



PERSECUTION OF INDIGENOUS LEADERS LUIS PACHECO AND HÉCTOR CHACLÁN

The arbitrary detention and criminalization of former leaders of the 48 Cantons of Totonicapán, Luis Pacheco and Héctor Chaclán, represents a violation of the rights of the Indigenous Peoples of Guatemala. Article 66 of the Constitution of the Republic establishes that the State recognizes, respects, and promotes the ways of life, customs, traditions, and forms of social organization of Indigenous Peoples. Article 45 recognizes the people's right to resist for the protection and defence of the rights and guarantees protected in the Constitution, and Article 33 recognizes the rights to peaceful assembly and public demonstration, which are not subject to restriction.

In addition, international treaties and human rights standards are being violated. The Universal Declaration of Human Rights (Article 20), the International Covenant on Civil and Political Rights (Article 21), the American Convention on Human Rights (Article 15), among other international instruments recognize the rights to assembly and demonstration.

The National Civil Police arrested Luis Pacheco and Héctor Chaclán on April 23, 2025, in Guatemala City as retaliation for their participation in the 2023 peaceful demonstrations in defence of democracy. The case is being handled by the Prosecutor's Office Against Organized Crime within the Public Prosecutor's office. On April 25, the duty judge, Carol Patricia Flores, ordered the defendants be prosecuted on charges of terrorism

and obstruction of criminal proceedings. Later, the Fourth Court of Appeals added the charge of unlawful association at the request of the Public Prosecutor's Office.

The two Indigenous leaders are being held in the Mariscal Zavala prison, and the judge set a two-month deadline for the prosecution to carry out the investigation, which expired on June 24. The case was declared confidential, preventing access to further details about the facts and evidence. The confidentiality of cases has become a pattern observed in other instances of criminalization against former justice officials, human rights defenders, and journalists, which prevents the accused, their lawyers, and the public from knowing more about the case.

For now, it is unknown when the intermediate stage hearing will take place because the judge in charge of the case recused herself, and a new judge has not yet been appointed. In the meantime, the two Indigenous leaders remain in prison.

Who are Luis Pacheco and Héctor Chaclán?

Luis Pacheco and Héctor Chaclán were part of the Board of Directors of the 48 Cantons of Totonicapán in 2023, with Luis serving as president and Héctor as treasurer. The 48 Cantons

is an ancestral Indigenous institution of the Maya K'iche' People of Totonicapán that functions as a local government body to preserve the principles, values, and customs of the communities. The Board of Directors of the 48 Cantons is elected each year in a general assembly of the mayors from all the communities, and those appointed to the Board serve as a way to fulfil the communal will.

In October 2023, the 48 Cantons of Totonicapán, together with Indigenous Authorities from other

regions of the country, held demonstrations against the actions of the Public Prosecutor's Office, which sought to annul the results of that year's general elections, in which President Bernardo Arévalo and Vice President Karin Herrera were elected. The protests spread throughout the country due to the risk that the election results would be annulled and Arévalo and Herrera would not be allowed to take office. Thousands of Guatemalans spontaneously joined the peaceful demonstrations, and there were dozens of statements from various social sectors and the international community supporting the defence of democracy.



Indigenous authorities leading a peaceful demonstration in 2023 in defense of democracy.

The electoral observation missions of the European Union (EU) and the Organization of American States (OAS), as well as by national observation missions recognized the 2023 elections. In addition, the Supreme Electoral Tribunal publicly and transparently presented the election results, making it inconceivable that the Public Prosecutor's Office would seek to annul them.

National and International Reactions

The arrest of the former leaders of the 48 Cantons of Totonicapán has sparked widespread indignation

both nationally and internationally. The United Nations High Commissioner for Human Rights, Volker Türk, stated that the “misuse of criminal law in Guatemala to detain Indigenous leaders” is concerning, and emphasized that “participating in peaceful demonstrations is a human right that should not be sanctioned.”¹

The Inter-American Commission on Human Rights (IACHR), for its part, stated that the detention of the former indigenous leaders fits the patterns of instrumentalization of criminal law for political purposes, which are widely documented in its reports. It pointed out that these patterns include the use of ambiguous and disproportionate criminal charges, the withholding of cases, the premature disclosure of investigations through accounts

¹See the 2024 OHCHR report on the human rights situation in Guatemala: <https://t.co/y9vCYpoDRo>.

associated with online disinformation network² and the abuse of preventive detention. Furthermore, they reveal the complete lack of independence of the Public Prosecutor's Office³. The IACHR recalled that, in accordance with international human rights obligations, all State institutions are obliged to respect the rights of Indigenous Peoples, which include the right to protest and peaceful assembly without fear of criminalization or any other type of retaliation. In this regard, the abusive use of criminal law against indigenous leaders produces a collective intimidating effect and undermines their right to self-determination⁴.

On April 29, President Bernardo Arévalo, together with Indigenous Authorities, held a press conference in which they rejected the arbitrary detention of Luis Pacheco and Héctor Chacón. That same day, the Presidential Commission against Racism (CODISRA) filed an injunction against the Public Prosecutor's Office for violating the traditional forms of organization of Indigenous communities by criminalizing two former Indigenous authorities who acted on assembly-based decisions, and for the risk of criminalization of other Indigenous authorities.

National and international human rights organizations have also condemned the events. In a recent statement, Amnesty International and other international organizations denounced the abusive use of terrorism and illicit association charges to criminalize social protest. They also stated that the filing of these charges threatens the legitimate exercise of the rights to freedom of association and peaceful assembly⁵.

Retaliation against Indigenous Peoples

In this case, the forms of organization of Indigenous Peoples and their rights to resistance and protest are being violated. In 2023, the Indigenous Authorities undertook a historic commitment that resonated across all regions of the country, in both rural and urban areas, and among various social sectors; it was the expression of a collective social consciousness united in demanding respect for the popular will. It is unacceptable that the criminal justice system is now being weaponized as a form of retaliation against Indigenous leaders who fulfilled a mandate delegated by their communities to defend democracy.

Demonstrations are part of democratic practice; they are a legitimate means for the population to express their grievances, demands, or criticisms of the State. They have been a fundamental tool for achieving important changes throughout history. The right to protest is not subject to prior authorization, not even under the pretext of providing public security to those participating in a demonstration. Furthermore, the State has the obligation to guarantee the right to peaceful protest without any form of retaliation.

The Inter-American Court of Human Rights (I/A Court H.R.) has condemned criminal prosecution for participating in a demonstration in defence of democracy, as occurred in the *López Lone et al. v. Honduras* case, when a group of judges were subjected to disciplinary proceedings and dismissed for participating in a protest against the 2009 coup d'état in Honduras⁶.

²In Guatemala these groups are known as netcenters.

³CIDH. Comunicado de prensa 080/25. 26 de abril de 2025. CIDH rechaza la persecución penal contra líderes indígenas que defendieron la democracia. https://www.oas.org/pt/CIDH/jsForm/?File=/es/cidh/prensa/comunicados/2025/080.asp&utm_content=country-gtm&utm_term=class-mon

⁴Loc. Cit.

⁵Amnesty International. Press Release AMR 34/0092/2025. July 6, 2025. Guatemala: International organizations denounce human rights violations against imprisoned former Indigenous authorities. <https://www.amnesty.org/en/documents/amr34/0092/2025/en/>.

⁶Inter-American Court of Human Rights. *López Lone et al. v. Honduras*. Judgment of October 5, 2015. (Preliminary objections, merits, reparations, and costs).



Statement by the UN Rapporteur on Guatemala following her visit to the country on May 23, 2025.

Political Persecution

From the perspective of international human rights standards, the persecution of Pacheco and Chaclán for carrying out the decision of Indigenous Peoples to peacefully protest in defence of democracy in 2023 constitutes a form of political persecution. The IACHR and the United Nations Special Rapporteur on the Independence of Judges and Lawyers have noted that in Guatemala, criminal law is being instrumentalized to persecute a sector of the population for political purposes, which has profound impacts on democracy, the rule of law, and human rights.

On the other hand, the use of charges such as terrorism and illicit association against those who participated in peaceful demonstrations constitutes a violation of Article 9 of the American Convention⁷. According to the Inter-American Court of Human Rights, applying punitive automatism against activists, with harsh penalties, without demonstrating concrete terrorist conduct, violates the principle of criminal legality⁸.

The IACHR, for its part, has condemned the use of ambiguous criminal charges, the withholding of cases, and the abuse of pretrial detention in cases of criminalization in Guatemala. It is concerning that in this case Judge Carol Patricia Flores, acting

as the judge on duty, replaced the judge in charge of the case, who was the one that issued the arrest warrants and has jurisdictional control over the file. This violated the guarantee of a natural judge (Article 8.1 of the American Convention).

Furthermore, it is arbitrary to keep the case confidential. Article 314 of the Criminal Procedure Code establishes that the Public Prosecutor's Office may order total or partial confidentiality of a case for a period of 10 days, extendable, to carry out a specific procedure, in order to guarantee the outcome of the investigations or to protect the identity of the victim or a witness. However, this is not being followed in the present case, and there are no reasonable grounds to keep the case confidential.

Finally, this case can be characterized as the crime of persecution, which was recently highlighted by the Special Rapporteur on the Independence of Judges and Lawyers, Margaret Satterthwaite, during her visit to Guatemala. After analysing the patterns in the cases of criminalization in Guatemala, the Rapporteur concluded that "the coordinated and systematic deployment of specific tactics turns prosecution into persecution⁹."

It is important to recall that the crime of persecution is contemplated in Article 7(h) of the Rome Statute of the International Criminal Court, and refers to the "persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3, or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court." Furthermore, Article 7(e) refers to the "imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law."

⁷IACHR. Criminalization in the Americas. 2015.

⁸Inter-American Court of Human Rights. Case of Norin Catriman and others vs. Chile. Judgment of May 29, 2014 (Preliminary objections, merits, and reparations).

⁹Special Rapporteur on the Independence of Judges and Lawyers. Visit to Guatemala, 12 to 23 May 2025 – Preliminary Observations