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Curtain Falls on Guatemala's International Commission against Impunity

President Jimmy Morales has made good on his promise to shut down a UN-backed commission fighting rampant crime and impunity in Guatemala. Though it leaves a vital legacy, the commission's exit risks strengthening the hand of criminal networks that operate with state complicity.

What happened?

The UN-backed International Commission against Impunity in Guatemala (CICIG) closes its doors today, twelve years after embarking on its mission to help the country prosecute serious crimes and support the rule of law. The CICIG worked with Guatemala's security and judicial institutions to dismantle criminal organisations and impede their collusion with state officials. The expansion of these criminal networks had contributed to the doubling of murder rates in Central America's most populous country between 1999 and 2006. By then, the annual homicide rate had reached an historic high of 43.6 killings per 100,000 inhabitants, leading a UN rapporteur to rue that Guatemala was "a good place to commit a murder, because you will almost certainly get away with it".

Guatemala's outgoing president, Jimmy Morales, initially supportive of the CICIG, made terminating it a policy priority over the past two years. A political novice famed for comedy sketches on television, Morales swept to office in 2015 on a wave of public outrage at the political establishment following then-president Otto Pérez Molina's resignation and arrest on corruption charges in a case of customs fraud filed

by the CICIG, for which he is still untried.

Even though its case against Pérez Molina helped pave the way for his election, Morales later argued that the commission trampled on the nation's sovereignty and routinely overstepped its mandate. His hostility escalated markedly after CICIG decided to investigate him, his son and his brother for fraud, embezzlement and campaign finance violations in 2017. Even though the Guatemalan Congress refused to lift President Morales' immunity in September 2017 – in effect shielding him from prosecution – and his brother and son were recently acquitted, Morales' relationship with the CICIG soured permanently. In August 2017, Morales declared the CICIG's head Iván Velásquez, a Colombian jurist, *persona non grata*. Then, in 2018, he announced that the commission's mandate, due to expire in September 2019, would not be renewed. The commission's closing today marks the fulfilment of that pledge.

How did the U.S. and other donors react?

Although Morales' decision not to renew the CICIG's mandate sparked domestic and international outcry, the U.S. – the commission's main donor with almost \$45 million in contributions – chose not to push back. In September 2018, the CICIG donors' group (known as the G13), released a statement regretting the government's decision, which the U.S. did not sign.

The U.S.'s about-face on the commission was partly the product of an effective influence campaign. Intense lobbying in Washington by

Guatemalan politicians and business figures, many alarmed by probes into the thicket of collusion between companies and political leaders, helped to turn various U.S. politicians against the commission. Unproven allegations that Moscow had penetrated the commission's 2015 investigations against the Bitkov family, who came to Guatemala fleeing Russian persecution and were then accused of securing their residency papers through corrupt means, helped give the campaign against the CICIG some traction in the U.S. Congress.

President Morales, meanwhile, curried favour with the Trump administration by moving the Guatemalan embassy in Israel from Tel Aviv to Jerusalem in February 2018, and aligning closely with U.S. efforts to dislodge Venezuelan President Nicolás Maduro. He also bowed to Washington's hard line on migration control, signing a Safe Third Country agreement in July 2019. Should it be ratified by the Guatemalan Congress, the agreement will oblige asylum seekers transiting through Guatemala, largely from other Central American countries, to file their requests there rather than in the U.S.

Right-wing President-elect Alejandro Giammattei has already stated he will not reverse Morales' decision. He has his own grievances with the CICIG, which helped convict and imprison him in 2010 for his alleged involvement in executing seven prisoners while he was head of Guatemala's prisons, for which he was later exonerated. But CICIG's popularity among donors and the Guatemalan people – 70 per cent of whom support the commission – has at least persuaded Giammattei to promise a replacement body, funded by the state and headed by three Guatemalan commissioners who, in his words, “will not only prosecute corrupt figures, as did CICIG, but attack the system that fosters corruption”. Doubts remain over the effectiveness of such a new body, both because it would need years to become operational, as did the CICIG, and because commissioners would be designated by the incoming

government, raising questions about its independence despite Giammattei's promise to ensure a transparent, inclusive selection.

Did the commission achieve its goals?

The CICIG made impressive progress, playing a central role in numerous high-profile prosecutions and in reducing violence across the country. Among other things, the CICIG piloted reforms creating a witness protection program, tighter gun controls and rules for court-ordered wiretaps. It spurred the establishment of high-risk crime courts to protect the safety of individuals involved in the prosecution of especially grave crimes, and a special prosecutor's office against impunity (FECI in Spanish) within the Attorney General's office. It also trained dozens of prosecutors and police officers in scientific criminal investigation techniques – achieving notoriety in 2010 by proving that a presumed murder victim who claimed in a widely-circulated video that senior officials, including former president Álvaro Colom, had threatened his life, had actually plotted his own homicide in an act of despondency.

Hundreds of investigations hatched or supported by the CICIG have successfully broken up rackets involving prominent officials, business leaders, drug traffickers, extortionists and street gangs. Its work helped oust a dozen corrupt judges, and led to the removal of 1,700 police officials accused of corruption and incompetence. According to the CICIG, unsolved murder cases fell from 95 per cent in 2009 to 72 per cent in 2012.

As Crisis Group has previously reported, these achievements saved lives. In the first seven years of the commission's operations, while the country's neighbours and regional peers experienced a 1 per cent annual rise in homicide rates on average, Guatemala saw an average 5 per cent decline, according to World Bank's figures. Overall, Crisis Group estimates that the CICIG has contributed to a net reduction of more than 4,500 homicides between 2007 and 2017.

What risks does Guatemala face after CICIG's exit?

The greatest danger is that impunity for serious crimes will rise again, with murder rates and emigration following suit.

According to a recent CICIG report, criminal networks have already begun to revive techniques for obstructing judicial investigations. This has contributed to a fresh spike in impunity rates, which ticked back to 94.2 per cent for homicide cases in 2018, indicating that fragile improvements can easily erode as political support wanes. Had its mandate been renewed, the CICIG might have helped stem the tide, as its presence brought with it UN, U.S. and European backing for robust judicial operations and protection for Guatemalan prosecutors and magistrates. As the lapse of its mandate has approached, threats and attacks have already risen against judges in the Constitutional Court. Attorney General Consuelo Porras has committed to consolidating FECCI's role, but has not confirmed whether her prosecution service will employ the dozens of Guatemalan professionals who built considerable expertise working for the commission.

With the CICIG's exit, high-level officials and politicians may take advantage of weaker oversight, falling back into the patterns of corruption and state collusion with drug trafficking and other criminal organisations that multiple CICIG cases uncovered. Violence against land rights and other political activists, for which Guatemala already reports the highest per capita rate in the Americas, could worsen. "We are already starting to see a deceleration in the long-term trend of homicide reduction", said an analyst at the Guatemalan Observatory of Violence.

Although Guatemalans already try to migrate to the U.S. in large numbers for mainly economic reasons, increasing corruption and insecurity are likely to accelerate flight to the north, creating opportunities for criminals who prey on vulnerable migrants through extortion, human smuggling and sexual exploitation.

What significance does CICIG's closure have for the region?

The CICIG's closure sets an alarming precedent. The commission had a worthy mandate, more than enough work to do, and the support of the Guatemalan people. What it lacked, in recent years, was sufficient support from the U.S. The evaporation of Washington's support sends a stark message that the Trump administration is ready to trade away the fight against corruption and for protecting the rule of law in favour of other objectives – including restricting migration and eliciting support for its Israel policy. Honduran President Juan Orlando Hernández could feel tempted to follow Morales' example as he considers the fate of the Mission to Support the Fight against Corruption and Impunity in Honduras (MACCIH), a body backed by the Organization of American States whose mandate expires in January 2020. Although the U.S. embassy in Tegucigalpa has reiterated its support for MACCIH, it has also backed the Honduran government's request that the OAS assess the body's work before it takes a final decision. It will be critically important that the U.S. not repeat the cold shoulder posture that led to the CICIG's demise.

At the same time, the CICIG leaves behind a set of accomplishments that others in the region would do well to emulate. Whereas anti-corruption campaigns in other Latin American countries, especially Brazil, have faced criticism over their allegedly selective choice of culprits, political bias and failure to address the conditions that enable graft and impunity to flourish, this charge is far harder to level against the CICIG. Indeed, both candidates in the second round of the last presidential election in Guatemala faced CICIG investigations, and one of them (Sandra Torres) was actually detained on 2 September on illicit electoral financing and unlawful association charges. In scything through the political establishment, the commission spurred its unpopularity with high-level officials – both hastening its demise and securing a legacy that future reformers can look to in taking up the work it was prematurely forced to set aside.