



Advocacy for Human Rights in the Americas



AP Photo: Moises Castillo

THE FIGHT AGAINST IMPUNITY

Evaluating the Level of Cooperation with the International Commission against Impunity in Guatemala

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INTRODUCTION

In the last decade, the problem of insecurity and impunity has deeply affected the people of Guatemala, El Salvador and Honduras, making this region (known as the Northern Triangle of Central America) one of the most violent in the world. High levels of violence, corruption, and impunity have eroded the capacity of the states to develop accessible and efficient institutions, and address the needs of their populations.

The absence of effective responses has weakened citizens' confidence in state institutions, leading to an alarming number of people who have been internally displaced or forced to migrate to other countries to escape the violence and lack of economic opportunities.

Against this backdrop, the Washington Office on Latin America (WOLA), the Myrna Mack Foundation (FMM) of Guatemala, the University Institute for Public Opinion (Iudop) of the José Simeón Cañas Central American University (UCA) of El Salvador, and the University Institute on Democracy, Peace and Security (IUDPAS) of Honduras have developed a tool for monitoring and evaluating the policies and strategies currently being implemented in Guatemala, Honduras, and El Salvador to reduce insecurity and violence, strengthen the rule of law, improve transparency and accountability, protect human rights, and fight corruption. This initiative has been made possible thanks to the support of the Latin America Division of the Swiss Agency for Development and Cooperation, the Tinker Foundation, the Seattle International Foundation (SIF), and the Moriah Fund.

THE CENTRAL AMERICA MONITOR

The Central America Monitor is based on the premise that accurate, objective, and complete data and information are necessary to reduce the high levels of violence and insecurity, and establish rule of law and governance in a democratic state. This will allow efforts to move beyond abstract discussions of reform to specific measures of change.

The Monitor is based on a series of more than 100 quantitative and qualitative indicators that allow a more profound level of analysis of the successes or setbacks made in eight key areas in each of the three countries.¹ More than a comprehensive list, the indicators seek to identify a way to examine and assess the level of progress of the three countries in strengthening the rule of law and democratic institutions. The indicators seek to identify the main challenges in each of the selected areas and examine how institutions are (or are not) being strengthened over time. The Monitor uses information from different sources, including official documents and statistics, surveys, interviews, information from emblematic cases, and analysis of existing laws and regulations.

The indicators were developed over several months in a process that included an extensive review of international standards and consultation with experts. The eight areas analyzed by the Monitor include:

1. Strengthening the capacity of the justice system;
2. **Cooperation with anti-impunity commissions;**
3. Combatting corruption;
4. Tackling violence and organized crime;

5. Strengthening civilian police forces;
6. Limiting the role of the armed forces in public security activities;
7. Protecting human rights;
8. Improving transparency.

The Monitor reports are published by area and by country. The first series of reports will serve as the baseline for subsequent analysis, which will be updated annually. Each annual series of reports will be analyzed in comparison with reports from the previous year. This allows researchers, civil society organizations, and other actors to assess the level of progress in strengthening the rule of law and reducing insecurity.

The first round of Monitor reports will primarily focus on data sets from an approximate 4-year time period, 2014 to 2017, in order to provide a snapshot of Central America's institutions.

The Monitor will serve as a tool for searchable, easy-to-comprehend data, delineating trends, progress, patterns, and gaps within and between the three countries of the Northern Triangle. The data, graphics, charts, and reports will be available on the Monitor's website.

This report of the Myrna Mack Foundation aims to define a baseline for the indicators related to analyzing the extent of cooperation by the Guatemalan government with the International Commission against Impunity in Guatemala (CICIG), a hybrid commission established with the support of the United Nations at the request of the Guatemalan government to help combat impunity in the country.

ABOUT THE RESEARCH FOR THIS REPORT

This report draws from important research conducted by domestic and international organizations that have analyzed the CICIG's work and its efforts to strengthen the rule of law by fighting corruption and impunity.

After compiling and reviewing information for each indicator, we developed a comprehensive baseline analysis on the extent of government cooperation with the CICIG for the 2014-2017 time period. Each year, we will collect information on these same indicators to allow for comparative analysis over time. The main points of our research are synthesized in key findings in the following pages.

KEY FINDINGS

- At the time the peace accords were signed in 1996, the Guatemalan government expressly recognized that illegal groups and clandestine security structures (*Cuerpos Ilegales y Aparatos Clandestinos de Seguridad, CIACS*) existed in the country, and acknowledged that there is a direct link between these illicit groups and human rights violations.
- The cases brought to justice by the Public Prosecutor's Office (*Ministerio Público, MP*) and the International Commission against Impunity in Guatemala (*Comisión Internacional Contra la Impunidad en Guatemala, CICIG*) revealed the CIACS' ability to evolve and adapt, to the point of forming illicit political-economic networks (*Redes Político Económicas Ilícitas, RPEI*), which operate outside the law and contribute to high impunity levels.
- The tension that arose between the executive branch and the CICIG, as a result of investigations into President Jimmy Morales's son and brother, prompted a series of actions that largely halted the Commission's work and therefore the fight against corruption and impunity in Guatemala, which has served to weaken the rule of law.
- Reforms of the Judicial Career Law (*Ley de la Carrera Judicial*) and the Organic Law of the Public Prosecutor's Office (*Ley Orgánica del Ministerio Público*), carried out with the CICIG's support, fostered the conditions for strengthening the specialization and professionalization of judges, magistrates, and prosecutors. They also constitute a valuable contribution to consolidating the independence of the judiciary (*Organismo Judicial*) and of the Public Prosecutor's Office, to prevent any external factors from hindering or conditioning proper fulfillment of their functions.
- With regard to the legislative branch, the passage of laws key to strengthening the judicial system demonstrated that Guatemala's Congress largely cooperated and had the political will to support the Commission's work. These laws had the CICIG's support starting in 2009; the Judicial Career Law (approved in 2016) is particularly relevant to the time period covered in this study (2014-2017). Nevertheless, in the period analyzed in this report, some important reforms were still pending approval due to a lack of cooperation and consensus in Congress, including reforms to the Pre-Trial Law (*Ley en Materia de Antejjuicio*); to the Appeals, Habeas Corpus, and Constitutionality Law (*Ley de Amparo, Exhibición Personal y de Constitucionalidad*); and, of course, to Guatemala's Constitution.
- Institutionally, significant reforms were undertaken so as to cooperate with the work carried out by the CICIG. For example, in the judiciary, the system of High Risk Courts (*Juzgados de Mayor Riesgo*) was expanded; at the MP, reforms to the Organic Law of the Public Prosecutor's Office were implemented; and in the National Civilian Police (*Policía*

Nacional Civil), police teams were designated to collaborate directly on the investigations and operations that the Commission supported.

- Alongside the various actions taken to strengthen security and justice institutions, the CICIG-backed reforms that were signed into law enabled the successful prosecution and conviction of politicians, businesspeople, public employees and officials (including at the highest level, as occurred in the *La Línea* case), and other individuals who formed part of criminal organizations (the CIACS). This made it clear that it is indeed possible to wage a head-on battle against corruption and impunity in Guatemala.

THE FIGHT AGAINST IMPUNITY

Evaluating the Extent of Cooperation with the International Commission against Impunity in Guatemala

On March 22, 1994, during negotiations on peace accords that would end more than three decades of internal armed conflict in which grave human rights violations were committed against the population, the Guatemalan government signed the Comprehensive Agreement on Human Rights (*Acuerdo Global sobre Derechos Humanos*), committing itself, among other things, to combatting illegal groups and clandestine security structures (*Cuerpos Ilegales y Aparatos Clandestinos de Seguridad, CIACS*) to better guarantee and respect human rights.

The agreement established that: “In order to maintain unlimited respect for human rights, there must be no illegal security forces nor any clandestine security machinery. The Government of Guatemala recognizes that it has an obligation to combat any manifestation thereof.”²

In principle, this affirmation has significant relevance both because it explicitly recognizes the existence of the CIACS in Guatemala and also because it establishes a direct link between these illicit groups and human rights violations, making their disbandment necessary.

The CIACS are “criminal networks that emerged in the context of the internal armed confrontation that have persisted and mutated, and continue operating within the state.”³ These groups, characterized by having unlawful power, engage in activities outside of the law with impunity. “The CIACS developed within

the National Police and the Army, exercising arbitrary 'social control' from there. Through their operational commands, they not only committed a series of illegal acts against the Guatemalan population; they also created their own mechanisms to ensure impunity for these violations. Thus, in different cases perpetrated by the security forces, one can identify clear patterns suited to this purpose, such as the manipulation of crime scenes, implanting evidence, intimidating witnesses, diverting investigations, and using smear campaigns against judicial system officials and human rights activists – in other words, a whole series of actions aimed at obstructing justice and truth, even by utilizing the very institutions of the justice system.”⁴

The CIACS have had the ability to adapt and reconfigure themselves over time, diversifying their illegal activities and continuing to ensure that their actions outside the law go unpunished, characteristics that date back to their origins during the internal armed conflict. To achieve this, they have used diverse mechanisms, such as embedding themselves in public entities and institutions, including those within the security and justice system. In this way, these criminal groups have managed to evolve⁵ to the point of consolidating themselves into illicit political-economic networks (RPEI), which are defined by the CICIG as: “The confluence of individuals and/or groups of individuals (clusters, conglomerates) that organize themselves and cooperate, communicate, and inform one another, and that have shared interests and/or objectives in

carrying out activities and tasks of a political, economic, and/or mixed nature that are mainly illicit, albeit potentially also licit.”⁶

Because the presence and illegal activities of the CIACS are complex, and their effects, detrimental to human rights, the Guatemalan government recognized the need to develop and implement effective mechanisms to fight the impunity directly linked to these groups. Therefore, on April 4, 2003, the state asked the United Nations to establish an international commission to

support the identification and dismantling of the CIACS. This first led to calls for the conformation of the International Commission to Investigate Illegal Bodies and Clandestine Security Forces (*Comisión de Investigación de Cuerpos Ilegales y de Aparatos Clandestinos de Seguridad, CICIACS*), which ultimately was not established after facing strong opposition from Congress. However, it eventually led to the establishment of the International Commission against Impunity in Guatemala (CICIG).

THE AGREEMENT

On December 12, 2006, after more than three years of negotiations, the United Nations and the Guatemalan government signed an agreement to establish the CICIG.⁷

Within this agreement, Guatemala reaffirmed its commitment to human rights and reiterated its obligation to the Comprehensive Agreement on Human Rights of March 22, 1994, making fresh mention of the CIACS and acknowledging that their actions gravely infringe on human rights.

The agreement also recognizes the CIACS’ ability to secure impunity, defining this as: “The de facto or de jure absence of criminal, administrative, disciplinary or civil responsibility and the ability to avoid investigation or punishment, all of which weaken the rule of law, impeding the ability of

the State to fulfil its obligation to guarantee the protection of the life and physical integrity of its citizens and provide full access to justice, with the resulting loss of confidence of citizens in the democratic institutions of the country.”⁸

Before the agreement was ratified by Guatemala’s Congress, it was subjected to detailed analysis by the Constitutional Court (*Corte de Constitucionalidad, CC*) to establish whether each of the indicated commitments were compatible with the Constitution. On May 8, 2007, the court issued an advisory opinion⁹ in favor of the signed agreement, paving the way for Congress to ratify it on August 1 of the same year.¹⁰ This new international instrument was published in full in the Official Gazette (*Diario Oficial*) on September 10, 2007.

BOX 1

THE CICIG'S FUNCTIONS



Set forth in the agreement, the functions of the CICIG are as follows:

1	Determine the existence of illegal security groups and clandestine security organizations; their structures, forms of operation, sources of financing, possible relation to State entities or agents and other sectors that threaten civil and political rights in Guatemala.
2	Collaborate with the State in the dismantling of illegal security groups and clandestine security organizations and promote the investigation, criminal prosecution and punishment of those crimes committed by their members.
3	Make recommendations to the State on the adoption of public policies for eradicating clandestine security organizations and illegal security groups and preventing their re-emergence, including the legal and institutional reforms necessary to achieve this goal.

Source: Article 2 of the Agreement between the United Nations and the State of Guatemala on the establishment of an International Commission against Impunity in Guatemala

In order to carry out its functions, the CICIG has the following powers:¹¹

- Collect, organize, and analyze information.
- Advance criminal prosecutions by filing complaints and acting as a joint prosecutor (*querellante adhesivo*) in collaboration with the Public Prosecutor's Office.
- Provide technical assistance to state institutions on the investigation and criminal prosecution of CIACS.
- Report administrative offenses and act as a third party in such proceedings.
- Sign cooperation agreements with state institutions.
- Request information that helps fulfill its mandate from any official or authority.
- Request effective measures to ensure the safety of all those involved in investigations and proceedings.
- Select and supervise a technical investigative team.

The agreement establishing the CICIG granted the Commission legal status and registration in order to fulfill its functions. This enabled the CICIG to take an active role in operational, strategic, and legal support, primarily with the National Civilian Police (*Policía Nacional Civil*, PNC) and the Public Prosecutor's Office, with investigations as well as with case litigation resulting from investigations.

This unique experience brought together and drew from police investigators, analysts with diverse expertise, lawyers, and former officials in the security and justice systems from various countries. Their combined expertise helped identify best practices to be implemented to support Guatemalan institutions and officials and directly apply knowledge to concrete cases, allowing for rapid and effective capacity building. In addition, they developed pedagogical processes and specific trainings with the aim of strengthening the purviews of different justice officials, processes that were carried out with support of the international community. Some examples of this include:

- Human rights training for National Civilian Police investigators.¹²
- Training for prosecutors from the Public Prosecutor's Office on special investigative methods, financial and forensic analysis, and corruption.¹³
- Training for judges and legal experts on new techniques for investigating and criminally charging illegal structures.¹⁴

Because the agreement establishing the CICIG was limited in scope, it also granted the Commission the power to act as a joint prosecutor (*querellante adhesivo*). According to the legislation on criminal procedure in Guatemala, a joint prosecutor intervenes in proceedings with broad powers to collaborate with the Public Prosecutor's Office and actively contribute to investigations and criminal prosecutions. It can also request that the investigative procedures it deems pertinent be carried out to strengthen the work of the entity in charge of criminal prosecution. If there is a discrepancy between the joint prosecutor and the Public Prosecutor's Office, a judge responsible for procedural safeguards (*juez de*

garantías) will ultimately decide what is best for the investigation and the proceedings. The joint prosecutor has the power to actively participate in all hearings at the various stages of the process. As a result, the CICIG was able to be present and intervene in cases in conjunction with the Public Prosecutor's Office.

Judicial authorization is needed for the CICIG to act as joint prosecutor, like any other individual or legal entity that is empowered to do so. Others involved in the proceedings have the right to formally oppose this designation, and the judge leading the case ultimately resolves the matter.

It is important to mention that, in accordance with the terms of the Bilateral Cooperation Agreement between the Public Prosecutor's Office (MP) and the CICIG,¹⁵ in order to select the cases in which the Commission will act in collaboration with this Office, there must be prior communication and coordination between the Commissioner and Attorney General, the head of the Public Prosecutor's Office.

In the agreement establishing the CICIG, there are at least three essential points that fortify its independence from outside hindrances, be it political, economic, or of any other nature aimed at interfering in its functions. These points are outlined below:

1. The designation of its highest authority (the Commissioner) by the United Nations Secretary General, taking into consideration the person's high level of professional competence in the areas directly related to the CICIG's mandate.¹⁶
2. The immunity of the Commissioner and international personnel of the CICIG, along with the inviolability of the Commission's premises and documents. Without this, its

members would be exposed to spurious and baseless legal actions solely aimed at obstructing the fulfillment of its functions.¹⁷

3. The financing of its expenditures through voluntary contributions from the international community.¹⁸ This modality allows it to operate without depending on the political will of the Guatemalan state.

According to a spending report (*Informe Combinado de Gastos*) available on the Commission’s website,¹⁹ during the period under study, the CICIG made the expenditures detailed in Table 1.

TABLE 1
CICIG EXPENDITURES, 2014-2017

Year	Amount Spent	Donor Countries
2014	\$13,070,949.54	Argentina, Canada, Chile, Colombia, European Union, France, Germany, Italy, Netherlands, Norway, Peru, Spain, Sweden, Switzerland, United States, Uruguay
2015	\$12,924,249.75	
2016	\$14,540,141.27	
2017	\$14,736,712.54	
TOTAL	\$55,272,053.10	

The agreement establishing the CICIG also entailed a series of obligations for the government of Guatemala, which can be summarized as follows:²⁰

- Provide all necessary technical assistance for the Commission to carry out its functions.
- Ensure that Commission members have unrestricted freedom of movement; freedom of access to state establishments and facilities (civilian and military); freedom to meet with and interview people (including public officials) or organizations whose testimony is deemed necessary; and free access to information and documentary material that has a bearing on the Commission’s mandate.
- For the Public Prosecutor’s Office and the National Civilian Police, appoint special prosecutors and special police units, respectively, for fulfilling the Commission’s mandate.
- For the executive branch, submit necessary legislative reforms to Congress to ensure proper functioning of the justice system.
- Ensure the security and protection of CICIG personnel and of victims, witnesses, and any other person who collaborates with the Commission.

The agreement signed by the United Nations and the Guatemalan state to establish the CICIG stipulated a two-year mandate that could be extended by written agreement between the parties. During the period under study, this mandate was renewed twice: first, in 2015 by then President Otto Pérez Molina,²¹ and second, through a request made by President Jimmy Morales²² in April 2016, to extend the mandate's expiry from September 2017 to September 2019.

The agreement does not expressly establish the terms by which either party could unilaterally terminate the mandate; on the contrary,

Article 12 stipulates: "Any dispute between the parties concerning the interpretation or application of this Agreement shall be settled by negotiation between the parties or by any other mutually agreed mode of settlement." This also strengthens the Commission's independence because otherwise, any given government could have terminated the mandate before the date stipulated in the extensions.

Obviously, if the Guatemalan government does not request an extension of the mandate, this automatically means that it will not be renewed and the Commission's work has therefore ended.

BOX 2

CICIG COMMISSIONERS

The Commission has been led by three distinct Commissioners, appointed by the United Nations Secretary-General: Carlos Castresana Fernández, Francisco Dall'Anese Ruiz, and Iván Velásquez Gómez. Each administration was defined by its own characteristics.

Carlos Castresana Fernández. As a Spanish lawyer, Castresana served as a prosecutor and judge working on issues similar to those that fell under the CICIG's mandate. His time at the helm of the Commission lasted from September 2007 to July 2010.

He faced the challenge of implementing the administrative, organizational, logistical, regulatory, and operational tasks needed to launch the CICIG's operations. During his administration as head of the CICIG, important legal reforms strengthening the justice system were approved, such as Decree 23-2009 of the Congress of Guatemala, which contains reforms to the Law against Organized Crime (*Ley Contra la Delincuencia Organizada*).

Commissioner Castresana ultimately quit amid intense smear campaigns against him. In the press conference in which he publicly announced this decision, he notably described it as being, in part, a reaction to the appointment of Conrado Arnulfo Reyes as Attorney General and Head of the Public Prosecutor's Office, due to his links to illegal organizations. The Constitutional Court later ordered that Reyes be removed.

Francisco Dall'Anese Ruiz. A Costa Rican lawyer and former Attorney General of Costa Rica, Dall'Anese led the CICIG from August 2010 to August 2013.

During his administration, the CICIG contributed to the process of passing important laws for the investigation and strategic criminal prosecution of organized crime. These included the Asset Forfeiture Law (*Ley de Extinción de Dominio*), Decree 55-2010 of the Congress of Guatemala, as well as the 2011 reforms to the Rules of Criminal Procedures (*Código Procesal Penal*), which were focused on strengthening the justice system through more agile procedures and ensuring effective judicial protection.

Amid the tension generated from the trial of General Efraín Ríos Montt and a press release from the Guatemalan government that prompted an official missive to the United Nations, Commissioner Dall’Anese cited personal reasons upon announcing that he did not intend to renew his contract, which was due to expire in September 2013.

Iván Velásquez Gómez. A Colombian lawyer known for his track record and experience investigating organized crime, Velásquez was an auxiliary magistrate on the Colombian Supreme Court and Regional Director for Antioquia department at the Public Prosecutor’s Office (*Fiscalía General de la Nación*).

Commissioner Iván Velásquez continued the work of his predecessors and clearly defined his administration’s guiding vision: to fight against corruption and impunity. Under his mandate, which lasted from September 2013 to September 2019, the CICIG and the Public Prosecutor’s Office (MP) jointly presented a series of emblematic cases that involved private individuals, businesspeople, politicians, and officials of the highest rank, including former President Otto Pérez Molina and former Vice President Roxana Baldetti Elías, accused of forming part of the criminal organization involved in the *La Línea* (“The Line”) case.

In January 2017, the CICIG and Public Prosecutor’s Office announced their investigation into the case “Property Registry Spoils” (*Botín Registro de la Propiedad*), implicating the brother and son of President Jimmy Morales. The case caused tension between the president and the CICIG, to the point where, on August 27, 2017, President Jimmy Morales declared Commissioner Velásquez to be *persona non grata*, ordering his expulsion from Guatemala. This decision was subsequently suspended by the Constitutional Court.

The cases brought to justice by the MP and the CICIG during his term demonstrated the CIACS’s capacity to evolve and adapt to the point of constituting illicit political-economic networks (as indicated previously).

APPROVAL AND IMPLEMENTATION OF LEGISLATIVE AND INSTITUTIONAL REFORMS

In order to evaluate the extent of the state's cooperation with the CICIG, it is crucial to analyze both the legislative reforms that were approved and the institutional reforms that were implemented with the goal of promoting the investigation and dismantling of organized crime and more generally, the strengthening of the justice system.

As mentioned before, this study covers the period from 2014 through 2017. While there is a long list of laws²³ and institutional reforms that were approved and implemented with the CICIG's support, demonstrating significant progress for the justice system (which exceeds the scope of this report and thus will be analyzed in another study), only those promoted during this specific time frame are cited below.

LEGISLATIVE REFORMS

In 2016, while technical working groups discussed the content of constitutional reforms for strengthening the justice system, the Guatemalan Congress approved the **Judicial Career Law**, via **Decree 32-2016**, without much difficulty, garnering 84 votes in favor of its passage.²⁴ This law reformed the first Judicial Career Law, enacted in 1999.

Since signing the peace accords in 1996, strengthening the justice system was deemed to be both necessary and urgent.²⁵ The government established this as a priority to "reform the administration of justice, so as to stem ineffectiveness, eradicate corruption, ensure free access to justice, impartiality in its application, judicial independence, ethical

authority, the probity of the system as a whole, and its modernization."²⁶

The new Judicial Career Law established the principles, guarantees, rules, and procedures that would govern the way the judicial career functioned, beginning immediately. Additionally, the law created the administrative bodies necessary to separate administrative functions from judicial ones; something that had not been regulated before and that would serve as a crucial tool for strengthening the justice system. For example, the creation of the Judicial Career Council helps the Supreme Court of Justice to concentrate more on judicial rather than administrative activities. This plays an important role in reducing discretionary intervention of Supreme Court Magistrates in administrative matters, which is often used as a mechanism for pressuring or retaliating against judges, ordering transfers, supervisions, the suspension of vacations, or failing to grant requests for leave or vacation, among others.

The Council's most relevant activities include:

- Holding open and impartial appointment processes for judicial nominees and for promotions.
- Choosing, appointing, and removing members of the Judicial Discipline Boards (*Juntas de Disciplina Judicial*) and of the Judicial Discipline Appeals Board (*Junta de Disciplina Judicial de Apelación*), the director of the Judicial Studies Institute (*Escuela de Estudios Judiciales*), and the head of the General Oversight Tribunal (*Supervisor*

General de Tribunales), among others.

- Evaluating the performance of judges, magistrates, and other members of the judicial career's subsidiary bodies.
- Conducting personal interviews with those seeking positions as justices of the peace and judges of first instance.

In January of 2017 – upon analyzing Decree 32-2016, the Judicial Career Law – the Constitutional Court²⁷ established the need to clearly define both the body responsible for choosing three of the Judicial Career Council's members along with the procedure for doing so. This realization came after the court's determination that there was a legal vacuum in this sense.

As a result, in September of 2017, the Congress approved **Decree 17-2017**, which contains reforms to the Judicial Career Law. This decision was important in achieving full membership on the Council so that it could effectively undertake each of the functions it was mandated to fulfill upon approval of the law.

The CICIG, aware of the importance of developing regulations that would enable consolidation of the judicial career and thereby contribute to strengthening judicial independence, supported the process for approving both Decree 32-2016 as well as the reforms to it effected by Decree 17-2017.

To combat impunity and corruption, in addition to needing independent judges and magistrates, the Public Prosecutor's Office (MP) – as the institution in charge of ensuring strict compliance with the law and public service²⁸ – must be independent enough to withstand any external pressure (whether political, economic, or of any other nature) that threatens or

interferes with the fulfillment of its functions.

During the period under study, the CICIG also helped promote the adoption of **reforms to the Organic Law of the Public Prosecutor's Office (Decree 18-2016)**, approved by Congress in 2016.

This decree entails significant changes to the MP, which can be summarized as follows:

- It established the Professional Career System (prosecutorial, technical, and administrative), as a mechanism for ensuring the stability and promotion of the institution's personnel, based on their merits.
- It regulated a new independent Disciplinary System, aimed to detect and resolve any administrative mistakes committed by personnel while fulfilling their duties; independent of their criminal or civil responsibility.
- It eliminated the Council of the MP, an entity that, due to its administrative bureaucracy, served to limit the institution's functional, substantive, and strategic progress.
- It promoted the regionalization of investigations and strategic criminal prosecution by creating Regional Prosecution Offices and the National Coordinating Committee of Regional Prosecution Offices (*Coordinación Nacional de Fiscales Regionales*).

One of the most significant advances achieved by the reform, in terms of ensuring the MP's independence, is:

- Limitation on the grounds for removing the Attorney General and Head of the MP from

office, circumscribing them to a conviction, duly executed for having committed an intentional crime.

It is not difficult to grasp that the reform of the Organic Law of the Public Prosecutor's Office contributes directly to its strengthening, which is indispensable for investigating, criminally prosecuting, and thereby dismantling the CIACS and other criminal organizations.

The prior decrees demonstrate that, at the time, the Guatemalan Congress had the political will and cooperation to approve the CICIG-backed legislative reforms that were needed to strengthen the justice system.²⁹ However, in the period analyzed in this report, there were also important reforms that remained pending approval. This can be attributed to the lack of consensus and cooperation within the legislative branch that spurred once investigations by the Commission and the MP began to affect former and current congresspeople linked to corruption cases.³⁰ These pending reforms include:

- **Proposed reform of the Pre-Trial Law (*Ley en Materia de Antejuicio*).**³¹ *Antejuicio* in Guatemala refers to a guarantee enjoyed by some dignitaries and public officials that ensures that they will not be detained or criminally prosecuted until a competent authority, through the procedure established in the Pre-Trial Law,³² has declared that there are sufficient grounds for this privilege to be withdrawn and for criminal proceedings to advance.

Thus, this acts as an obstacle to the criminal prosecutions conducted by the Public Prosecutor's Office. When dignitaries and public officials are subjected to the procedure that would strip them of this privilege, they tend to lodge a series of legal actions that delay the proceedings. Logically,

this malicious litigation turns the pre-trial guarantee into an instrument for ensuring impunity.

This bill, which was introduced in 2015, sought to streamline the process established for such pre-trial procedures, while also making them more transparent. It is worth noting that the year in which this legislative initiative was introduced, Guatemala saw an important upsurge in the fight against impunity and corruption, which extended its reach to public employees and officials at all levels, including the presidential duo of the time. The proposal's main objective was to keep the pre-trial guarantee from becoming a mechanism for impunity for any dignitary or public official who acted outside the law.

- **Proposed reform of the Law on Amparo, Habeas Corpus, and Constitutionality (*Ley de Amparo, Exhibición Personal y de Constitucionalidad*).** The Amparo Law in Guatemala³³ seeks to protect and ensure full observance of people's fundamental rights in light of any threat of their violation, or to restitute them when they have already been violated. The law has an apt purpose, which is to protect citizens from any arbitrary act or decision that constitutes a threat to or a violation of their rights. However, this valuable tool for defending human rights has unfortunately been used to bog down criminal proceedings. Because it can take several months - or in the worst-case scenario, several years - to definitively resolve each amparo motion that is filed, criminal proceedings often get suspended during that time. For example, in the *La Línea* case alone, around 31 amparo motions have been filed,³⁴ which effectively hinders the commencement of the trial and subsequent resolution of the detainees' legal situation.

In line with international standards, this initiative sought to simplify and streamline the amparo process to prevent long turnaround times from negatively affecting the progression of criminal proceedings and effectively fostering impunity. The proposal, ultimately designated as bill 5299, was introduced to Congress in 2015 and was later improved by contributions from various civil society organizations. According to the official congressional website,³⁵ no further action was taken after the bill was sent to the full chamber on June 8, 2017, where it remains stuck to this day.

- In 2016, after a series of broad and participatory dialogues took place in diverse regions of the country – held by the executive, legislative, and judicial branches, with support from the institution of the Human Rights Ombudsperson (*Procurador de los Derechos Humanos*, PDH), the MP, the CICIG, and the Office of the United Nations High Commissioner for Human Rights (OHCHR) in Guatemala – on October 5, 2016, a legislative initiative that contained a series of **constitutional reforms on justice-related matters** was introduced to Congress.³⁶

The work carried out by the CICIG, both in terms of providing support on concrete cases and on the implementation of projects and analysis tools (which will be addressed later in this report), revealed a series of administrative and operational failings and weaknesses in the Guatemalan justice system, including:

- A lack of joint strategic planning among the security and justice system's institutions.

- The congestion and slowness of the criminal justice system.
- Illegal manipulation of the actions taken by the nominating commissions (*Comisiones de Postulación*) to select magistrates for the Chambers of the Appeals Court and of the Supreme Court of Justice.
- Malicious litigation carried out by filing motions that seek to impair the proper progression of proceedings (such as the abuse of *amparos*).
- Overlapping administrative and jurisdictional functions at the Supreme Court of Justice.
- The justice system's inadequacy in terms of appropriately addressing and responding to indigenous peoples and ethnic groups, which are divided into three major groups in Guatemala: the Maya, Garífuna, and Xinka – given that the country is multilingual, multiethnic, and pluricultural.

This bill, listed under number 5179, constituted a serious and jointly forged technical proposal based on a democratic and participatory process. As mentioned before, it seeks to resolve the weaknesses identified in the system. Its most relevant aspects include:

- Modifications to the right to a pre-trial procedure in order to stop it from being used as a tool to ensure impunity.
- Recognition of the ancestral justice system to encourage harmonious social coexistence, relying on the ancestral authorities of the indigenous peoples.

- Establishment of orality, transparency, celerity, unity, immediacy, equity, procedural efficiency, and unrestricted access to due process guarantees, as principles of the administration of justice.
- Separation of the administrative and jurisdictional functions at the Supreme Court of Justice.
- Formation of the Supreme Court of Justice through the incorporation of magistrates preferably from the Judicial Career.
- Staggered terms on the Constitutional Court to avoid changes en masse, which serve to weaken constitutional justice.

After obtaining a favorable opinion in committee discussions, debate on this bill began in plenary session in Congress, where it has been stuck since May 2017. In September of that same year, a failed attempt was made to get the heads of the various legislative blocs to resume analysis and discussion of the bill.³⁷

One of the aspects that caused the most controversy in the plenary session of Congress was the issue of recognition of the ancestral justice system. The initial reform proposal poses the explicit recognition of the existence and functioning of the ancestral justice system, promoting coordination between this system and the official justice system, in compliance with the peace accords,³⁸ in which the Guatemalan state committed itself to undertaking a constitutional reform to recognize indigenous peoples' rights.

The business sector, represented by the

Coordinating Committee of Agricultural, Commercial, Industrial, and Financial Associations (*Comité Coordinador de Asociaciones Agrícolas, Comerciales, Industriales y Financieras*, CACIF), publicly spoke out against this change to the Constitution. It requested that Congress not approve it, arguing that “it is not necessary to make any constitutional change on this matter, since we cannot have parallel legal systems. This violates legal certainty and equality under the law.”³⁹ The argument on subjectivity was primarily based on the fact that ancestral law is not written down, since its dissemination, knowledge, and application is based on oral traditions, having been transmitted this way for generations.

When put to a vote, this article achieved 103 votes, just shy of the 105 that were needed for passage, and since several congresspeople abstained from voting, the session was suspended, delaying a debate that has yet to resume.⁴⁰ The lack of consensus on this point in Congress was the argument used by the full chamber to refrain from analyzing and putting to vote the content of the bill's other articles.

Based on the denunciation that the controversy over recognition of the ancestral justice system was being used as a pretext to avoid discussion and approval of the other articles included in the proposed reform, ancestral authorities publicly requested that Congress withdraw Article 203 containing this proposal⁴¹ from the discussion and continue debate on the other articles. Despite this request, the bill has remained bogged down to this day.

The CICIG report entitled “The CICIG’s Role in the Promotion of Legal Reforms against

Impunity” (“*El papel de la CICIG en la promoción de reformas jurídicas contra la Impunidad*”)⁴² states: “Although several reforms have been approved by the Congress of Guatemala, others form part of the pending agenda to strengthen justice. The Guatemalan legal system still needs legislative reforms that are key to combatting impunity but remain pending (...) some areas will also need a constitutional reform that enables reconfiguration of the justice system’s structural architecture.”

Finally, it is critical to mention that there were bills approved in Congress that represent a regressive agenda to the progress made in the fight against impunity and corruption and the strengthening of the justice system; Such is the case with Decrees 14 and 15-2017 which were approved unexpectedly as matters of “national urgency.”⁴³ Through these decrees, reforms to the Criminal Code were incorporated that alter criminal responsibility in cases of illegal electoral financing, attributing it directly and exclusively to accountants and not to the secretary-generals of political organizations. Furthermore, the benefit of sentence commutation⁴⁴ was granted to all offenses sanctioned to less than ten years in prison, enabling the release of people convicted of crimes such as extortion, certain types of homicide, acting as or using a straw person, embezzlement, misappropriation of funds, and bribery, among a long list of other offenses. Passage of these decrees were a clear response from Congress and the presidency to the Public Prosecutor’s Office and the CICIG making public several investigations into cases of illicit campaign financing. Both decrees, which were dubbed by citizens as the “Pact of the Corrupt” (“*Pacto de Corruptos*”),⁴⁵ prompted widespread public indignation, who expressed discontent in street demonstrations, leading members of Congress to backtrack, just as the Constitutional Court ordered after suspending what Congress had approved.⁴⁶

There are several bills forming part of this regressive agenda that are still pending debate in Congress, such as: Bills 5466 and 5474, which contain reforms to the Rules of Criminal Procedures, and Bill 5577, which proposes reforms to the Judicial Career Law. These are merely mentioned here and must be analyzed in greater detail in the next issue of the Central America Monitor, since they correspond to a later period than that of this report.

INSTITUTIONAL REFORMS

To fulfill the commitments assumed by Guatemala upon signing the agreement that established the CICIG, the security and justice system’s institutions had to undertake a series of organic reforms to contribute to the Commission’s proper functioning.

In the case of the Public Prosecutor’s Office, it signed a bilateral agreement with the Commission⁴⁷ in 2008 in which, among other things, it made a commitment to designate personnel to a specialized Prosecutor’s Office for joint work. This led to the creation of the Special Prosecution Unit Assigned to the CICIG (*Unidad Especial de Fiscalía de Apoyo a la CICIG*, UEFAC),⁴⁸ later renamed the Special Prosecutor’s Office against Impunity (*Fiscalía Especial Contra la Impunidad*, FECI), which is still functioning. In a similar vein, the MP had to adapt its organizational structure to implement – with the CICIG’s support – the Department of Criminal Analysis (*Dirección de Análisis Criminal*, DAC), the Witness Protection Office, and the Special Investigative Methods Unit (*Unidad de Métodos Especiales de investigación*, UME),⁴⁹ among others.

In the judiciary, significant structural changes were also made. For example, it was necessary to implement the high risk courts, created when Congress approved Decree 21-2009, the Law

on Criminal Competence in High Risk Cases (*Ley de Competencia Penal en Procesos de Mayor Riesgo*). A similar situation occurred with regard to setting up adequate spaces for conducting the videoconferences established in the Law against Organized Crime (*Ley Contra la Delincuencia Organizada*), approved via Decree 21-2006.

Similarly, as part of an agreement between the Ministry of the Interior (*Ministerio de Gobernación*) and the CICIG, in 2008 the National Civilian Police (PNC) assigned 30 agents to work with the Commission. The creation of this PNC-CICIG police unit served to facilitate the investigation of cases brought forward by

the Commission, acting as a sort of “on-the-job” training program, while also contributing to the security arrangements for the Commission’s personnel and its facilities.⁵⁰

Meanwhile, since 2008, the PNC has designated various agents to form part of a specialized team to support the CICIG in fulfilling its mandate.

Given that the period analyzed in this report runs from 2014 to 2017, Box 3 summarizes the main institutional reforms undertaken during those years to meet the commitments assumed by Guatemala upon signing the agreement establishing the CICIG along with the UN.

BOX 3

MAIN INSTITUTIONAL REFORMS TO COMBAT IMPUNITY

Institution	Year	Measure Implemented
Judiciary	2015	Agreement 10-2015, which added 1 more judge to the First-Instance High Risk Criminal Court (<i>Juzgado de Primera Instancia Penal de Mayor Riesgo</i>) and 3 additional judges to the High Risk Sentencing Court (<i>Tribunal de Sentencia de Mayor Riesgo</i>).
		Agreement 38-2015, which created the Court of Urgent Proceedings (<i>Juzgado de Diligencias Urgentes</i>).
	2016	Agreement 15-2016, which added 1 more judge to the First-Instance High Risk Criminal Court.
Agreement 26-2016, which created the First-Instance High Risk Criminal Court in Quetzaltenango.		
	2017	Agreement 31-2017, which created the Second Chamber of the High Risk Appeals Court (<i>Corte de Apelaciones de Mayor Riesgo</i>).

Institution	Year	Measure Implemented
Public Prosecutor's Office (MP)	2014	Jointly with the CICIG, it formed a technical committee to propose reforms to the Organic Law of the MP, which received a favorable opinion in committee discussions in June 2014.
	2015	Via Agreement 74-2015, a Special Prosecutor was named to investigate the cases cited in the thematic report entitled "The Financing of Politics in Guatemala" (<i>"El Financiamiento de la Política en Guatemala"</i>), presented by the CICIG.
	2016	The Special Prosecutor's Office against Impunity (FECI) established an office in Quetzaltenango to handle cases related to the CICIG's mandate in that area. After approval of the reforms to the Organic Law of the MP that were drafted jointly with the CICIG, the MP began the process of implementing them.
	2017	The Council of the MP was in charge of hearing, on appeal, the challenges presented to the sanctions imposed in disciplinary proceedings. Nonetheless, these challenges piled up while the formation of the Council was delayed. Once this Council was eliminated as a result of the reforms, the institution organized and carried out an intense drive to rapidly resolve all the matters that were still pending. In addition, to follow through on implementation of the reforms: The educational model for the professional career was approved, via Agreement 14-2017. Agreement 74-2017 was approved to institutionalize the Manual for the Organization of Disciplinary Boards (<i>Manual de Organización de las Juntas Disciplinarias</i>). The MP's work was regionalized to expand strategic criminal prosecution, a decision approved via Agreement 134-2017. Regional Prosecutors and their National Coordinator were appointed. An Interagency Cooperation Agreement was signed with the Ministry of the Interior to apply special investigative methods and carry out undercover operations and monitored trafficking.

As a result of the synergy developed and consolidated between the CICIG and the FECL's work teams, multiple important cases were pursued. These cases were emblematic for the fight against impunity and corruption in Guatemala - bringing to justice private individuals, businesspeople, judges, politicians and public employees and officials at all levels who were linked to illegal activities and criminal organizations – and demonstrating the adequate collaboration and coordination between the MP and the Commission during the period studied.

Some of these cases will be addressed further along in this report.

The arduous investigative tasks and operations led by the MP with the CICIG's support clearly required having a police team suited to this purpose. During the period analyzed, the National Civilian Police collaborated closely on the Commission's work, a situation that changed in subsequent years and which will be studied in the next report.

PERFORMANCE AND COOPERATION OF NATIONAL COUNTERPARTS

In addition to the substantive, regulatory, and operational aspects described in the previous section, during the 2014–2017 period, there were important projects, tools, and interagency initiatives promoted with the support of the

CICIG in fulfillment of its mandate, including the Integrated Justice System (*Sistema Integrado de Justicia*) and the Judicial Observatory of the Criminal Justice System (*Observatorio Judicial del Sistema de Justicia Penal*).

BOX 4

INTEGRATED JUSTICE SYSTEM



This initiative was promoted in June 2017 by the judiciary, the MP, the Institute of Criminal Public Defense (*Instituto de la Defensa Pública Penal*, IDPP), the Ministry of the Interior, and the National Institute of Forensic Sciences (*Instituto Nacional de Ciencias Forenses*, INACIF) of Guatemala, with the CICIG's support.

This interagency effort included the development of a digital tool with the capacity to measure and analyze the work of each of the security and justice institutions, while also providing decision makers with data of strategic interest for understanding what criminal phenomena should be prioritized jointly to improve the fight against impunity.

The initiative also had the aim of integrating different institutions' planning processes to set out shared objectives and goals, strengthening the systemic view that must prevail in the security and justice system so as to avoid isolated efforts that have little impact.

Source: International Commission against Impunity in Guatemala (CICIG) ⁵¹

BOX 5

JUDICIAL OBSERVATORY OF THE CRIMINAL JUSTICE SYSTEM

This was a joint effort initiated in April 2017 by the judiciary, the rectors of the University of San Carlos of Guatemala (*Universidad de San Carlos de Guatemala, USAC*) and Rafael Landívar University (*Universidad Rafael Landívar, URL*), the CICIG, and German cooperation.

Through the Observatory, the verdicts in cases processed by the criminal justice system are analyzed to identify institutional and systemic weaknesses. This is done with the aim of proposing strategic and political actions that would help strengthen the justice system and, therefore, contribute to reducing impunity levels in the country.

*Source: International Commission against Impunity in Guatemala (CICIG)*⁵²

For fulfillment of the CICIG's mandate, helpful collaboration was provided by other institutions necessarily involved in the tasks entrusted to the Commission in the original agreement, such as the institutions that perform oversight functions. In this regard, the Commission's final report indicates: "Cooperation with the MP and the CICIG on the part of oversight institutions such as the Comptroller General's Office (Contraloría General de Cuentas, CGC), the Special Verification Intendency (Intendencia de Verificación Especial, IVE) of the Superintendency of Banks (Superintendencia de Bancos), and the Superintendency of Tax Administration (Superintendencia de Administración Tributaria, SAT), is key when their findings reveal that illicit deeds may have been committed. Furthermore, they must send the information needed in the context of criminal investigations to the MP. The CICIG established cooperation agreements with these institutions to formalize the shared work framework..."⁵³

The following are some of the most relevant agreements and letters of understanding signed by the CICIG during the period under study:

- 2016: Agreement aimed at establishing mechanisms to exchange information in

order to inspect the finances of political parties and organizations, signed in conjunction with the Supreme Electoral Tribunal (*Tribunal Supremo Electoral, TSE*), the Comptroller General's Office (CGC), the Superintendency of Tax Administration (SAT), the Superintendency of Telecommunications (*Superintendencia de Telecomunicaciones, SIT*), and the Superintendency of Banks (SIB).⁵⁴

- 2017: Agreement signed with the MP and the Superintendency of Tax Administration (SAT) for cooperation on exchanging information useful to criminal investigations and prosecutions.
- 2017: Letter of understanding signed with the MP and the Ministry of Public Health and Social Assistance (*Ministerio de Salud Pública y Asistencia Social, MSPAS*) to create a specialized unit for investigating possible anomalies and acts of corruption in the Health Ministry.⁵⁵

The period under study (2014–2017) coincides with several political changes in Guatemala. The government of Otto Pérez Molina and Roxana Baldetti was due to leave office in January 2016. However, the investigations carried out by the

MP and the CICIG in 2015 after having unveiled the *La Línea* case prompted public discontent that grew as each week passed, culminating in massive demonstrations that prompted the Vice President's resignation⁵⁶ in May, and the President's resignation⁵⁷ in September of that same year. Since more than three months remained until the new government of Jimmy Morales would take office (in January 2016), Alejandro Maldonado Aguirre took over as interim president.⁵⁸

It is worth briefly analyzing the political support of the distinct governments in office during the period under study – primarily the actions taken by former General Otto Pérez Molina and Jimmy Morales, since the interim presidency was predictably focused on finishing up the executive branch's administrative activities to make way for a new government.

On January 19, 2015, then President Otto Pérez Molina made a written request to the Coordinating Body for Modernization of the Justice Sector (*Instancia Coordinadora para la Modernización del Sector Justicia*, ICMSJ) for it to conduct an analysis of the CICIG's evaluation of and contributions to Guatemala's criminal justice system.

The ICMSJ is made up of the president of the judiciary and of the Supreme Court of Justice, the Attorney General and head of the MP, the Interior Minister, and the director of the Institute of Criminal Public Defense.⁵⁹

The president of the judiciary and Supreme Court at the time, Josué Felipe Baquix, called upon diverse sectors and organizations in the country to make statements regarding the CICIG's work.⁶⁰ In this context, there was concern that this evaluation mechanism could be used as a tool to recommend that the executive branch not request to extend the

Commission's mandate, which would put an end to its activities.

Commissioner Iván Velásquez himself went to present his report before the ICMSJ,⁶¹ which had heard from people and organizations that supported the Commission's work and efforts, praising the positive results in terms of fostering a stronger justice system, but which had also heard from people and organizations that sustained that the Commission's work constituted a violation of national sovereignty – an argument made to this day.

Upon concluding their analysis, just days after the MP and the CICIG publicly unveiled the results of the investigation into the *La Línea* case along with government officials' involvement in it, the ICMSJ members unanimously recommended in a detailed report that President Otto Pérez Molina extend the Commission's mandate for another two years,⁶² which is effectively what occurred.

Early on in the period analyzed in this report, the CICIG largely enjoyed the collaboration of security and justice system institutions as well as oversight institutions, as demonstrated in previous paragraphs. However, it is worth analyzing what happened once President Jimmy Morales's brother and son were linked to one of the joint investigations by the MP and the CICIG – namely, that a series of actions were taken that ultimately weakened the fight against impunity and corruption in Guatemala and prompted the end of the Commission's mandate.

After the involvement of the president's son and brother came to light at a hearing in the case known as the Property Registry Spoils (*Botín Registro de la Propiedad*), the MP and the CICIG expanded their investigations, concluding that both men should be brought to justice since they had contributed directly to embezzling the public

funds allocated to the Property Registry.⁶³ Even though initially President Morales appeared to be willing to collaborate with the justice system and continue supporting the work of the MP and of the Commission,⁶⁴ ultimately that was not the case. The Guatemalan government, led by Morales, took a series of actions that obstructed the Commission's work up until the time its mandate ended. Two of the actions that stand out the most are:

- Declaring Commissioner Iván Velásquez to be persona non grata in August 2017.⁶⁵ This decision was announced by Jimmy Morales himself via social media at 6 a.m., despite having scheduled a presidential address to the nation for 8 p.m. that same day. The decision implicitly entailed Commissioner Velásquez's expulsion from the country. This declaration was suspended by the Constitutional Court, which determined that it violated the Political Constitution of the Republic of Guatemala.⁶⁶
- Failing to renew courtesy visas for the CICIG's international personnel.⁶⁷ With this decision, the government directly flouted

the obligation to collaborate which it had assumed in the agreement signed with the UN. This move hindered the entry of international investigators who participated significantly in the legal analyses and investigations related to high-impact cases led by the MP and the CICIG before the courts. The Constitutional Court suspended such arbitrary decisions.⁶⁸ The Human Rights Ombudsperson's intervention was even re-quired in the case of investigator Yilen Osorio, who, upon returning to Guatemala, was illegally retained in the airport for more than 24 hours without migration authorities allowing him entry, until he was finally authorized to enter the country amid tensions.⁶⁹

It is important to mention these events because, since the conflict stemming from the aforementioned case in 2017, a counter-reform was launched that ultimately brought about the end of the CICIG's activities, among other harmful developments for Guatemala. More analysis, appraisals, and details will be provided in the following report.

ADVANCES IN THE INVESTIGATION OF EMBLEMATIC CASES

Carlos Castresana's management of CICIG's administrative, technical, and operational bases—fortified by Francisco Dall'Anesse's efforts to strengthen regulations and institutions within Guatemala's security and justice systems (strategic actions which were then taken up and consolidated by the mission commissioner Iván Velásquez Gómez)—produced important

results in the fight against impunity and corruption regarding CIACS.

The following is a summary of the three most relevant cases that the CICIG supported the Public Prosecutor's Office (*Ministerio Público*, MP) in pursuing during the period of study.

BOX 6

CASE OF LA LÍNEA

A joint effort between the MP and the CICIG resulted in the unveiling of a complex criminal enterprise embedded within Guatemala's governing structure, creating a major source of impunity in the country. This illicit organization was comprised of individuals, employees, and public officials within the Tax Administration, including former President Otto Fernando Pérez Molina and former Vice President Ingrid Roxana Baldetti Elías.

The capture of 24 people, including senior officials of the Tax Administration, brought the case to public attention in April 2015. Titled "The Phone Line," the case became the subject of notoriety due to the arrest warrant's inclusion of Juan Carlos Monzón, private secretary to the vice presidency.

According to investigations, the criminal organization offered importers lower tariffs on merchandise entering the country, a policy which investigators assert amounted to bribery in exchange for tax avoidance. The illegal profits generated through this scheme were subsequently distributed to other members of the organization. These illicit services were accessed through a special phone line, from which the case's name is derived.

On August 21, 2015, the MP and the CICIG publicly identified the leaders of the criminal organization as the former president and the former vice president. Both resigned from their positions after a historic demonstration by citizens which lasted for several weeks, uninterrupted. A judge declared them to be a flight risk and potential source of obstruction in the case at their first hearing, ordering preventive detention for the two disgraced politicians.

Juan Carlos Monzón and Salvador Estuardo González, union members and active participants in the scheme, were responsible for controlling the illicit profits of the former presidential pair. Their collaboration with the prosecutor's office (*Fiscalía Especial Contra la Impunidad, FECI*) under the application of criminal law provided insight into the organization's structure and method of operation. These revelations exposed the men and their families to a high risk of retaliation, requiring the government to provide strong security measures during transfers to and from hearings. This support was implemented by the Office for the Protection of Witnesses and Procedural Subjects (*Oficina de Protección de Testigos y Sujetos Procesales*) with the support of the CICIG to protect the witness' lives and integrity.

Of course, these security risks also extend to legal practitioners and other members of the judicial system. Many (if not most) are victims of threats, criminalization, smear campaigns and hate speeches, as in the cases of High-Risk Judge Miguel Ángel Gálvez, Prosecutor Juan Francisco Sandoval, and former Attorney General of the Republic, Thelma Aldana. Aldana, to whom the Inter-American Commission on Human Rights (IACHR) has granted precautionary measures, is currently politically isolated in the United States of America following the discovery of a planned attack against her on the orders of a presidential candidate.

The Phone Line case's proceedings have been plagued by legal accusations of malicious litigation brought on by the defense teams of the accused. A press release on the subject enumerated 49 appeals, 37 initiated by the former president's legal counsel and at least 10 by the former vice president's counsel.

The public oral proceedings are expected to start in March 2020, during which criminal liability will be discussed. Pérez Molina has been accused of illicit association, a special case of customs fraud, and passive bribery. Roxana Baldetti has been accused of illicit association, a special case of customs fraud, and illicit enrichment.

Source: Elaboration based on the Annual Report of the Public Ministry 2015-2016⁷⁰ and a publication by el Periódico⁷¹

BOX 7

COOPTATION OF THE STATE CASE

Following the investigations that took place in April of 2015, when the case of “The Line” (*La Línea*) became public knowledge, the Public Prosecutor's Office and CICIG took advantage of this new capacity for criminal analysis and carried out an exhaustive process of systemization and study of all the evidence, including physical, electronic and financial documents, among others.

The analysis uncovered a complex network of money laundering, made up of a structure of companies who, starting with the electoral campaign of the Patriot Party (*Partido Patriota*), were able to operate with total impunity.

With the election of Otto Pérez Molina and Roxana Baldetti as President and Vice President, respectively, this criminal network was able to effectively coopt the state. By ensuring individuals involved in the criminal organization were made high level government officials, they were able to use this structure of businesses to divert public funds for personal gain.

The investigations established that Otto Pérez Molina and Roxana Baldetti were the founders and main beneficiaries of the illicit profits, and that this network managed at least 450 public contracts, which after the payment of bribes to those named “Monetary Commercial Incentive” (*Incentivo Comerical Monetario*), totaled at least 500 million Quetzales.

This case provides clear evidence of the way in which Illegal Clandestine Security Apparatuses (*Cuerpos Ilegales y Aparatos Clandestinos de Seguridad, CIACS*) operate, taking control of public institutions.

By January of 2017, in an effort to slow the advancement of the case, more than 26 appeals had been presented in the case. The same phenomenon occurred in the case of “The Line”, providing evidence once again for the practice of malicious litigation, a practice characteristic of the CIACS to obtain impunity. As of the end of 2017, the case was pending trial.

Source: Elaboration based on the information from the CICIG⁷² and Prensa Libre⁷³

BOX 8

CONSTRUCTION AND CORRUPTION CASE

This case also involves the Patriot Party administration, but from within the Office of Communications, Infrastructure and Housing (Ministerio de Comunicaciones, Infraestructura y Vivienda, MICIVI). The head of MICIVI at the time was Alejandro Sinibaldi Aparicio, who remained a fugitive of justice as of the end of 2017.

Investigations carried out in coordination between the Public Prosecutor's Office and CICIG resulted in the capture of 17 people. In accordance with the investigations, the findings identified fraudulent companies, tied to ex-minister Sinibaldi, that had obtained millions of dollars as a result of bribes.

Through the analysis of evidence, particularly of accounting and finance documents, they established that through these fraudulent companies, they acquired various assets, many of them in exclusive zones of the country.

Characteristic of cases of corruption brought to justice with the help of the CICIG, justice defenders have been exposed to a series of intimidating acts, threats, illegitimate denunciations and cyberattacks through smear campaigns. In the case of Erika Aifán, a High-Risk Court Judge, the CIDH came to the conclusion that, because of the type of cases and the profile of the accused, she was considered vulnerable, and for these reasons they granted her preventative measures. Judge Aifán has been on the receiving end of 12 unfounded administrative denunciations, mainly made by the accused.

In this case, there is once again evidence of malicious litigation, used to evade normal advancement of the case. Two examples of these practices used were absence of defense attorneys at hearings and claims for suspension made by these attorneys on the basis of not having received complete copies of the means of investigation. When these claims are denied, the accused and their attorneys make use of the ordinary resources included in the criminal procedure. Following an evident pattern, when these actions are resolved unfavorably, they have responded with constitutional protection, denaturing it by claiming to use it as a third review instance.

By the end of 2017, the majority of those captured and implicated in this case await oral and public trial.

Source: Elaboration based on information from the CICIG and a report by the Myrna Mack Foundation on Monitoring and Implementation of the Judicial Career Law⁷⁴

The cases summarized above represent a sample of important results from the MP and CICIG's joint investigations and prosecutions, which make evident the success of the CICIG's model.

Table 9 provides a broader overview of some of the investigations and cases pursued by the MP and CICIG between 2014 and 2017.

TABLE 2
SAMPLE OF JOINT INVESTIGATIONS BY THE MP AND CICIG, 2014-2017

No.	Case	Overview	Sector	Status of Case
1	Pavón	In September 2006, under ex-president Oscar Berger's leadership, the Ministry of the Interior (MINGOB) led a prison operation that resulted in the extrajudicial killings of 7 prisoners. The operation was carried out by a parallel structure that was, in part, made up of high officials of the MINGOB, the National Civilian Police (PNC) and the Directorate General of the Prison System (DGSP).	National Security System Prison System	The High Risk Court B issued prison sentences that range from 15 to 33 years.
2	Mayor of La Antigua	Adolfo Vivar, mayor of La Antigua, along with members of the Municipal Council and community officials, formed a criminal structure that diverted public resources through the creation of various companies. Many of these companies were construction companies, to which the officials involved awarded overpriced contracts. Amount: 23 million quetzales (\$2.9 million).	System of Public Contracts Municipal Government	The High Risk Court B convicted the ex-mayor for crimes of money laundering and other asset laundering, fraud, peculation and extortion, issuing a penalty of around 13 million Quetzales. 17 others were also convicted and given prison sentences.

No.	Case	Overview	Sector	Status of Case
3	Salán Sánchez and Napoleón Rojas	Retired military officers, Jacobo Esdras Salán Sánchez and Napoleón Rojas Méndez, were security advisers to ex-president Alfonso Portillo and participated in the theft of millions of Quetzales from the Ministry of Defense in 2001. Amount: 120 million quetzales (\$15.6 million).	National Security System (Armed Forces)	The Second Court of Penal Sentence convicted both of the accused and gave them prison sentences of five years and three months.
4	Network of Passport Counterfeiters	Investigations revealed the existence of a criminal organization, made up of personnel of the General Directorate of Migration (DGM), the National Registry of Persons (RENAP) and agents that illegally allowed foreigners entrance, temporary residence and transit into the country with the use of illicitly issued Guatemalan passports.	National Security System (General Directorate of Migration) National Registry of Persons	High Risk Tribunal A issued sentences against three Russians and 36 Guatemalans implicated in the network. The prison sentences ranged between 4 and 19 years.
5	Corruption in the Prison System	Investigations showed that the prisoner Byron Lima Oliva (convicted in the case of the murder of Monsignor Juan José Gerardi) ran an illegal system within the prison system that provided benefits to prisoners in exchange for money.	Prison System	The High Risk Court A sentenced seven people for their participation in the criminal network, including the former director of the Prison System. The prisoner, Byron Lima Oliva was killed during an armed confrontation inside the prison.

No.	Case	Overview	Sector	Status of Case
6	IGSS-PISA	<p>Members of the Board of Directors and the tender and award board of the Guatemalan Social Security Institute (IGSS) approved and endorsed an irregular contract signed with the drugstore PISA de Guatemala, S.A. to provide peritoneal dialysis services.</p> <p>Amount: 116 million quetzales (\$15.1 million)</p>	Social Security System	The Eleventh Criminal Court found guilty former members of the Board of Directors, those of the Tender Board, former officials, and a former advisor. By the end of 2017, the Court had sentenced 12 people involved in the case.
7	Pedro Muadi - Ghost Positions	<p>Between 2013 and 2015, Claudia María Bolaños Morales, who worked as the sole administrator of the company Productos, Servicios y Equipos, S.A. owned by the former congressman and former President of Congress Pedro Muadi Menéndez Bolaños, had her signature registered in 30 accounts in the name of workers in the legislative who earned salaries ranging from 7 thousand to 20 thousand Quetzales (912 USD to 2,606 USD) in positions as executive secretaries, administrative assistants, operational technicians, and parliamentary guards; however, none of them worked in Congress.</p> <p>Amount: 4,739,739.53 quetzales (\$617,587.59).</p>	Congress	The Eighth Trial Court imposed a sentence of five to eight years in prison on 30 people, mostly former employees of Congress, including the former president of the legislature for the 2013 to 2015 period, Pedro Muadi.
8	IGSS – Chiquimula	<p>Five people from the government and private sector were arrested because of their involvement in an illegal remodeling process in the IGSS in Chiquimula. They remodeled a building and made irregular profits through the purchasing process.</p> <p>Amount: 2,160,000 quetzales (\$281,447.78)</p>	<p>Congress</p> <p>Public Procurement System</p> <p>National Social Security</p>	The case was heard by the Eleventh Criminal Court, along with the IGSS-PISA case. By the end of 2017, the Court sentenced 12 defendants to 6 years and 3 months prison.

No.	Case	Overview	Sector	Status of Case
9	Mayor's Office of Chinautla: A Family Business	<p>Edgar Arnaldo Medrano Menéndez, the former mayor of Chinautla, led an illicit political-economic network in the Municipality of Chinautla that was composed of several of his relatives and private individuals. The former mayor and his councillors formed an illegal association so that public works contracts were allocated to the companies of the criminal group itself and they could thereby benefit economically from public funds. The operation also extended to other municipalities through the contracting of this network of companies.</p>	<p>Public Procurement System</p> <p>Municipal Government</p>	<p>The FECl requested the High Risk Court C impose a 26-year prison sentence against the former mayor, in addition to a fine of 25 million quetzales.</p> <p>By the end of 2017, the outcome of the Court's decision is not yet known.</p>
10	Case of Fraud in the National Civil Police	<p>Héctor Florentino Rodríguez Heredia and other members of the National Civil Police (PNC) were arrested on June 23, 2015 for being involved in a criminal structure within the PNC that was diverting funds by appearing to invest them in the acquisition of goods and services in a spare parts trading event.</p> <p>Amount: 12 million quetzales (\$1.6 million).</p>	<p>National Security System (Police Forces)</p>	<p>The Seventh Criminal Court handed down sentences ranging from 6 to 26 years in prison to 12 people, including the former deputy director of the PNC's General Directorate of Support and Logistics, Héctor Florentino Rodríguez Heredia.</p>

No.	Case	Overview	Sector	Status of Case
11	Influence Peddling in the Ministry of Social Development	<p>The former congressional representatives Luis Adolfo Chávez Pérez, Mirza Judith Arreaga and Mario Gerardo Yanes Guerra were accused of influence peddling; Yanes for applying to positions in the Ministry of Social Development, Chávez for having pressured for the illegal execution of projects with funds from the Ministry of Social Development, and Chávez and Arreaga for having executed several works with funds from the Ministry of Social Development.</p>	<p>Congress Ministry of Social Development</p>	<p>The Second Criminal Court sentenced former congressman Luis Chávez by an abbreviated procedure.</p> <p>For his part, Mario Yanes, also through an abbreviated procedure, was sentenced by the Sixth Criminal Court of First Instance.</p> <p>By the end of 2017, former congresswoman Arreaga had yet to face trial.</p>
12	Networks	<p>César Augusto Medina Farfán and other public officials, including a judge and several private individuals, are implicated in a large number of activities involving influence peddling. Negotiations were documented between Medina Farfán and officials of the company Z GAS Centroamericana, S.A., specifically in the creation of a private customs warehouse that included the payment of a policy for 5 million quetzales (\$651,499.50). Through such illegal practices, they were also able to achieve the dismissal of a criminal case of fraud, abuse of authority, embezzlement, extortion, and fraud against Muñoz Roldán carried out by Judge José Luis Patán Piché.</p>	<p>Justice System Tax System Ministry of Energy and the Private Secretariat of the Presidency</p>	<p>At the time of this study, the defendants in this case are explaining their legal situation in Oral and Public Trial.</p>

No.	Case	Overview	Sector	Status of Case
13	T.C.Q.	<p>Between 2012 and at least April of 2015, a criminal group was established involving former President Otto Perez Molina, former Vice President Roxana Baldetti, the Supreme Court Justice Douglas Rene Charchal Ramos, and others. The objective was to obtain economic benefits generated through the execution of a contract in favor of the entity TCQ, S.A.; the contract ceded a portion of the land of Empresa Portuaria Quetzal to TCQ, S.A. for the construction, development and operation of a private container terminal.</p>	<p>Public Procurement System</p> <p>Justice System</p> <p>Executive Branch</p>	<p>The First Instance Judge of High Risk Court B sentenced the former secretary of the Escuintla Court to 5 years in prison.</p> <p>At the time of this study, the rest of the defendants are still awaiting resolution to their legal situation.</p>
14	La Cooperacha	<p>Former President Otto Pérez Molina and former Vice President Roxana Baldetti, together with the group of ministers closest to them, convened every year around the birthdays of both leaders in order to collaborate and collect large sums of money for luxury goods delivered as “presidential and vice presidential gifts”.</p> <p>Amount: 33 million + 500,000 quetzales (\$4.3 million + \$65,149.95)</p>	<p>Executive Branch</p>	<p>At least two former Patriot Party cabinet ministers are fugitives from justice and with international arrest warrants, namely former Communications Minister Alejandro Sinibaldi and former Energy Minister Erick Archila. The rest of those involved are awaiting resolution of their legal status.</p>

No.	Case	Overview	Sector	Status of Case
15	Agüita Mágica / Lake of Amatitlán	<p>A criminal organization led by former vice president Roxana Baldetti was revealed to have operated within key state institutions on environmental issues as well as within companies that were created for the purpose of illegally obtaining a concession for the clean-up and sanitation project of Lake Amatitlán, and in this way procuring economic benefit.</p> <p>Amount: 41,956,665.55 quetzales (\$5.5 million)</p>	<p>Public Procurement System</p> <p>Vice Presidency</p>	<p>The High Risk Court C sentenced former Vice President Roxana Baldetti and nine others to sentences ranging from 3 to 13 years in prison.</p>
16	Property Registry Spoils	<p>The Directorate of the General Property Registry, headed by Anabella De León, authorized several phantom positions and abnormal payments that damaged the finances of the institution. At least 16 ghost positions were documented.</p> <p>Amount: At least 3,150,000.00 quetzales (\$41,044,468.50)</p>	<p>General Property Registry</p>	<p>The Second Unipersonal Criminal Court convicted three people for the crimes of embezzlement by ideological theft and falsehood and for having held phantom positions in the Registry. The former Registrar, Anabella de León was convicted of embezzlement and fined 5 million quetzales (\$615,499.50). The Court also ruled against 25 other defendants.</p>

No.	Case	Overview	Sector	Status of Case
17	Fraud in Chicamán Municipality	Investigations identified a criminal structure that operated as an illicit political-economic network and took advantage of a series of political relationships in local power to defraud the finances of the Municipality of Chicamán, Quiché. Investigations showed that around 14 million quetzales (\$1.8 million) were paid for several projects that were left unfinished to the detriment of the community of Chicamán.	Public Procurement System Municipal Government	The Judge of the High Risk Court D decided to send 12 accused persons to trial, among them the former congresswoman Emilenne Mazariegos. The accused await Oral and Public Trial.
18	Case of Judge Jisela Yadel Reinoso Trujillo	Investigative work documents that Judge Jisela Yadel Reinoso Trujillo increased her patrimony through irregular judicial proceedings. Amount: 1,439,924.37 quetzales (\$187,622)	Justice System	The Third Criminal Court found sufficient evidence to sentence Judge Jisela Reinoso to 11 years in prison for the crimes of illicit enrichment and money laundering.
19	Case of Magistrate Erick Gustavo Santiago de León	Judge Erick Gustavo Santiago de León was accused of passive bribery for trying to collect a sum of millions in exchange for giving a favorable resolution to a company that had been sentenced to pay 93 million quetzales (\$12.1 million).	Justice System	The Eleventh Criminal Court sentenced former Judge Erick Santiago to a prison term of five years in prison.

No.	Case	Overview	Sector	Status of Case
20	Congressman Gudy Rivera Estrada	Former congressman and former president of Congress, Gudy Rivera Estrada, tried to influence the decision of Judge Claudia Escobar Mejía regarding an Amparo action promoted by then Vice President of the Republic, Roxana Baldetti.	Congress	The Fifth Criminal Court sentenced former congressman Rivera Estrada to 13 years and four months in prison and the lawyer Vernon González Portillo to five years after finding them guilty of trying to bribe Judge Escobar.
21	Law Firm of Impunity	Judge Marta Sierra de Stalling was charged with the crimes of passive bribery and malfeasance. According to the investigation, she reached illegal agreements with several people who were accused of fraud in the network known as “La Línea” and who would have benefited from the application of alternative measures. Members of a law firm were involved in the illegal negotiations and agreements.	Justice System	The people involved in this case are still awaiting resolution of their legal situation.
22	2014 Parallel Commissions	In 2014, the Nominating Committee selected judges for the Courts of Appeal and the Supreme Court of Justice. Investigations revealed that the lawyer Roberto López Villatoro had a strategy to intervene in this process. López Villatoro allegedly gave Judge Eddy Giovanni Orellana Donis an apartment in an exclusive area of Guatemala City in exchange for favoring certain judges close to López Villatoro.	Justice System	The High Risk Court D decided to send the lawyer López Villatoro, his sister Clara López Villatoro, and the former Judge Eddy Orellana to trial. By the end of 2017, the defendants were awaiting resolution of their legal situation in Oral and Public Trial.

No.	Case	Overview	Sector	Status of Case
23	Blanca Aida Stalling Dávila	The then Supreme Court Justice, Blanca Aida Stalling Dávila, tried to influence the decisions of magistrates of the Ninth Criminal Court to favor her son, one of the defendants in the IGSS-PISA case.	Justice System	At the time of this study, the defendant is still awaiting resolution of her legal situation.
24	Laundering and Politics	Investigations identified a money laundering network in which congressmen Jaime Martínez Lohayza and Manuel de Jesús Barquín Durán participated, along with vice-presidential candidate Edgar Baltazar Barquín Durán (brother to Manuel de Jesús). The criminal network operated under the direction of Francisco Edgar Morales Guerra, alias “dollar boy”. Several bank transfers amounting to approximately 255 million quetzales (\$33.2 million) were documented, but investigators estimate that the laundering operations could reach as much as 937 million quetzales (\$122 million).	Congress	The High Risk Court B sentenced the former president of the Bank of Guatemala, Edgar Baltazar Barquín Durán, to 2 years and 6 months in prison through an abbreviated procedure. The High Risk Court A sentenced 13 people, including Francisco Edgar Morales Guerra and the former congressman Jaime Martínez, to between 2 and 38 years in prison.

No.	Case	Overview	Sector	Status of Case
25	Illicit Electoral Financing UNE and LIDER Parties	<p>The investigation into illicit electoral financing revealed a series of abnormalities concealing the origin of funds that the political parties, National Unity of Hope (UNE) and Democratic Freedom Revived (LIDER) used in their 2015 political campaign. As part of the investigation, the MP had to request the lifting of the immunity of congressmen Orlando Joaquín Blanco Lapola of UNE and Roberto Villate Villatoro of LIDER. The case also involved several businessmen, among them the vice-presidential candidate of UNE, Mario Leal Castillo.</p>	Political-Electoral System	<p>At the time of this study, the individuals involved in the illicit financing of both the UNE and the LIDER are still awaiting resolution of their legal situation.</p>
26	Illicit Electoral Financing FCN Nación	<p>According to the investigation, the political party National Convergence Front (FCN-Nación) did not provide financial transaction records related to the origin, management, and use of funds it raised. This prevented inspection of its campaign activities in the period between January 1, 2015 (election year) and January 9, 2016. The Secretary General of the party was former president Jimmy Morales. The Public Prosecutor's Office requested that his immunity be lifted but Congress delayed announcing its decision on this request.</p> <p>Various businessmen are also accused in this case.</p>	Political-Electoral System	<p>At the time of this study, the people involved in criminal proceedings have yet to resolve their legal situation in the case.</p>

No.	Case	Overview	Sector	Status of Case
27	Workers Bank	Investigations identified a payment of 5.5 million quetzales (\$716,649.45) to a lawyer for the Banco de los Trabajadores (BANTRAB), which was the same amount transferred to fake entities linked to several of the Bank's managers in 2011. In accordance with investigations, the MP and CICIG concluded that at least 10 people were involved in the crime of illicit association and money laundering.	Finance and Banking System	The Tenth Judge of the First Instance Criminal Court sent 6 of the defendants to oral and public Trial. They have not, to date, resolved their legal situation.
28	Genesis Case	Members of a criminal structure led by Walter Obdulio Mendoza Matta - one of four brothers who made up the Mendozas, a family with a long history of contraband and drug trafficking - were accused of violently robbing farmers of their lands in the departments of Izabal and El Petén.	Individual Persons	The High Risk Court B issued sentences against 10 members of the criminal structure, imposing prison terms ranging from 2 to 8 years.
29	Mazatenango Journalists	In 2015, journalists Danilo Efaín Zapón López, correspondent for Prensa Libre, and Federico Benjamín Salazar Gerónimo of Radio Nuevo Mundo were killed, and journalist Marvin Israel Túnchez Ayala was also injured. Investigations determined that the accused persons are part of a criminal structure dedicated to hiring assassins, social cleansing, vehicle theft and arms trafficking that operates in the departments of Retalhuleu and Suchitepéquez. Two members of the National Civil Police were implicated, as was a national congressman, who was identified as the intellectual author.	Police Congress	The High Risk Court A issued a conviction against the accused. The High Risk Court B will hear the oral and public Trial against the former congressman Julio Juárez.

No.	Case	Overview	Sector	Status of Case
30	Aceros de Guatemala	<p>The company Aceros de Guatemala used the corruption network led by defendants Omar Franco Chacón, former head of the Superintendency of Tax Administration (SAT), and Geovani Marroquín Navas (both are linked to the customs fraud case “La Línea”) to obtain the dismissal of three criminal complaints filed against Aceros de Guatemala for an amount of 255,612,266.82 quetzales (\$33.4 million). The purpose of the criminal structure was not only to free the entity from criminal proceedings, but also to clean the record before the SAT so that it could collect tax credit refunds effectively.</p>	Tax System	<p>The Public Prosecutor’s Office submitted before the High Risk Court B a formal accusation against the 16 members of the criminal structure, who, to date, have not resolved their legal situation.</p>

ACRONYMS AND ABBREVIATIONS

CGC	Comptroller General's Office
CIACS	International Commission to Investigate Illegal Bodies and Clandestine Security Forces
CICIG	International Commission against Impunity in Guatemala
DAC	Department of Criminal Analysis
FECI	Special Prosecutor's Office against Impunity
ICMSJ	Coordinating Body for Modernization of the Justice Sector
IVE	Special Verification Unit
MP	Public Prosecutor's Office
MSPAS	Ministry of Public Health and Social Assistance
NSC	National Security Council
OHCHR	Office of the United Nations High Commissioner for Human Rights
OJ	Judiciary
PDH	Human Rights Ombudsperson's Office
PNC	National Civilian Police
RPEI	Illicit political-economic networks
SAT	Superintendency of Tax Administration
SIB	Superintendency of Banks
SIT	Superintendency of Telecommunications
TSE	Supreme Electoral Tribunal
UEFAC	Special Prosecution Unit Assigned to the CICIG
UME	Special Investigative Methods Unit
UN	United Nations
URL	Rafael Landívar University
USAC	San Carlos University of Guatemala

ANNEXES⁷⁵

LEGISLATION PROMOTED BY THE CICIG IN GUATEMALA

APPROVED LAWS

No.	Decree	Measure
1	Decree 17-2009	Law on Strengthening Criminal Prosecution (<i>Ley del Fortalecimiento de la Persecución Penal</i>)
2	Decree 23-2009	Reforms to the Law against Organized Crime (<i>Ley Contra la Delincuencia Organizada</i>)
3	Decree 52-2010	Law regulating private security services
4	Decree 55-2010	Asset Recovery Law (<i>Ley de Extinción de Dominio</i>)
5	Decree 31-2012	Law against Corruption (<i>Ley contra la Corrupción</i>)
6	Decree 10-2015	Reforms to the Migration Law (<i>Ley de Migración</i>)
7	Decree 18-2016	Reforms to the Organic Law of the Public Prosecutor's Office (<i>Ley Orgánica del Ministerio Público</i>)
8	Decree 32-2016	Judicial Career Law
9	Decree 17-2917	Reforms to the Judicial Career Law

LAWS PENDING CONGRESSIONAL APPROVAL

No.	Measure
1	Reforms to the Pre-Trial Law (<i>Ley en Materia de Antejudio</i>)
2	Reforms to the Appeals, Habeas Corpus, and Constitutionality Law (<i>Ley de Amparo, Exhibición Personal y de Constitucionalidad</i>) – Initiative 5299
3	Constitutional reforms to the justice sector – Initiative 5179

NOTES

- ¹A detailed list of indicators is available at www.wola.org/cam.
- ²Secretariat of Peace, Presidency of the Republic. "Los Acuerdos de Paz en Guatemala." 2019, page 15. Available at: <https://sepaz.gob.gt/wp-content/uploads/2019/10/Acuerdos-de-Paz-2019.pdf>
- ³See: International Commission against Impunity in Guatemala (CICIG). "Guatemala: Un Estado Capturado." 2019, page 13. Available at: https://www.cicig.org/wp-content/uploads/2019/08/Informe_Captura_Estado_2019.pdf
- ⁴See: Myrna Mack Foundation. "Impunidad y redes ilícitas: Un análisis de su evolución en Guatemala." 2019, page 33. Available at: https://www.cicig.org/wp-content/uploads/2019/08/Layout_Impunidad_Redес_Illicitas_MM.pdf
- ⁵The evolution of the Illegal Groups and Clandestine Security Structures throughout Guatemala's history, their mechanisms for impunity, and their consolidation into Illicit Political-Economic Networks is fleshed out in a report by the Myrna Mack Foundation entitled "Impunidad y Redes Ilícitas: Un análisis de su evolución en Guatemala." Available at: https://myrnamack.org.gt/images/redes_ilicitas/Layout_Impunidad_Redес_Illicitas_MM.pdf
- ⁶See: International Commission against Impunity in Guatemala (CICIG). "Guatemala: Un Estado Capturado." 2019, page 16. Available at: https://www.cicig.org/wp-content/uploads/2019/08/Informe_Captura_Estado_2019.pdf
- ⁷See: https://www.cicig.org/uploads/documents/mandato/cicig_acuerdo_en.pdf
- ⁸See: Third preambular paragraph in the Agreement between the United Nations and the State of Guatemala on the establishment of an International Commission against Impunity in Guatemala ("CICIG").
- ⁹See: https://issuu.com/ciciggt/docs/cc_opinion_consultiva
- ¹⁰See: https://www.congreso.gob.gt/detalle_pdf/decretos/12976
- ¹¹See: Article 3 of the cited agreement.
- ¹²See: <https://mingob.gob.gt/investigadores-de-pnc-inician-capacitacion-sobre-derechos-humanos/>
- ¹³See: <http://www.sejust.gob.gt/sites/default/files/CAPACITACIONES%20SOBRE%20INVESTIGACION%20CRIMINAL.pdf>
- ¹⁴See: <https://dca.gob.gt/noticias-guatemala-diario-centro-america/imparten-taller-a-jueces-y-peritos/>
- ¹⁵See: <https://www.cicig.org/wp-content/uploads/documents/convenios/mp-cicig.pdf>
- ¹⁶See Article 5 of the Agreement between the United Nations and the State of Guatemala on the establishment of an International Commission against Impunity in Guatemala ("CICIG").
- ¹⁷See Articles 9 and 10 of the Agreement between the United Nations and the State of Guatemala on the establishment of an International Commission against Impunity in Guatemala ("CICIG").
- ¹⁸See Article 7 of the Agreement between the United Nations and the State of Guatemala on the establishment of an International Commission against Impunity in Guatemala ("CICIG").
- ¹⁹See: <https://www.cicig.org/wp-content/uploads/2018/03/ContribucionesFinancierasSpanish.jpg>
- ²⁰See Articles 6 and 8 of the Agreement between the United Nations and the State of Guatemala on the establishment of an International Commission against Impunity in Guatemala ("CICIG").
- ²¹See: <https://www.cicig.org/cicig/prorroga/presidente-solicitar-prorroga-de-la-comision/>
- ²²See: <https://www.cicig.org/comunicados-2016-c/presidente-jimmy-morales-solicita-a-la-onu-prorroga-de-dos-anos-para-la-cicig/>
- ²³See ANNEX 1: The CICIG's Legislative Impact in Guatemala.
- ²⁴See: <https://twitter.com/JoseCSoy502/status/748225097492635648>
- ²⁵See: Agreement on the Strengthening of Civilian Power and on the Role of the Armed Forces in a Democratic Society. Available at: https://peacemaker.un.org/sites/peacemaker.un.org/files/GT_960919_AgreementStrengtheningCivilianPower.pdf
- ²⁶See: Secretariat of Peace, Presidency of the Republic. 2019, page 84. Available at: <https://sepaz.gob.gt/wp-content/uploads/2019/10/Acuerdos-de-Paz-2019.pdf>.
- ²⁷See: Advisory Opinion of the Constitutional Court, case file 5911-2016 dated January 9, 2017.
- ²⁸See: Article 251 of the Political Constitution of the Republic of Guatemala.
- ²⁹See: https://www.cicig.org/wp-content/uploads/2019/06/Informe_ReformasLegales.pdf
- ³⁰For example, in 2015, an arrest warrant was issued for the former president of Congress, Pedro Muadi, who was accused of having illegally obtained state resources by contracting for non-existent and fraudulent posts. Information available at: <https://www.soy502.com/>

- articulo/expresidente-congreso-pedro-muadi-presenta-tribunales-0
- ³¹See: <https://www.cicig.org/comunicados-2015-c/propuestas-de-reformas-a-ley-de-antejuicio-y-ley-de-amparo/>
- ³²See Decree 85-2002 of the Congress of the Republic, Pre-Trial Law.
- ³³See Decree 1-86 of the National Constituent Assembly, Appeals, Habeas Corpus, and Constitutionality Law.
- ³⁴See: <https://lahora.gt/el-caso-la-linea-desnuda-a-la-justicia-en-guatemala/>
- ³⁵See: https://www.congreso.gob.gt/detalle_pdf/iniciativas/5316
- ³⁶See: <https://www.cicig.org/listado-noticias-2016/presentacion-de-propuesta-de-reforma-constitucional-en-materia-de-justicia/>
- ³⁷See: <https://www.plazapublica.com.gt/content/la-agonia-de-las-reformas-constitucionales>
- ³⁸See the Agreement on Identity and Rights of Indigenous Peoples. Available at: https://peacemaker.un.org/sites/peacemaker.un.org/files/GT_950331_AgreementIdentityAndRightsOfIndigenousPeoples.pdf
- ³⁹See: <https://elperiodico.com.gt/nacion/2016/11/08/cacif-renuente-a-incluir-pluralismo-juridico-en-reformas/>
- ⁴⁰See: <https://brujula.com.gt/reformasconstitucionales-pluralismo-juridico/>
- ⁴¹See: <https://elperiodico.com.gt/nacion/2017/03/09/nota-4-27/>
- ⁴²International Commission against Impunity in Guatemala (CICIG). “El papel de la CICIG en la promoción de reformas jurídicas contra la impunidad.” 2019, page 8.
- ⁴³See: <https://www.prensalibre.com/guatemala/politica/diputados-modifican-delito-de-financiamiento-electoral-ilicito/>
- ⁴⁴A criminal procedural benefit through which a prison sentence lasting no longer than 5 years can be compensated for with money, applying a quantity that ranges from 5 to 100 quetzals for each day in prison, depending on the convicted person’s economic conditions. See Article 50 of the Criminal Code.
- ⁴⁵See: <https://nomada.gt/pais/entender-la-politica/como-una-magistrada-pudo-inspirar-el-pacto-de-corruptos/>
- ⁴⁶See: <https://www.prensalibre.com/guatemala/politica/pdh-acciona-contrareformas-al-delito-de-financiamiento-electoral-ilicito/>
- ⁴⁷Available at: <https://www.cicig.org/history/uploads/documents/convenios/mp-cicig.pdf>
- ⁴⁸International Commission against Impunity in Guatemala (CICIG). “Informe de dos años de actividades, 2007 a 2009 a la Comisión Interamericana de Derechos Humanos.” 2009, page 9.
- ⁴⁹See: https://www.cicig.org/wp-content/uploads/2018/09/Boletin_Fortalecimiento_MP_Esp_.pdf
- ⁵⁰International Commission against Impunity in Guatemala (CICIG). “Informe de cierre. El Legado de Justicia en Guatemala.” 2019, page 57. Available at: https://www.cicig.org/wp-content/uploads/2019/08/InformeLegadoJusticia_SI.pdf
- ⁵¹See: <https://www.cicig.org/comunicados-2017-c/impulsan-el-sistema-integrado-de-justicia/>
- ⁵²See: <https://www.cicig.org/fortalecimiento-institucional/observatorio-judicial-del-sistema-de-justicia-penal/>
- ⁵³See: CICIG, 2019, page 66.
- ⁵⁴Véase: <https://www.cicig.org/history/index.php?mact=News,cntnt01,detail,0&cntnt01articleid=762&cntnt01showall=&cntnt01returnid=1611>
- ⁵⁵See: <https://elperiodico.com.gt/nacion/2017/01/13/abren-unidad-contrala-corrupcion-en-la-cartera-de-salud/>
- ⁵⁶See: <https://www.prensalibre.com/guatemala/politica/roxana-baldetti-renuncia-a-la-vicepresidencia/>
- ⁵⁷See: https://www.bbc.com/mundo/noticias/2015/09/150903_renuncia_perez_molina_guatemala_corrupcion_aw
- ⁵⁸See: <https://www.prensalibre.com/guatemala/politica/asume-maldonado-aguirre-como-presidente-numero-48/>
- ⁵⁹See: <http://www.sejust.gob.gt/content/instancia-coordinadora-de-la-modernización-del-sector-justicia--icmsj>
- ⁶⁰See: https://www.prensalibre.com/guatemala/politica/cicig-ivan-velasquez-oj-josue-baquiax_0_1305469626/
- ⁶¹See: <https://www.cicig.org/comunicados-2015-c/comisionado-presenta-informe-ante-instancia-coordinadora-de-modernizacion-del-sector-justicia/>
- ⁶²See full report, available at: https://www.plazapublica.com.gt/sites/default/files/informe_cicig.pdf
- ⁶³Press conference by the MP and the CICIG, available at: <https://es-la.facebook.com/soy502/videos/conferencia-de-prensa-en-el-ministerio-público-luego-de-la-captura-de-sammy-mora/1201257853256416/>
- ⁶⁴See: <https://elperiodico.com.gt/nacion/2016/09/13/presidente-envia-mensaje-sobre-el-caso-fulanos-y-menganos-registro-de-la-propiedad/>
- ⁶⁵See: <https://elperiodico.com.gt/nacion/2017/08/27/urgente-jimmy-morales-declara-no-grato-a-ivan-velasquez-y-ordena-su-expulsion-inmediata-del-pais/>
- ⁶⁶See: [THE FIGHT AGAINST IMPUNITY IN GUATEMALA DECEMBER 2019 | 46](https://www.plazapublica.com.gt/content/declarar-</p>
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morales

⁶⁷See: <https://www.prensalibre.com/guatemala/justicia/cicig-niegan-visas-a-investigadores/>

⁶⁸See: <https://elperiodico.com.gt/nacion/2018/12/22/cc-ampara-a-personal-de-la-cicig-y-suspende-revocatoria-de-visas/>

⁶⁹See: <https://www.prensalibre.com/guatemala/politica/persiste-tension-en-el-aeropuerto-por-caso-de-investigador-de-la-cicig-yilen-osorio/>

⁷⁰Available at: <https://www.mp.gob.gt/transparencia/info/res/source/Articulo%2010:%20Información%20Pública%20de%20Oficio/05%20Misión,%20visión%20y%20objetivos/Memoria%20de%20Labores/Memoria-de-Labores-2015.pdf>

⁷¹Available at: <https://elperiodico.com.gt/nacion/2019/05/07/perez-y-baldetti-iran-a-juicio-oral-por-la-linea-el-16-de-marzo-del-2020/>

⁷²See: <https://www.cicig.org/casos/caso-cooptacion-del-estado-de-guatemala/> y https://www.cicig.org/wp-content/uploads/2019/08/Informe_Captura_Estado_2019.pdf

⁷³See: <https://www.prensalibre.com/guatemala/justicia/hay-60-apelaciones-que-frenan-casos-mp/>

⁷⁴Available at: <https://www.cicig.org/casos/caso-corrupcion-y-construccion/>

⁷⁵Developed using information from the CICIG report titled, "The role of the CICIG in promotion of legal reforms against impunity." See: https://issuu.com/ciciggt/docs/informe_reformaslegales

ABOUT THE ORGANIZATIONS

THE MYRNA MACK FOUNDATION is a Guatemalan nongovernmental organization that develops and produces research and policy proposals aimed at furthering the fight against impunity, strengthening the rule of law, and consolidating peace and democracy in Guatemala.

THE WASHINGTON OFFICE ON LATIN AMERICA (WOLA) is a leading research and advocacy organization advancing human rights in the Americas. We envision a future where public policies protect human rights and recognize human dignity, and where justice overcomes violence.

ABOUT THE PROJECT

The Central America Monitor is a subregional project that seeks to assess the level of progress being made by the countries of Guatemala, Honduras and El Salvador in the areas of strengthening the rule of law, reducing violence, combating corruption and organized crime, and protecting human rights through the use of a series of indicators. The project also monitors and analyzes international cooperation programs in the aforementioned areas.

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