

**STUDY ON WOMEN'S ACCESS TO JUSTICE IN CASES OF VIOLENCE AND
DISCRIMINATION IN THE AMERICAS AND THE CARIBBEAN**

**Submission on "Access to Reparation for Conflict-Related
Sexual Violence Survivors in Guatemala"**

Global Survivors Fund

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1. Provide a detailed description of the current legal, institutional, and public policy framework for preventing, sanctioning, and eradicating gender-based violence and discrimination against women.

If possible, please include in your response the main advances, challenges, and best practices regarding: i) the implementation of the described legal, institutional, and public policy framework; ii) addressing legislative gaps in the areas of prevention and protection against violence; and iii) the elimination of discriminatory laws against women.

1.1. Introduction

This submission addresses conflict-related sexual violence (hereinafter CRSV), as a form of gender-based violence (GBV) perpetrated in the context of the internal armed conflict in Guatemala. More specifically, the document focuses on the access of CRSV survivors to their right to reparation, a sine qua non for achieving justice. Question 1 touches upon administrative reparation, while questions 2 and 3 will cover judicial reparation. The content draws primarily from the Study on Opportunities for Reparations for CRSV victims in Guatemala, "*Nos quitaron todo menos la dignidad*" (SP) (attached), that the Global Survivors Fund (hereinafter GSF) published in collaboration with its partners: Centro para la Accion Legal en Derechos Humanos (CALDH), Equipo de Estudios Comunitarios y de Accion Psicosocial (ECAP), Coordinadora Nacional de Viudas de Guatemala (CONAVIGUA), and UN Women in Guatemala. The Study consisted of a participatory research process where more than 60 survivors of CRSV participated. The launch of the Study took place in October 2024 in

Guatemala City, with the active and meaningful participation of indigenous survivors from different territories in Guatemala, and the presence of key government representatives.

1.2. Legal and Public Policy Framework for Administrative Reparation

Between 2003 and 2023, Guatemala had a National Reparation Programme (Programa Nacional de Resarcimiento or PNR), which in theory included victims of conflict-related sexual violence. Initially established for a ten-year period, the program was extended for another decade in 2013 through the Governmental Agreement 539-2013. The program's policy included various forms of reparation, including cultural and psychosocial rehabilitation, dignification of victims such as acts of forgiveness and symbolic measures, material restitution, and economic compensation, without nonetheless fully aligning with the forms of reparations enshrined in the United Nations Basic Principles. In 2023, despite the limited scope of implementation of reparations and the strong resistance of survivors against its termination, the mandate of the PNR was not renewed.

Following survivors and civil society demands to fulfil the promise that the PNR was not able to satisfy, the new administration of Presidente Arevalo committed to drafting a new **Policy for the Dignification and Reparation of Victims of the Armed Conflict** – a process that is currently ongoing. Although the government has started a dialogue with organizations and victims' platforms, no significant progress has been officially reported to date. Civil society still awaits the reception of a first draft of the policy to submit inputs and above all ensure survivors meaningful participation to the design, development and implementation of any reparation initiative.

1.3. Institutional Framework for Administrative Reparation

During the existence of the PNR, an institutional framework was established to oversee its implementation. This framework included the Secretariat for Peace (SEPAZ) and the Presidential Commission for the Coordination of the Executive Policy on Human Rights (COPREDEH). However, since 2022, this framework has been gradually dismantled, affecting the program's implementation and the development of effective initiatives. Currently, the Presidential Commission for Peace and Human Rights (COPADEF) is responsible for human rights and reparation issues and oversees the development of the National Plan for Dignification and Reparation. Nevertheless, COPADEF has faced institutional reforms and challenges, including personnel turnover, budget cuts, delaying the advancement of the new policy.

For more information on the administrative reparation and CRSV framework in Guatemala, please refer to Section VIII of the attached study on reparation for CRSV survivors in Guatemala, particularly Sections 8.2 and 8.3.1.

1.4. Challenges for Administrative Reparation

The PNR faced significant challenges, including complex bureaucratic procedures, that made access difficult for survivors. The application process placed an excessive burden on survivors and was marred by insufficient resources, resulting in the implementing of limited economic restitution while neglecting other forms of reparation.

In the Study attached to this submission, survivors have expressed a high degree of dissatisfaction with the program, noting that most of survivors did not have access to any form of reparation. Those who received economic compensation considered the amounts inadequate, and noted that the program failed to include measures of health, dignity or remembrance.

While there is no disaggregated information available by type of violation, the PNR covered only a limited number of CRSV survivors. Although official data is scarce, estimates suggest that less than 20% of all applicants received reparations. The program also lacked survivor participation, despite provisions envisaging the creation of a participatory committee. No such mechanism was created, and survivors were deprived of their right to participate and monitor the implementation of the program.

Furthermore, the program did not adequately address the specific needs of indigenous populations, failing to incorporate gender-sensitive and culturally relevant perspectives.

Additionally, applications were not digitized, and archives containing survivors' information were not properly secured, organized, or preserved, raising concerns about the loss of crucial historical records. There is no clarity on the current location and status of these archives, applications and other supporting documents.

Currently, there is no comprehensive reparation program in Guatemala. While the National Policy for Dignification and Reparation is being developed, there are no guarantees of its approval or scope. Victims are waiting for reparation, while members of the military and paramilitary continue receiving compensation under separate programs, causing a general feeling of frustration among survivors and civil society organizations.

A critical issue that persists in Guatemala is the absence of a sufficiently robust framework established in law, which would ensure the continuity of reparation policies beyond changes in administration. The PNR was enforced via executive decrees without legislative backing, and the new policy under discussion at COPADEH lacks a binding legal foundation. Consequently, transitional justice initiatives risk being discontinued and cannot offer a long-term perspective. This is accentuated by a significant weakening of the peace institutions in charge of implementing such policies, as well as the financial, reputational and institutional fragility of the existing peace agencies, including COPADEH.

An additional challenge arises from insufficient budget allocations from the congress, which hinders the practical implementation of mandated reparations. Political resistance from sectors opposed to reparations further obstructs progress, in a rise of denialist and anti-human rights narratives that contribute to the hostile environment surrounding reparation efforts.

The persistence and continuum of violence in the post-conflict period further complicates reparation processes. Despite the signing of the Peace Accords, violence has continued, deepening social breakdown and perpetuating repressive tactics. The development and establishment of extractive projects have become a new hotspot of conflict, characterized by forced evictions, sexual violence and assassinations of community leaders, such as the case of Lote 8.

For more information on the challenges for administrative reparation in Guatemala, please refer to Section VIII of the attached study on reparation for CRSV survivors in Guatemala, particularly Section 8.4.2.

1.5. Advances, Best Practices and Opportunities for Administrative Reparation

Despite political challenges, a new opportunity for advancing the reparations framework has emerged in the past year in Guatemala. As mentioned, COPADEH is leading the design of a National Plan for Dignity and Reparation, and the administration of President Bernardo Arévalo has expressed a commitment to social justice, signaling potential progress. Efforts are underway to incorporate survivors' participation as well as a gender and ethnic and cultural perspective in the new policy. To this end, COPADEH has instituted two spaces for dialogues with the Victims' Platform, on the one hand, and civil society organizations and technical experts, on the other hand.

1.6. Recommendations for Administrative Reparation

To ensure the sustainability of transitional justice initiatives, it is crucial to establish a comprehensive state policy that provides a stable legal and institutional framework that is legally binding. This would guarantee the continuity of reparation programs despite changes in administration and secure lasting efforts over time. Such a reparation policy should be **co-created** with survivors and civil society organizations, ensuring that it responds to the demands of CRSV victims and survivors. These demands include financial compensation, education and training, physical and emotional health, family reunification, measures to rescue cultural elements, such as traditional costumes, houses of memory and monuments to honor the victims, among others. Co-creation should be understood as a set of processes whereby

survivors, as rights-holders, have an effective influence on decision-making and play an active role in conceptualising, designing, implementing, monitoring, and evaluating reparation and its related measures. All reparation measures should be designed in a participatory manner, and with a gender and culturally and ethnic sensitive perspective, bearing in mind that most victims of CRSV in Guatemala are indigenous women.

Importantly, all the challenges and lessons learnt from the PNR's implementation should be duly integrated into the new National Policy for Dignification and Reparation. In addition, the State should prioritize the creation of a comprehensive victims' registry. Given the lack of digitalization of survivors' applications in the context of the PNR and the deterioration of archives containing survivors' information, there is a significant risk of losing valuable data, which not only compromises the continuity of reparation efforts but also erases critical historical memory of the conflict. To avoid this, it is essential to establish a centralized, digitized, and secure registry that systematically organizes survivors' information, ensuring its preservation and accessibility while safeguarding confidentiality. Such a registry would also facilitate the design and implementation of more effective and targeted reparation measures in the future.

To conclude, it is also essential that the State continues to promote inclusive dialogues that ensure the voices of victims and survivors are heard and establishes robust monitoring mechanisms to track the implementation of reparations, ensuring the participation of women victims and survivors, particularly indigenous, and civil society organizations.

2. Describe the institutional process victims of gender-based violence and/or discrimination must follow to access available judicial remedies for the protection of their rights. Please specify the legal, institutional, geographical, linguistic, cultural, economic, or other challenges they may face in accessing these remedies and/or continuing initiated judicial processes.

Where possible, include information on:

The main advances, challenges, and best practices in i) access to information on judicial remedies and victim support services available to women experiencing violence; ii) access to comprehensive victim support services; and iii) granting and implementation of protective measures in cases of gender-based violence.

The primary factors identified that discourage reporting or continuing a judicial process for incidents of gender-based violence against women.

2.1. Accessing Judicial Remedies

In 2009, following pressure from the international community as serious setbacks against transitional justice processes were unfolding across the country, Guatemala's Supreme Court created "Special Courts" to process the most challenging cases and address the legacies of the conflict. The Courts for High-Risk Crimes (Tribunales de Mayor Riesgo) are mandated to oversee, among others, cases relating to the alleged commission of international crimes – genocide, crimes against humanity and war crimes – committed during the internal armed conflict. The Courts are tasked to conduct investigations against high-level officials, irrespective of whether they enjoy immunity. The Courts for High-Risk Crimes have already issued some of the most groundbreaking and emblematic decisions regarding charges of sexual violence and found guilty high-level officials, including the former President Efraín Ríos Montt.

For the sexual violence cases where the conviction is final, the High-Risk Courts have ordered a series of reparation measures thanks to the 2011 reform introduced to Article 124 of the Code of Criminal Procedure by the Decree 7-2011 recognizing victims' **right to adequate reparation** in criminal proceedings. Pursuant to the modifications of Article 7 of the Decree, Article 124 currently provides that *"The reparation to which the victim is entitled includes the restoration of the right affected by the criminal act, which starts from recognizing the victim as a person with all their circumstances as subject of rights against whom the criminal action fell, up to the alternatives available for their social reincorporation in order to enjoy or make use as soon as possible of the affected right, to the extent that such reparation is humanly possible and, where appropriate, compensation for the damages derived from the commission of the crime;"*. Adequate reparation must include measures of restitution, rehabilitation, compensation, satisfaction, and non-repetition, in line with international standards on reparation.

Victims are recognized as right-holders in all circumstances and can submit reparation claims, acting as civil plaintiffs and can participate in the hearing of adequate reparation, which is held on the third day after the ruling is made. Such a survivor-centred approach marked a significant step forward in enhancing victims' participation in the criminal proceedings affecting their lives and contributed to the definition of transformative reparations. To avoid re-traumatisation, victims can seek reparations within the same criminal process, after the final conviction of the accused, while they can also request precautionary measures to secure that the convicted has sufficient assets to cover the potential amount of the reparation. Finally, the declaration of civil liability will be enforceable when the conviction is final.

In 2016, the definition of victim in the Code of Criminal Procedure was amended to better align with the definition of victim set out in the United Nations Basic Principles and Guidelines on the Right to a Remedy and Reparation. As a result, Article 117 reads as follows *"victims shall*

be understood as individuals who, personally or collectively, have suffered damages including physical or mental injuries, emotional suffering, financial loss or substantial impairment of their fundamental rights, as a consequence of actions or omissions that violate the criminal legislation in force". The Article expands the status of victims to include the spouse, immediate family members or dependents of the direct victim, people living with the victim at the time the crime was committed, and people who suffered damages when intervening to assist the victim.

As of December 2023, convictions have been obtained in 22 cases of human rights violations brought before national courts, and more than 75 individuals have been convicted of serious crimes committed during the internal armed conflict (Impunity Watch 2021). Some of the cases are particularly significant in relation to sexual violence, such as the Sepur Zarco case, the Ixil case, and the case of Mujeres Achí. Thanks to the amendment introduced by the Decree 7-2011, victims and survivors of conflict-related sexual violence who were involved in the Sepur Zarco case, the case of Mujeres Achí, as well as Emma Guadalupe Molina Theissen from the Molina Theissen case, received reparations for the grave human rights violations they suffered.

Besides the avenue of national courts, due to the slowness and corruption of the Guatemalan justice system, victims and survivors have also turned to the Inter-American Court of Human Rights (IACHR) in search of justice. Several cases heard by the Court are key in relation to reparations for conflict-related sexual violence, such as the Plan de Sánchez Massacre case, the Molina Theissen case, the Dos Erres Massacre case, the Río Negro Massacres case and the Aldea Chichupac case, all of which included orders for reparation measures to be implemented by the state. Despite the legally binding effect of the decisions, the Guatemalan state consistently fails to abide by the Court's rulings and fully implement the reparations awarded to victims and survivors.

For more information on the judicial framework in Guatemala, please refer to Section VIII of the attached study on reparation for CRSV victims and survivors in Guatemala, particularly Sections 8.3.2 and 8.3.3.

2.2. Challenges in Accessing Judicial Remedies

Victims of gender-based violence, particularly those who are indigenous or belong to the LGBTQIA+ community, face numerous challenges when seeking judicial remedies. One of the most significant barriers for indigenous women is the inaccessibility of court proceedings due to **linguistic** and **cultural** obstacles. The judicial system remains largely monolingual, which makes it virtually impossible for non-Spanish-speaking victims and survivors to actively participate in criminal proceedings. Additionally, logistical difficulties, such as the long travel times required to reach judicial institutions, high transportation costs, lack of road safety, and

security concerns, further impede access to justice. The justice-seeking process is hindered by the judicial system's slow and bureaucratic nature, making it exceptionally challenging for victims, particularly indigenous women, to navigate. The lack of accessible legal assistance and representation exacerbates this problem, leaving many survivors without adequate support to pursue justice. Victims and survivors cannot afford the expenses associated with the trials and pay for legal counsel. In addition, civil liability is contingent on criminal conviction rendering the judicial proceedings extremely lengthy and complicated for victims and survivors to navigate. Consequently, the only few cases that advance in Guatemalan criminal justice are those in which the victims participate as adhesive plaintiffs and have the support of a human rights organization.

Social stigma also remains a pervasive barrier, as victims and survivors of sexual violence often face heightened rejection and discrimination within their communities when they attempt to share their experiences and seek justice. This is particularly evident in the case of LGBTQIA+ individuals, who are more vulnerable to social exclusion and discrimination during judicial processes. Additionally, the difficulty in documenting and compiling testimonies of sexual violence experienced by LGBTQIA+ individuals presents a critical obstacle. Breaking the silence and collecting evidence of the violence endured during the conflict remains a complex task, compounded by the absence of specialized protection protocols and security measures tailored to the needs of LGBTQIA+ victims and survivors.

Moreover, victims and survivors may face insecurity and the potential for violence within their own communities or even from family members, creating a context of fear and re-victimization. Another challenge involves the risk of economic exploitation, where relatives or community members might take advantage of reparations granted to victims and survivors in judicial settings. This risk undermines the purpose of reparative measures and places survivors in further precarious situations.

For more information on the challenges related to the implementation of reparations ordered in judicial settings, please refer to Question 3 below.

2.3. Progress in Accessing Judicial Remedies

There have been significant advances in improving CRSV victims and survivors' access to judicial remedies, with holistic litigation strategies increasingly being adopted by civil society organizations, such as CALDH, Bufete Juridico, Impunity Watch, Asociacion Justicia y Reconciliacion and others. These holistic approaches, that follow a coordination effort by different NGOs, integrate sensitization, community engagement and psychosocial support before bringing cases to court and legal proceedings. Civil society organizations have

demonstrated a strong commitment to supporting victims' groups by facilitating their understanding of judicial processes, providing psychosocial accompaniment, and covering logistical needs such as transportation. These efforts are a necessary pre-condition for the effective participation of indigenous women and allow for an ongoing process of support while the judicial case is ongoing, and once the sentence has been issued. This comprehensive strategy not only strengthens victims and survivors' access to justice but also fosters a more victim-centered and inclusive process.

However, these essential support and accompaniment services currently depend on the dedication of civil society organizations and individual activists. Yet, these organizations often face challenging financial situations that hinder their work, as they usually operate within a donor-driven environment that prioritizes short-term projects over sustained, long-term support processes. To ensure the continuity and effectiveness of these efforts, it is crucial that such support be systematically provided through institutional frameworks. Guaranteeing that state institutions take responsibility for offering comprehensive and sustained assistance, rather than relying solely on non-governmental efforts, remains a critical area for improvement.

2.4. Recommendations to Enhance Access to Judicial Remedies

The judicial system in Guatemala presents significant monolingual and bureaucratic barriers that effectively exclude indigenous victims from participating in criminal processes. To address this, it is essential to implement measures that ensure language accessibility and simplify bureaucratic procedures, allowing indigenous victims to fully exercise their rights within the justice system.

Specific protection protocols must be developed and implemented for LGBTQIA+ individuals seeking justice and reparation. These protocols should include adequate training for police and judicial officials to ensure they understand the specific needs and rights of LGBTQIA+ persons. Without such measures, these individuals remain vulnerable to discrimination and exclusion when seeking legal remedies.

The Guatemalan state must ensure full compliance with court-ordered reparations, including the construction of health centers and land restitution. These reparations are critical to alleviating the ongoing suffering of victims and reinforcing trust in the justice system. Failure to implement these measures undermines the legitimacy of judicial rulings and prolongs the harm experienced by victims and survivors.

In addition, national authorities should create and implement a monitoring tool to track the progress of reparation measures. This mechanism should provide transparency on the status

of reparation orders, ensuring accountability and facilitating access to information for victims, survivors and stakeholders. Given the ongoing challenges in obtaining updates on reparation implementation, such a tool would address a broader systemic issue and contribute to more effective and timely delivery of reparations.

Victims and survivors, particularly indigenous, must have meaningful participate at all stages of designing, developing, monitoring and implementing reparations. Their involvement is essential to ensure that reparations have a transformative impact. However, survivor participation must adhere to a zero-harm policy, carefully considering processes that may retraumatize them and implementing safeguards to prevent further harm.

Finally, the financial compensation awarded by the court to the survivors of the Sepur Zarco Case (Las Abuelas de Sepur Zarco) must be delivered without delay. The payment of financial compensation should not be made conditional on the financial resources of the convicted perpetrators. The state must take full responsibility for ensuring that victims and survivors receive the reparations to which they are entitled.

3. Provide detailed information on advances, challenges, and best practices in the administration of justice with a gender and intersectional perspective in cases of gender-based violence and/or discrimination against women. This should cover the entire process, from the complaint stage to the execution of the sentence and/or reparations, as applicable.

Please include in your response the main advances, challenges, and best practices observed regarding:

Investigation, prosecution, and sanctioning of gender-based violence against women with a gender and intersectional perspective;

Investigation, prosecution, and sanctioning of women accused of committing crimes;

Granting and implementation of comprehensive **reparation** measures in cases of gender-based violence;

Enforcement of sentences or other decisions concluding criminal proceedings in cases of gender-based violence.

Assessment of facts and evidence, and issuing of rulings, with a gender and intersectional perspective in civil, family, labor, or other non-criminal legal proceedings involving gender-based violence or discrimination against women.

The Study on Opportunities for Reparations for CRSV victims in Guatemala, "*Nos quitaron todo menos la dignidad*", by the Global Survivors Fund, attached to this submission, presents testimonies from survivors that illustrate how important justice is to them, yet how little they

trust that it will be implemented effectively and in a timely manner. As one survivor stated: *"Justice is what we are seeking, that's why we are there [...] So much time has passed—look at us now, we are older women [...] We want justice, and nothing. As we said, we don't know what our lives will be like, whether we will still be here next year, in two years, or not at all. In the end, we will never see that justice... That is what we want, that is why we are fighting."* (p. 42)

3.1. Introduction

The state of Guatemala has been consistently failing to provide an efficient and adequate justice administration system and to take positive measures in addressing the high level of impunity that persists. As the Inter-American Court has recognised, access to justice is interlinked with access to reparations for the thousands of victims of human rights violations committed during the internal armed conflict. Justice cannot, therefore, be served unless victims enjoy their right to reparation for the harm and suffering, they, their families and communities have endured. Notwithstanding the major progress made by the national courts in adjudicating cases of grave crimes committed during the conflict, holding state officials accountable, and ordering reparations for the victims, national authorities fail to uphold their obligations to implement the reparation measures granted to victims. The implementation of reparation measures issued both by the national courts and the Inter-American Court is taking place at an extremely slow pace, while survivors' requests and needs are undermined. The long and unjustified delays and omissions in implementing reparations renders access to justice impossible for survivors. An intersectional approach would additionally demonstrate that victims and survivors of conflict-related sexual violence face additional barriers in accessing justice due to the nature of the crimes and the inherent stigma that comes along with the inflicted harm. At the crossroad of discrimination and exclusion from justice are the indigenous victims and survivors of conflict-related sexual violence, towards whom the state has failed to meet its most fundamental obligations.

3.2. Challenges administering justice: providing reparation in judicial settings

3.2.1. Transversal challenges

Despite some instances where reparations have been ordered in a comprehensive and progressive manner, the implementation of these measures remains notably low. Several key challenges hinder the effective administration of justice and the provision of reparations, including:

- **Lack of legal avenues for enforcement:** There are no established legal mechanisms to ensure the implementation of reparations or to hold State bodies and ministries accountable for failing to carry out ordered measures, both at the national and international levels. This highlights the need for a dedicated mechanism and an institution responsible for monitoring and enforcing reparation orders.
- **Insufficient inter-Ministerial coordination:** Effective implementation of reparations is hindered by the lack of coordination between different government ministries and institutions, resulting in fragmented and inconsistent efforts.
- **Co-optation and corruption within the justice system:** The justice system in Guatemala is compromised by the co-optation of judicial institutions, including biased judges and corruption within the Office of the Attorney General. These systemic issues significantly weaken the capacity to deliver justice and reparations.
- **Risks and threats faced by justice operators:** Judges, lawyers, and other justice officials face severe risks, including threats, persecution, and criminalization, particularly from anti-human rights groups. Many have been unjustly imprisoned or forced into exile, as seen with victims' lawyers, journalists, and even judges accused of overreach.
- **Obstruction through legal mechanisms:** Legal remedies, such as appeals or protection measures filed before the Constitutional Court, are often misused in bad faith to delay or obstruct judicial proceedings. This deliberate instrumentalization of legal mechanisms causes significant delays in enforcing judgments, ultimately impeding effective redress and reparation implementation.
- **Lack of understanding of the right to reparation:** Many justice officials do not adequately comprehend the scope and importance of the right to reparation, leading to inconsistent and fragmented standards when implementing judicial rulings that include reparation measures.

For more information on the challenges for judicial reparation in Guatemala, please refer to Section VIII of the attached study on reparation for CRSV victims and survivors in Guatemala, particularly section 8.4.1.

3.2.2. Case-specific progress / challenges in the implementation of reparation measures ordered in national courts

A. The Sepur Zarco case:

Progress:

One of the most significant advances in providing reparations for conflict-related sexual violence victims and survivors in Guatemala is the landmark judgement in the Sepur Zarco case, issued by the High-Risk Court A in February 2016. The Sepur Zarco case marks the first time where sexual slavery has been prosecuted in a domestic court. The decision was a historic achievement, as it delivered a comprehensive reparation order that incorporated a gender and culturally sensitive approach, respectful of indigenous identities. It set a vital judicial precedent by recognizing the intersectional nature of the harm suffered by indigenous women during the armed conflict. Besides the individual reparations requested by the Court in the form of monetary compensation, the Court ordered a set of 16 collective reparation measures to be provided by the state. The reparations granted encompassed not only financial compensation but also measures aimed at restoring dignity, cultural identity, and community recognition.

The Sepur Zarco conviction carried immense symbolic and reparative value. One of the most striking moments illustrating the effective administration of justice happened when the women victims and survivors, who had previously testified with their faces covered, removed their veils upon hearing the verdict. This symbolic act reflected how the ruling helped shift the shame from the survivors to the perpetrators. After the ruling, the Sepur Zarco grandmothers did not need to hide anymore. The community's response to the decision was similarly transformative; instead of stigmatizing the survivors, the ruling fostered increased recognition and respect for the grandmothers as symbols of resistance and struggle. The conviction was embraced by the communities, and in it, the women also found a tool to return with more strength, whereas before, they were accused of being the ones to blame, the ones who had "brought it upon themselves." The sentence allowed victims and survivors to reclaim their dignity and status within their communities, marking a key turning point in their recognition and sense of justice.

As mentioned before, beyond its judicial victory, the Sepur Zarco case catalyzed a powerful grassroots movement that extended far beyond the courtroom. The litigation process became an opportunity to mobilize diverse civil society organizations, leading to the formation of the **Alliance Breaking the Silence and Impunity (Alianza Rompiendo el Silencio y la Impunidad)**. Different civil society actors intensified their efforts to provide psychosocial support and advocacy in parallel to the court proceedings. This dynamic articulation of grassroots alliances and civil society networks, strengthened by the positive outcome of a

conviction and a reparations order, became a critical force in advancing justice for CRSV victims and survivors. It was a historic moment in Guatemala, which served to strengthen the foundation from which other judicial processes, support initiatives, and political advocacy efforts were launched (and continue to be launched). It reinforced the power and organizational capacity of civil society, which continues to be used to denounce violations. This case demonstrates that the courtroom is only one small part of what judicial processes can achieve when approached through strategic litigation and accompanied by psychosocial support. The case also inspired other judicial processes, motivating the Achí women, who are now also seeking justice in court, following the lessons learned from Sepur Zarco (see below for more information).

While significant challenges remain in the implementation of the reparations order—addressed in the following sections—the decision has nonetheless led to some degree of reparation. At the symbolic level, in commemoration of the eighth anniversary of the historic ruling in the case, the Government declared 26 February a national day for victims of sexual violence, as well as victims of sexual and domestic slavery, and committed to ensuring the implementation of the ruling with the full engagement of victims and survivors.

Additionally, in November 2024, COPADEH organized a public screening of a documentary showcasing the fight of the Sepur Zarco grandmothers, as part of an event dedicated to recognizing their struggle—another measure mandated by the court. These commemoration efforts not only honor the victims and survivors but also reaffirm the State’s commitment to implementing transformative reparations.

For more information on the Sepur Zarco case, please refer to Section V of the attached study on reparation for CRSV victims and survivors in Guatemala.

Challenges:

Out of the 16 collective reparation measures ordered by the High-Risk Court, along with the individual reparation measures involving monetary compensation to be paid by the defendants, no progress has been made in the following areas:

- The land restitution cases have not been reopened;
- The government and notably the Ministry of Health has not taken any measure towards the establishment of health centers with a sufficient stockage of medicines;
- Victims were not paid the compensation ordered as the convicted perpetrators did not have the financial resources;
- No development in the infrastructure of schools in the indigenous communities;
- No bilingual secondary education establishment dedicated to the right to education for girls, adolescents and women;

- No progress on behalf of the Ministry of Culture to uphold their obligations in implementing the cultural reparations ordered by the Court;
- The Ministry of Interior shall coordinate security measures for members of the plaintiffs, victims and family members.

According to the attached Study, the Sepur Zarco grandmothers continue to face profound frustration due to the lack of full implementation of the reparations ordered. This lack of progress not only undermines the transformative potential of the ruling but also negatively impacts the victims and survivors' lives, as highlighted by the women in our Study. Although some community programs, such as scholarships, schools, and mobile clinics, have been established, the survivors feel that these measures do not adequately address their needs or bring direct benefits to them personally. One woman painfully expressed feeling ignored despite their immense struggle and contribution to the community's well-being. This sentiment reflects a deeper issue: while symbolic and collective measures have been partially fulfilled, the women themselves feel left behind and unsupported.

Moreover, the inadequate implementation has created additional challenges for the women within their communities. As promises of reparations remain unfulfilled, families and community members have begun turning to the survivors, asking where the promised benefits are. This has led to social division and, in some cases, retaliation against the women, who are unfairly seen as responsible for the State's failure to deliver on its obligations.

These challenges underscore the urgent need for genuine government commitment to fulfilling the right to reparation and ensuring the full implementation of judicial orders. This need is even more pressing when addressing atrocities committed over 40 years ago, as many survivors are now elderly and facing the end of their lives without the prospect of seeing the reparations they fought so hard to achieve. As one of the abuelas of Sepur Zarco said: *"I would like to see that reparation before death comes, before I stop living in this world. I feel that a moment will come when I die, but there's nothing. For example, I've been very sick lately - I've been falling ill often."* The continued lack of consistent and comprehensive implementation not only denies them justice but also perpetuates the risk of further stigmatization and harm, fundamentally undermining the transformative potential of judicial decisions.

B. The Maya Achi Case (Caso Mujeres Achi)

Progress:

In January 2022, the High-Risk Criminal Sentencing Court "A" sentenced five former paramilitaries to 30 years in prison for committing the crime of rape, as a crime against

humanity, against five Mayan Achi women. Although 36 victims and survivors have filed complaints, the perpetrators in the cases of the remaining 31 women have yet to be prosecuted.

The case is an emblematic example of how sexual violence was weaponized during the armed conflict against indigenous women. The court granted 12 transformative reparation measures requiring the state to provide measures of compensation, rehabilitation, guarantees of non-repetition and satisfaction to the victims and survivors, their families, as well as their communities. The Court went ahead and assigned to specific Ministries the obligations of leading the implementation of the reparation measures in what can be considered an important attempt to directly engage the responsibility of national authorities, as the duty bearers, with regard to taking active measures for the implementation of the decision. The reparation measures were the following:

1. Compensation:
 - a. Financial compensation for the women who were raped by the five civil patrollers on trial;
2. Rehabilitation:
 - a. Opening of health clinics in Xococ, Guachipilín, and Buena Vista, Rabinal, so that victims and survivors can receive urgent medical care when they need it. The Ministry of Public Health is responsible for this measure;
 - b. Development of health plans for the victims and survivors, which should include psychological, psychiatric, and gynecological treatment, exams, and medication. The Ministry of Public Health is responsible for this measure;
3. Satisfaction:
 - a. Development of a training program on human rights, women's rights, and political participation for victims and survivors of sexual violence occurring during the armed conflict and today in Rabinal. The Office for the Defense of Indigenous Women (DEMI) is responsible for this measure;
 - b. Organization of a public event to formally apologize for the sexual violence committed against the victims and survivors in the Maya Achi women's case. The event should take place in Xococ. The Ministry of National Defense is responsible for this measure;
 - c. Development of educational materials in both Maya Achi and Spanish about the victims and survivors' life stories. The Ministry of Education is responsible for this measure;
 - d. Production of a documentary in both Maya Achi and Spanish about the victims and survivors' struggle for truth and justice. The Ministry of Culture and Sports is responsible for this measure;

- e. Development of a mural representing the victims and survivors' struggle for justice. The Ministry of Culture and the Municipal Government of Rabinal are responsible for this measure;
 - f. Publication of the sentence on the Judicial System's website, as well as a summary in Maya Achi. The Judicial System and the Academy for Mayan Languages in Guatemala – Achi Linguistic Community are responsible for this measure;
 - g. Educational scholarships for the victims and survivors' daughters, sons, granddaughters, and grandsons. The Ministry of Education is responsible for this measure.
4. Guarantees of non-repetition:
- a. Incorporation of the teaching of historical memory, as documented by the Historical Clarification Commission (CEH) and the Maya Achi women's case, into the national curriculum (CNB). The Ministry of Education is responsible for this measure;
 - b. Development of a training process for the army and National Civil Police to prevent gender-based violence. The Ministry of National Defense and the Ministry of the Interior are responsible for this measure.

Challenges:

However, up until today, implementation of the reparation decision is awaiting a final conviction. Two months after the court's ruling, the Guatemalan Attorney General's Office, acting as a state's attorney, appealed the ruling claiming that the reparation measures violated the Constitution of the country.

C. Emma Guadalupe Molina Theissen

Progress:

On the 22nd of May 2018, the High-Risk Court C convicted four senior militaries of **crimes** against humanity and aggravated sexual assault against Emma Guadalupe Molina Theissen, who were sentenced to 33 years in prison. In its verdict, the court determined that four of the accused were criminally responsible for crimes against humanity, in the form of illegal detention, torture, and sexual violence, against Emma Molina Theissen, while she was in detention. The court upheld international standards for cases of sexual violence by *not* obligating the victim to repeat her testimony in court (her testimony before the preliminary judge was entered into evidence and presented during the proceedings) and for not subjecting

her to confrontations with the accused. In addition, the Court found that past crimes that involve serious human rights violations could not be prescribed nor be subject to amnesties.

On the evidence required by the Court regarding sexual violence crimes, it dismissed the argument of the defense attorneys that there was no evidence of the sexual violence given the absence of an expert report that verified her claims. The court noted that the Criminal Procedural Code establishes that such reports can only be carried out if the victim gives her consent.

The High-Risk Court C ordered reparation measures demanding from the authorities to **adopt measures of protection, satisfaction and non-repetition**. The judges affirmed that the state of Guatemala had a duty to guarantee life, liberty, justice and peace, and ordered the state to implement the following reparation measures:

1. Guatemala's Congress shall approve Law 3590, which calls for the creation of a National Commission on the Search for Disappeared Persons, as well as create a national registry of victims. (The Commission for Historical Clarification determined that during the internal armed conflict, the Guatemalan state engaged in a systematic practice of enforced disappearance; in the face of state inaction in searching for disappeared persons, in 2006, a coalition of civil society organizations presented Congress with [legislative proposal 3590](#) to establish a national commission on the search for disappeared persons. To date the Congress has yet to pass this law.);
2. The Human Rights Ombudsman shall take necessary measures to guarantee the security of the individuals and institutions that participated in the proceedings;
3. The Prosecutor General's Office (PGN) shall continue with the compliance of the judgment of the Inter-American Court for Human Rights in the case of Marco Antonio Molina Theissen, particularly with regards to establishing the whereabouts of Marco Antonio, and shall establish a procedure to declare his absence or presumed death;
4. The Secretariat of Indigenous Affairs shall translate the sentence into the **Mayan languages that are predominant** in the departments of Quetzaltenango and Guatemala;
5. The Ministry of Education shall include information about the human rights of children in the school curriculum and shall create a scholarship in the name of Marco Antonio Molina Theissen;
6. The San Carlos University shall create a written and audiovisual documentary about the Molina Theissen case;

7. The Ministry of Defense shall create the “Molina Theissen Award” for officers and other members of the army who stand out for their work on human rights and humanitarian issues;
8. The Ministry of the Interior shall establish in its budget a financial reward for individuals who provide reliable information about clandestine cemeteries from the period of the internal armed conflict;
9. President Jimmy Morales shall decree October 6 as the “Day of Disappeared Children.”;
10. The Manuel Lisandro Barillas Military Brigade, also known as Military Zone No. 17, where Emma Molina Theissen was detained, tortured, and sexually violated, shall be converted into a museum of memory, and a monument to Emma Molina Theissen shall be erected inside this facility.

Challenges:

Even though the High-Risk Court determined that the state of Guatemala is obligated to enforce a series of transformative reparation measures, such implementation remains pending following several special appeals filed against the sentence of the court of first instance by the convicted individuals, their defense attorneys, and the Office of the Attorney General of the Nation (Procuraduría General de la Nación).

In defining the reparation measures, the High-Risk Court denied the vast majority of the reparation requests made by the plaintiffs. Among others, the Court denied the request for ordering measures of non-repetition, as well as measures of satisfaction, public apology that would include an acknowledgement of the facts. Given that Article 124 of the Code of the Criminal Procedure in Guatemala recognises the right to adequate reparation and a hearing of reparations, the measures issued shall include forms of restitution, rehabilitation, compensation, satisfaction, and guarantees of non-repetition, in line with the international standards. Victims and survivors’ voices and needs must be at the heart of the determination of the reparation measures for the reparation to be transformative and adequate not only for the victims and survivors, but for their families and their communities.

3.2.3. Case-specific progress / challenges in the implementation of reparation measures ordered by international courts

The jurisprudential advances in the Inter-American system stand in stark contrast to the lack of implementation by the Guatemalan State. In none of the cases related to the armed conflict have reparation orders been fully complied with. Several cases heard by the Court are key in

relation to reparations for conflict-related sexual violence, such as the Plan de Sánchez Massacre case, the Molina Theissen case, the Dos Erres Massacre case, the Río Negro Massacres case and the Aldea Chichupac case, all of which included reparation measures orders. Although certain measures have been implemented, those related to the investigation, identification, prosecution and punishment of those responsible, guarantees of non-repetition or measures of a structural nature are generally not complied with. The delay in the implementation of reparation measures is also attributed to the absence of a dedicated national mechanism mandated to oversee the compliance with the reparation decisions issued by the Interamerican Court of Human Rights.

3.3. Best practices

In Guatemala, some reparation measures ordered by national courts have incorporated cultural sensitivity to better respond to the needs of indigenous victims and survivors. Notable examples include the translation of judicial sentences into different Mayan languages, as seen in the Sepur Zarco and Plan de Sánchez cases. These approaches recognize the diverse cultural backgrounds of victims and survivors and enhance their access to justice and reparation, although effective implementation is still required.

The use of expert submissions in judicial cases has also proven to be a valuable practice in Guatemala. Experts have provided critical insights on cultural elements, land distribution, and the psychosocial effects of violence. A significant example is the Sepur Zarco case, where Rita Segato's Gender Anthropological Expert Report helped the court understand the intersectionality of the victims and survivors' experiences. This practice has strengthened judicial decision-making by incorporating a deeper understanding of the structural and cultural dimensions of harm.

4. If non-punitive alternative justice mechanisms exist, describe the main challenges and best practices in addressing gender-based violence, particularly regarding victim protection, access to justice and comprehensive reparation.

4.1. Tribunal de Conciencia contra la Violencia Sexual hacia las Mujeres durante el Conflicto Armado en Guatemala

A key example of a non-punitive/alternative/symbolic justice mechanism happened in 2010 in Guatemala: the *Tribunal de Conciencia contra la Violencia Sexual hacia las Mujeres durante el Conflicto Armado en Guatemala* (Tribunal of Conscience against Sexual Violence towards

Women during the Armed Conflict in Guatemala). This was a symbolic event, that marked a crucial milestone in the fight against impunity and was the result of years of efforts by Guatemalan women's organizations focused on justice and reparations for gender-based crimes committed during the armed conflict.

The Tribunal de Conciencia emerged from the collective work of several organizations, including the Union Nacional de Mujeres Guatemaltecas (UNAMG), el Equipo de Estudios Comunitarios y Accion Psicosocial (ECAP), and Mujeres Transformando el Mundo (MTM). These organizations joined forces in 2009 to begin planning the event, laying the groundwork for a collective process of social mobilization and survivor support.

The Tribunal de Conciencia aimed to make visible the causes and effects of sexual violence during the armed conflict, highlighting both historical and ongoing violence; provide a reparative space where victims and survivors could share their stories and be heard, often for the first time, in their own languages; and strengthen collective memory and resistance, emphasizing the interconnection between past violence and present challenges, such as the persistence of femicides and the ongoing militarization of communities like Sepur Zarco and the Polochic Valley.

As a symbolic tribunal, the *Tribunal de Conciencia* did not aim to impose criminal penalties. Instead, it functioned as a moral and ethical space where victims and survivors could publicly reclaim their narratives and denounce the systemic nature of sexual violence. Victims and survivors were invited to testify, recounting their experiences in their native languages before a panel of national and international jurists, human rights defenders, and feminist leaders.

Best practices adopted by the Tribunal de Conciencia

- The tribunal adopted a victim-centered approach, focusing on empowering victims and survivors and promoting collective healing rather than punitive measures. It offered a safe environment where victims and survivors could break the silence that had long surrounded sexual violence during the conflict.
- The *Tribunal de Conciencia* became a pivotal moment that fueled further legal and social actions. Notably:
 - It paved the way for the formal filing of the first criminal complaint related to multiple instances of sexual violence during the armed conflict, centering on the case of Sepur Zarco.
 - The symbolic victory of the tribunal inspired other communities and victims and survivors, such as the Achí women, to seek justice through the courts, leveraging the lessons learned from the Sepur Zarco case.

- It demonstrated how non-punitive approaches can serve as a powerful catalyst for strategic litigation and community mobilization.
- The tribunal's symbolic nature did not detract from its transformative impact—on the contrary, it challenged narratives of shame and guilt, shifting the blame from victims and survivors to perpetrators. It was a crucial step in breaking the cycle of silence and impunity, empowering women to become agents of justice in their own right.
- The tribunal's reparative dimension also lay in how it transformed public perception. Victims and survivors who were once blamed and shamed became symbols of resilience and international respect. The stories they shared and the alliances they forged during the tribunal became part of a broader movement for justice and dignity, transcending the courtroom and permeating social consciousness.

Challenges faced by the Tribunal de Conciencia

The *Tribunal de Conciencia* faced several challenges, both during its planning and execution and in terms of its long-term impact, including:

- **Stigma and shame surrounding sexual violence, particularly within indigenous communities:** victims and survivors faced intense social pressure to remain silent, as the sexual violence was often blamed on them rather than on the perpetrators. Convincing victims and survivors to participate and share their stories publicly required careful, trauma-informed support from psychosocial support organizations such as ECAP, which played a crucial role in building trust, ensuring emotional safety, and promoting dignity throughout the process.
- **Fear of retaliation and insecurity:** many victims and survivors feared retaliation from perpetrators or their allies, especially given that some perpetrators remained in positions of power or influence. This fear extended to the organizers and supporters of the tribunal, who risked threats and intimidation.
- **Lack of institutional support and political will:** the tribunal was a civil society initiative, carried out without formal state recognition or support. The Guatemalan government at the time was largely indifferent, if not openly hostile, to efforts aimed at uncovering and addressing conflict-related sexual violence. This lack of official

support limited the tribunal's ability to translate its findings into immediate legal or policy changes.

- **Financial and logistical limitations:** organizing the tribunal required significant financial resources and logistical coordination, particularly given the involvement of victims and survivors from remote, rural areas. Ensuring that victims and survivors could participate safely and with dignity required extensive planning and coordination among multiple organizations, including UNAMG, MTM, and ECAP.
- **Ensuring cultural and linguistic relevance:** given that many victims and survivors spoke indigenous languages rather than Spanish, interpretation and culturally sensitive support were crucial. Ensuring that victims and survivors felt comfortable and understood required mobilizing bilingual facilitators and creating a respectful environment.
- **Balancing symbolism and impact:** the tribunal was symbolic rather than punitive, which led to a challenge in managing expectations. Some victims and survivors and supporters hoped for tangible justice outcomes, such as criminal sentences, while the tribunal's primary goal was raising awareness and breaking the silence. Balancing the symbolic importance with the desire for accountability was an ongoing tension.
- **Maintaining vsurvivor-centered approaches:** ensuring that victims and survivors retained agency and decision-making power throughout the process was a challenge. The organizers made deliberate efforts to prioritize victims and survivors' perspectives and avoid revictimization, but maintaining this commitment while managing the broader political and social dynamics was complex.
- **Sustaining momentum post-tribunal:** after the tribunal, a key challenge was sustaining the momentum and translating symbolic gains into concrete legal actions. While the tribunal catalyzed strategic litigation, like in the Sepur Zarco case, it required ongoing advocacy to push for state accountability and reparative measures.

Despite these challenges, the tribunal played a crucial role in catalyzing collective action and breaking the silence around sexual violence during the armed conflict. It also inspired subsequent legal battles and movements, demonstrating how symbolic spaces can fuel strategic litigation and mobilization.

For more information on reparative initiatives from civil society in Guatemala, please refer to Section VII of the attached study on reparation for CRSV victims and survivors in Guatemala.

4.2. Upcoming non-punitive mechanisms: GSF's Interim Reparative Measures projects

The Global Survivors Fund (GSF) is dedicated to enhancing access to reparations for survivors of conflict-related sexual violence (CRSV) worldwide. Recognizing that many victims and survivors face prolonged waits for state-awarded reparations due to governmental inaction or incapacity, GSF implements Interim Reparative Measures (IRM) projects. These projects aim to provide timely support to victims and survivors, acknowledging their right to reparations and addressing urgent needs in the absence of formal state mechanisms. Nonetheless, by no means can the interim reparative measures provided by non-state actors substitute for the obligations of the duty-bearers to implement survivors' right to reparation.

IRM projects are co-created with survivors and local partners, ensuring that the measures are tailored to the specific contexts and needs of the affected communities. This collaborative approach empowers survivors by actively involving them in the design and implementation of the reparative measures, which may include compensation, livelihood support, education grants, psychological assistance, and access to medical care. The co-creation process itself serves a restorative function, as it acknowledges survivors as rights-holders and places them at the center of the decision-making process.

As non-punitive restorative mechanisms, IRM projects focus on healing and rehabilitation rather than on retribution. They aim to restore dignity, rebuild trust, and promote social reintegration for victims and survivors, facilitating their recovery and empowering them to lead fulfilling lives despite the harms they have endured. These measures are designed to be interim, providing immediate relief while advocating for comprehensive, state-led reparation programs.

In 2025, GSF is set to launch a new IRM project in Guatemala. While specific details are yet to be announced, this initiative is expected to address the urgent needs of some CRSV victims and survivors in the country, following GSF's established model of survivor-centered, co-created reparative measures. This project represents a significant step toward acknowledging and addressing the harms suffered by victims and survivors in Guatemala, providing them with much-needed support and advocating for their right to comprehensive reparations.

Attachments

- Global Survivors Fund, Guatemala Country Briefing (EN and SP).
- Global Survivors Fund, Study on Opportunities for Reparations for CRSV victims in Guatemala, "*Nos quitaron todo menos la dignidad*" (SP).