

Congress of the United States
Washington, DC 20515

November 30, 2021

The Honorable Antony J. Blinken
Secretary of State
U.S. Department of State
2201 C. St., NW
Washington, DC 20520

Dear Secretary of State Blinken:

We are writing to request that you publicly condemn the State of Exception declared in the municipality of El Estor as well as related state violence in the region and urge the government of Guatemala to immediately revoke the State of Exception. We have seen concerning reports that U.S.-donated J8 Jeeps that were meant for counter-narcotics purposes may have been used to carry out the repression.¹ We are deeply concerned that U.S. aid may be directly or indirectly supporting human rights violations and the obstruction of democratic processes by the Guatemalan government including public ministry, police, intelligence and military personnel targeting indigenous Maya Q'eqchi' communities and in particular journalists and human rights defenders, including plaintiffs in a case against the mine's previous owner.

In July 2019, the Constitutional Court ordered the Swiss and Russian Fenix Mine to be suspended, which had been operating illegally since 2004 and had failed to consult with indigenous communities as required by International Labor Organization Convention 169. In a June 2020 ruling, the court reaffirmed the illegality of the mine and once again ordered the immediate suspension of the mine until indigenous communities in the affected areas were consulted, and an environmental impact study was conducted. Local indigenous communities and organizations have denounced the mine and assert it has caused significant damage to local waterways and aquatic life. Many in the community depend on the lake for their livelihood. The continued militarization of the region and the extraction of natural resources from local communities has caused significant forced displacement, one of the factors driving migration to the U.S.

Opponents of the mine have been targeted for years, and the community is traumatized. Under the mine's previous owners, opponents of the mine have testified that they suffered gang rape, arson attacks, and the wounding and assassination of indigenous leaders. There is extensive documentation of police, intelligence, and military personnel supported by helicopters and naval vessels using violence and acts of intimidation to support the continued illegal operation of the mine.²

¹ <https://www.hrw.org/news/2018/08/31/guatemala-president-sabotages-fight-justice>

² <https://grijalva.house.gov/wp-content/uploads/2021/11/CDH-Mision-de-Observacion-y-Verificacion-en-El-Est-or-Oct-31-20211.pdf>

For the past several weeks, thousands of heavily armed Guatemalan police, intelligence and military personnel have been violently attacking peaceful demonstrators and community members to remove them from the land and escorting mining equipment to the Fenix mine in El Estor. The Guatemalan constitution allows the government to declare “emergency states” and suspend individual constitutional rights during extreme circumstances. The highest level of State of Exception is a declaration of war, followed by state of siege, and state of prevention. Violence against peaceful demonstrators escalated dramatically on October 23, 2021, and on October 24, President Alejandro Giammattei declared a State of Exception for 30 days in El Estor. The State of Exception was extended for 15 days on November 22, 2021, without justification. As you are aware, the State of Exception gives the military special powers to enforce a strict curfew, conduct arrests and house raids without warrant and suspend basic constitutional guarantees.

It is disturbing that since the start of the State of Exception the Guatemalan government has conducted house raids of community organizers and plaintiffs in these ongoing court cases. Equally concerning is the alleged use of sexual harassment as a tactic of intimidation. The United States must make immediately clear that U.S. aid cannot play any role in supporting house raids or other acts of intimidation against plaintiffs in these cases or members of the community. According to witnesses, Department of Criminal Investigation, National Civilian Police, Public Ministry, Army, Army Military Police, Special Police Forces, and Anti-Narcotics Division personnel have participated in these raids. On November 17, there were reports and disturbing videos of the police burning the homes of community members and allegedly displacing 96 families.

Regrettably, human rights and relief organizations have had to suspend much of their operations in this region due to the extreme restrictions of the State of Exception. They report that indigenous leaders and journalists have been targeted for house raids and arrests. Journalists covering the repression have been told by police and soldiers to stop filming and in some instances have had their equipment stolen by police and soldiers.³

For those reasons, we urge the Department of State to take the following actions:

- Publicly affirm that the U.S. respects the rule of law in Guatemala and that the Constitutional Court’s ruling suspending the Fenix mine until indigenous communities are consulted regarding its operation must be followed.
- Reiterate to the Guatemalan government that U.S. donated equipment and U.S.-funded or trained personnel must never be used to repress nonviolent demonstrators, community members, or support the extraction of natural resources from indigenous land without local consent, including to execute the State of Exception. Congress has already stressed this after donated jeeps were used to intimidate CICIG and the U.S. Embassy in 2018 and were assured the U.S. equipment would not be misused.
- Request the Government of Guatemala provide detailed whereabouts of U.S. donated equipment, including jeeps and other vehicles donated for the use of counter-narcotics operations, portable fingerprint scanners and biometrics data sharing that may be used to identify indigenous leaders, support for Pegasus and other software used to identify activists and political opposition leaders, or any other direct or indirect support. This

³ <http://www.oas.org/en/iachr/expression/showarticle.asp?IID=1&artID=1216>

information should include the chain of command that allowed U.S. assistance to be used to undermine democratic processes and any other uses that are against the intent and interests of the United States, as well as an acknowledgement of any false statements or misleading facts provided to the United States by Guatemalan officials about this event.

- Provide specific, detailed information regarding any U.S. coordination with the Guatemalan police, military intelligence units, public ministry, and any other government divisions involved in the State of Exception.
- Evaluate any U.S. funding streams or support through International Financial Institutions for the Fenix mine or related projects in the region that support the mine.
- Evaluate U.S. support and training for the Guatemalan police and military in accordance with human rights conditions placed in the 2021 State and Foreign Operations Appropriations law. We also urge you to fully enforce the Leahy Law, which prohibits assistance to individuals or units of any foreign military or police body that commit gross human rights abuses with impunity. The State Department, including our embassy in Guatemala and the Department of Defense, must take a consistent and public stance supporting those threatened with human rights abuses, and strongly encourage the investigation and prosecution of those perpetuating crimes.
- We also ask that you immediately block assistance to state agents involved in the State of Exception and related repression in El Estor.

The devolving situation in El Estor is deeply concerning and emblematic of the government's disregard for the rule of law. The U.S. must use all diplomatic channels available to help ease tensions, prevent U.S. aid from being used in ways that are counter to our policy objectives, including the undermining of democracy and the violation of human rights. We must additionally ensure the immediate termination of the State of Exception, which has had a disproportionate impact on indigenous Maya Q'eqchi' communities in particular journalists and human rights defenders, including plaintiffs in a case against the mine's previous owner.

Sincerely,

Raúl M. Grijalva
Member of Congress

Jesús G. "Chuy" García
Member of Congress

Norma J. Torres
Member of Congress

Alan Lowenthal
Member of Congress

Juan Vargas
Member of Congress

Ilhan Omar
Member of Congress



Alexandria Ocasio-Cortez
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Rashida Tlaib
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Joaquin Castro
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