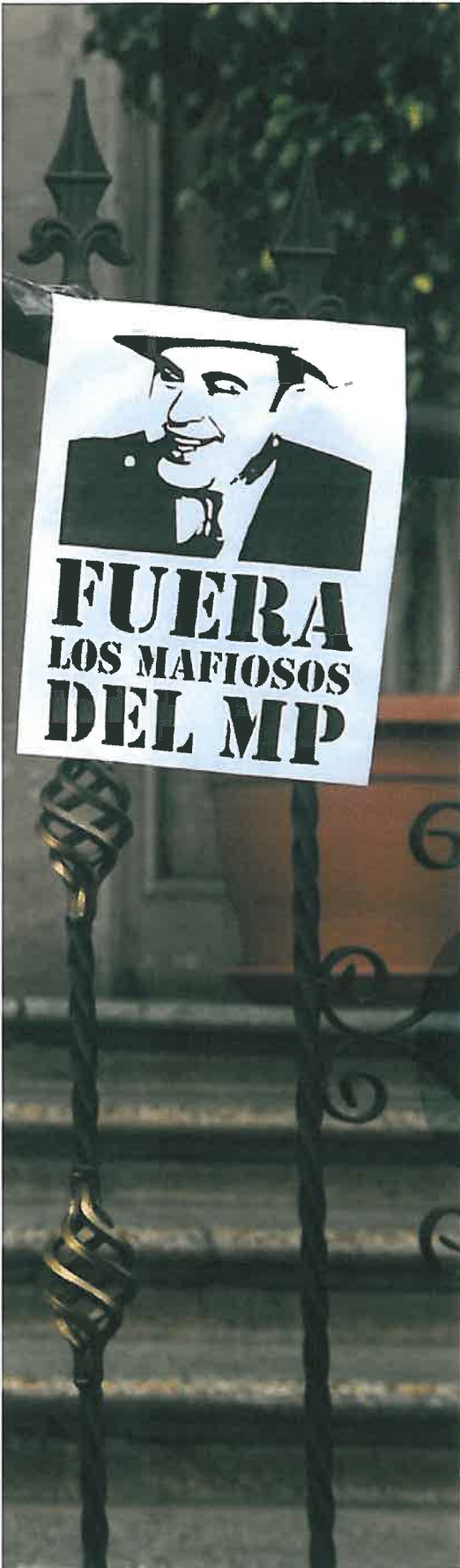




A demonstrator outside the presidential palace demanding the resignation of Conrado Reyes, after the head of the UN Commission against Impunity in Guatemala (CICIG), Carlos Castresana, stepped down. Reyes was later removed by the Constitutional Court.



Battling Organized Crime In Guatemala

Guatemala's national authorities need to step up their efforts to root out lawlessness.
by Morris Panner and Adriana Beltrán

Over the past three years, Guatemala has been pursuing a unique experiment to fight organized crime and government corruption—with impressive results. Hundreds of corrupt or ineffective police officers, prosecutors, judges, and military officials have been investigated and dismissed. A multinational investigation involving the United States and France has led to money-laundering charges against former President Alfonso Portillo (2000-2004), who now faces extradition to the United States. Portillo has been accused of embezzling tens of millions of dollars worth of public funds (including approximately \$2.5 million provided by the Taiwanese government and approximately \$3.9 million from the Guatemalan

Defense ministry), a significant portion of which he allegedly laundered through U.S. and European banks.

Guatemala's battle against crime has been a crucial element in the struggle to rebuild a country still suffering the effects of a 36-year civil war that ended in 1996. But those efforts are now at a crossroads. Over the next year, decisions by both the Guatemalan government and the international community may determine whether the experiment—as well as Guatemala's fragile democracy—survives or fails.

The experiment was launched in August 2007, when the Guatemalan government, with help from the UN, established an international commission to investigate major cases

JOHAN ORDINEZ/AP/GETTY

of institutional corruption and organized crime deeply entrenched in the state. The 186-member International Commission against Impunity in Guatemala (CICIG) works under the umbrella of the UN but operates under Guatemalan law to investigate criminal networks and assist local investigators and police in developing prosecutable cases.

It incorporates both local and international staff but is funded entirely by voluntary contributions from UN member states. This innovative setup permits the CICIG to work side-by-side with local institutions at every stage of the process. Guatemala's inability to confront rampant crime and the growing infiltration of organized crime with its own resources required outside, independent assistance. To cite one example, Guatemala has one of the highest murder rates in the world, yet it has a staggeringly low conviction rate of just 2 percent.

The CICIG has also advised the government on the adoption of legal reforms and modern crimefighting tactics, with the aim of overcoming paralysis in the country's judicial system. As a result, Guatemala now boasts more sophisticated anticrime and anti-corruption structures, including a special prosecutor, reduced sentences for collaborators and the use of supervised

The CICIG has brought charges against seven former military officials for embezzlement (including former Minister of Defense Eduardo Arévalo Lacs and Major General Enrique Ríos Sosa, the son of former General Ríos Montt) and arrested the chief of police and his top antinarcotics intelligence officer, both accused of being on the payroll of the powerful Mexico-based Zetas cartel. The Commission's efforts also resulted in the removal of Attorney General Juan Luis Florido.

Yet despite this progress, the effectiveness and future of the CICIG's mission remain in question.

CLEAR MANDATE, UNCERTAIN FUTURE

Although its mandate runs through September 4, 2011, domestic resistance to the CICIG's efforts to strengthen the country's judicial system is building. In June 2010, Carlos Castresana, the highly respected Spanish jurist and organized crime prosecutor who led the CICIG since its inception, resigned. Castresana complained that interference from corrupt government officials and a lack of government follow-through had made his continued involvement problematic.

At a press conference explaining his



President Colom addresses a press conference on June 10, 2010, at the Palace of Culture in Guatemala City.

The criticisms met with a quick response. Guatemala's Constitutional Court annulled the selection of the attorney general, who subsequently resigned. But the broader problems raised by Castresana and other critics, including repeated delays in the implementation of key CICIG recommendations for reforms such as anti-impunity legislation, and the lack of sufficient funding for judicial and security institutions, have raised serious doubts about the government's commitment to revamping the criminal justice system and police.

Castresana was replaced on August 1, 2010, by Francisco Dall'Anese Ruiz, the highly-regarded former attorney general of Costa Rica, who led major anticorruption investigations in his own country, including against former Costa Rican Presidents Miguel Angel Rodríguez and Rafael Angel Calderón. He was also a leading supporter of Costa Rica's adoption of prominent anti-organized crime legislation, known as the "*Ley Contra el Crimen Organizado*."

Given his background and expertise, Dall'Anese was a promising choice for the CICIG. But his job won't be easy. The CICIG's continuing problems are indicative of the power and reach of criminal networks, which will stop at nothing to undermine the prog-

Guatemala has one of the highest murder rates in the world and a staggeringly low conviction rate of just 2 percent.

wiretapping capabilities. It is also pushing for the creation of special courts to try sensitive cases and a functional witness protection program.

In a country accustomed to rampant impunity, perhaps the CICIG's greatest achievement has been to show that the Guatemalan criminal justice system can be made to work, even against individuals who for decades have remained "untouchable."

resignation, Castresana accused Conrado Reyes, the country's newly appointed attorney general, of having ties with networks involved in drug trafficking and illegal adoptions, and of trying to undermine the CICIG's investigations. Shortly after taking his post, Reyes began to remove prosecutors and investigators assigned to sensitive cases and tried to seize control of the wiretapping program.

JOHANN ORDONEZ/AMPERCE/TTV



Good luck with the new job: Costa Rica's Francisco Dall'Anese (right), and Spain's Carlos Castresana, incoming and outgoing commissioners of the International Commission against Impunity in Guatemala.

ress made by the international investigative body in order to protect their interests and guarantee impunity for their crimes. Progress is hampered by the complexity of the antiquated Guatemalan legal system, which is subject to bribery and intimidation of police, prosecutors and government officials, manipulation and unsavory dealings in the selection of judges, and the intimidation and even murder of victims and witnesses. On top of that,

Dall'Anese has inherited the challenge of being a tough independent prosecutor in a nation not his own.

The real test, however, is whether the Guatemalan government will make good on its promises to be a committed partner with the CICIG.

There is little room for failure. Abusive elements of the military and intelligence system moved underground after the civil war, becoming "guns for hire." The failure to address the con-

flict's root causes and purge the clandestine security organizations and old security apparatus further corroded an already weak state, enabling these groups to penetrate deeper into both public and private institutions.

A similar process occurred in Eastern European states during the transition from Communism in the 1990s, but the toxic combination hit Guatemala particularly hard. By 2002, Amnesty International was referring to Guatemala as a "Corporate Mafia State" in which alliances between corrupt business interests and armed groups were turning the country into a modern-day gangsters' paradise.

The array of crimes was vast and far-reaching. It included narcotics trafficking, money laundering, car theft rings, human trafficking, extortion of legitimate business, and illegal exploitation of natural resources. The money generated allowed criminal groups to maintain an informal and networked empire that swamped and partially usurped state resources.

Criminal syndicates became Guatemala's leading human rights offenders, killing journalists and advocates who had formerly tried to uncover state-based human rights abuses. Human rights defenders and civil society organizations found themselves trying to combat organized crime that had often corrupted government. Legitimate business also has felt the pressure of organized crime, which penetrated the financial sector and elements of the customs services and other regulatory organizations to set up parallel business interests.

Today, this threat has been complicated by the infiltration of transnational organized crime. Guatemala has become a base of operations for Mexican cartels, including Sinaloa and the Zetas. According to a recent report by the International Crisis Group, the Zetas are taking over hundreds of unsanctioned border crossings and now control much of the area around the city of Cobán, in central Guatemala. Sinaloa factions have been teaming up with local groups along Guatemala-

Corrupt Guatemalan military officers and former personnel are allegedly facilitating the infiltration of Mexican organized crime into Guatemala.

la's southern border with Mexico. In Huehuetenango, pro-Sinaloa factions have sought to replace the state, providing jobs and social services and funding local celebrations. Corrupt Guatemalan military officers and former personnel are allegedly facilitating the infiltration of Mexican organized crime by selling weapons to the organizations in Mexico, even as the U.S. tries to curtail the flow of weapons from the North. The net result is a Guatemalan state that is rapidly losing control of its own territory. In a 2010 report, the U.S. Department of State reported that "entire regions of Guatemala are essentially under the control" of drug trafficking and organized crime enterprises. Organized criminal gangs appear to be in charge of seven of the country's 22 provinces. Mexican organized crime organizations are also expanding into El Salvador and Honduras, threatening to further regionalize the problem and making it even harder for any given country to take on the threat alone.

With just a year left in its mandate, the CICIG is at a critical point. While there is now broad public support for its work, the efforts of both the Guatemalan government and the international community will determine whether the experiment achieves lasting results.

STEPPING UP

The government needs to follow up the CICIG's achievements by harnessing its revamped judicial and law enforcement structure to the task of eliminating the organized criminal networks that continue to erode the rule of law. In three years of operation, the CICIG proved that it was serious about fighting rampant corruption and organized crime. Back-

ing off from that tough stand would waste the important opening the CICIG has created.

That means continuing to prosecute significant pending cases that implicate the most serious criminal networks, many of which extend beyond Guatemala. Many of these cases are already well known, such as the case involving ex-President Portillo and his former defense minister, the 2007 murder of three Salvadoran parliamentarians, and, most recently, former high-level officials of the Ministry of Interior and police implicated in extrajudicial executions, drug trafficking and money laundering, among other crimes.

The innovation of the CICIG is that it does not replace, but rather supplements, Guatemalan sovereignty. Unlike war crime tribunals or the International Criminal Court, which act as independent powers trumping national authority, the CICIG works in partnership with the Guatemalan government, providing a bridge to the Guatemalan justice system.

Guatemalan investigators, prosecutors and judges, backed by a fair executive branch, are critical to its success. At the same time, the Guatemalan government must follow through on its broader commitments to the UN partnership, particularly by providing the political and budgetary backing needed to overhaul the police and judicial institutions, approve pending reforms, and appoint honest individuals to key judicial posts.

For its part, the international community and the UN need to continue rallying behind this effort. Although the UN took the critical step of appointing a new commissioner quickly, it must not retreat from working with its Guatemalan counterparts to dismantle the clandestine criminal net-

works while encouraging reform and the strengthening of institutions. The international community can continue to demonstrate its support of the CICIG by focusing on strengthening local capacity and by pressing the Guatemalan government to follow through on specific cases and enact promised reforms.

Specifically, the U.S. should target security assistance to backing the much-needed structural reforms outlined by the CICIG and continue investigative support on high-profile cases. One example to follow is the cooperation between the U.S. Department of Justice and Guatemalan prosecutors in the case of former President Portillo. The key to all of this is the renewal of CICIG's mandate, but the Guatemalan government must hold up its end of the deal.

With presidential and congressional elections scheduled in Guatemala for August 2011, the next year is going to be critical for the CICIG. As organized criminal networks seek tighter control, influencing parties and candidates, the CICIG and the Guatemalan government must redouble their efforts to push for long-term structural reforms.

The growing threat represented by weak states requires us to find new means of shoring up state institutions. Unilateral efforts are clearly inadequate to address the transnational and corrupting nature of organized crime. The UN-sponsored CICIG is an innovative effort to attack a transnational problem through multilateral and governmental cooperation. The future of the experiment, though, will depend on the Guatemalan government's level of commitment to supporting CICIG.

Morris Panner, CEO of TownFlier, is a senior advisor at the Belfer Center at the Harvard Kennedy School of Government and member of Washington Office on Latin America's (WOLA) Board of Directors. Adriana Beltrán is a senior associate on citizen security and organized crime at WOLA.