs motionless behind her. She was resigning, she said, “because I can’t rely on sufficient guarantees for my own personal and physical protection nor for the possibility of defending myself with due process.”

Her cases are either compromised or in limbo, including the one involving the President. Now that Aifán has left the country, it seems likely that the government has discovered the identity of Witness A.

“I’ve asked myself, ‘Why didn’t they just kill us?’” she told me, in reference to her cohort in Washington. “They’ve followed us. They’ve demonstrated that we’re

vulnerable. They've recorded us. But they need us alive precisely to discredit us. They're turning us into criminals. They need to change the public opinion. Exile is a form of death, it's just a kind of civil death. It's a way to disappear us from the national context."

For the last year, the Biden Administration has been vocal in supporting the growing group of judges and prosecutors under threat, but the attacks have continued. In March, 2021, Aifán won an award given by the State Department. Two months later, before her first foreign trip as Vice-President, Kamala Harris held a meeting in Washington with Aldana; Claudia Escobar, a judge living in the U.S. since 2015; another former attorney general in exile named Claudia Paz y Paz; and Gloria Porras, a judge whom the ruling party in congress had refused to seat on the Constitutional Court in 2021, despite her legitimate election.

"At this table are attorneys who have prosecuted drug traffickers and organized crime," Harris said. "At this table are judges who have advocated for an independent judiciary and the rule of law—leaders who have taken on corruption, who have taken on violence."

She added that "injustice is a root cause of migration" and "corruption is preventing people from getting basic services." Afterward, Aldana tweeted, "There is hope for Guatemala." In July, however, just weeks after Harris met with the President of Guatemala, Sandoval was fired.

This past September, the State Department formally sanctioned Consuelo Porras, who, according to the official statement by the Secretary of State, Antony Blinken, had "obstructed investigations into acts of corruption by interfering with criminal investigations." He cited her "pattern of obstruction," including the firing of Sandoval and others.

This was a significant move, but its impact was muted, a senior Administration official told me, because certain politicians, businessmen, and members of organized crime "feel they can outlast this Administration, and wait for another one, like Trump's, that is willing to tolerate corruption."

During the Trump years, key members of the Guatemalan political sector and business community lobbied Republicans aggressively. "They convinced a number

of Republican legislators that transparency equalled leftism, and that the anti-corruption efforts were a vehicle for the left wing in Guatemala,” the official said.

There are members of the private sector who could stand to benefit, reputationally and financially, from a more transparent and functional legal system. But they’ve been muzzled. “When people like the judges and prosecutors are arrested for doing their jobs, that’s a message to everyone,” the official told me. “Guatemala is a violent country. War is not such a distant memory.”

In February, Consuelo Porras entered the race for another term as the country’s attorney general. It’s a crowded field, with fifteen candidates and at least one other notable ally of the President’s. The biggest issue Consuelo Porras faced wasn’t the array of sanctions imposed by the U.S. or the damage to her reputation from the long list of internationally respected lawyers and jurists whom she forced into exile. (Giammattei had already [defended](#) her on that front.)

Rather, it concerned accusations that she’d plagiarized parts of her doctoral thesis. Consuelo Porras responded by sending a letter to the government committee tasked with recommending six finalists to the President. If they investigated the plagiarism allegation, she [said](#), they could face “administrative and penal sanctions.”

On April 19th, when the committee finished its evaluations, Consuelo Porras had the highest score of all fifteen candidates. But, to advance, she still needed the support of two-thirds of the committee. The next day, committee members chose five of the six candidates. They were still deadlocked on Consuelo Porras. At midnight, they took a break and announced that voting would resume the next morning.

Sandoval was following along from Washington. The attorney-general job had always been a professional goal of his; until his firing, it appeared to be an attainable one, given his reputation and professional pedigree. After nearly two decades in the Public Ministry, this would have been the first year under Guatemalan law that he was eligible to run.

Instead, he was taking English classes every afternoon, contributing op-eds from afar, and giving phone interviews about the manifold irregularities in the current nominating process.

“It’s clear that there’s an influential and powerful group of people in Guatemala who want to make sure that Consuelo Porras is reelected as attorney general,” he told me.

From the start, her candidacy has been marked by an elaborate campaign of pressure and intimidation. The Foundation Against Terrorism had lodged legal complaints against certain members of the nominating committee, and the Public Ministry opened formal investigations.

On Thursday, April 21st, the committee held eight more rounds of votes, and Consuelo Porras still didn’t make the cut. During the voting, however, a group of private lawyers filed an appeal directly to the country’s Constitutional Court to force the committee to nominate Consuelo Porras. Legal experts argued that the Constitutional Court didn’t have the jurisdiction to do this, but the judges granted the petition anyway.

The full machinery of the state was being unleashed, which suggested that people in high places had much to lose if Consuelo Porras was no longer at the helm. “There’s a commitment from them,” Sandoval told me. “And also a commitment from her to further block the justice system. There’s no other way to explain it.”

On Saturday, under a court order, Consuelo Porras was named as a finalist. The President is expected to announce his decision in the next few days.

[Jonathan Blitzer](#) is a staff writer at The New Yorker.

Testimonio: Canadian Mining in the Aftermath of Genocides in Guatemala

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