

# **GUATEMALA: SQUEEZED BETWEEN CRIME AND IMPUNITY**

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## GUATEMALA: SQUEEZED BETWEEN CRIME AND IMPUNITY

### EXECUTIVE SUMMARY

The 1996 peace accords formally ended Guatemala's civil war but failure to address the conflict's root causes and dismantle clandestine security apparatuses has weakened its institutions and opened the door to skyrocketing violent crime. Guatemala is one of the world's most dangerous countries, with some 6,500 murders in 2009, more than the average yearly killings during the civil war and roughly twice Mexico's homicide rate. Under heavy pressure at home, Mexican drug traffickers have moved into Guatemala to compete for control of Andean cocaine transiting to the U.S. The UN-sanctioned International Commission against Impunity in Guatemala (CICIG) has brought hope by making some progress at getting a handle on high-level corruption. However, in June 2010 its Spanish director, Carlos Castresana, resigned saying the government had not kept its promise to support CICIG's work and reform the justice system. President Álvaro Colom needs to consolidate recent gains with institutional reform, anti-corruption measures, vetting mechanisms and a more inclusive political approach, including to indigenous peoples.

The administration of President Álvaro Arzú and the Guatemalan National Revolutionary Unity (URNG) guerrilla group signed peace accords fourteen years ago that promised a massive overhaul of the military and of a system that marginalised the majority of citizens, among them large sectors of the indigenous population, and served the interests of the small economic and political elite. However, there has been little follow-through. Tax collection is still the lowest in Latin America (some 10 per cent of gross domestic product, GDP), in flagrant violation of a key provision of the peace accords. In addition to the rise of clandestine groups, many directed by ex-senior military officers and politicians, the country has seen the proliferation of Mexican drug-trafficking organisations (DTOs) and youth gangs (*maras*). Criminal organisations traffic in everything from illegal drugs to adopted babies, and street gangs extort and terrorise entire neighbourhoods, often with the complicity of authorities.

Guatemala has become a paradise for criminals, who have little to fear from prosecutors owing to high levels of impunity. An overhaul of the security forces in the wake of the peace accords created an ineffective and deeply

corrupt police. High-profile assassinations and the government's inability to reduce murders have produced paralysing fear, a sense of helplessness and frustration. In the past few years, the security environment has deteriorated further, and the population has turned to vigilantism as a brutal and extra-institutional way of combating crime.

President Colom took office in 2008 with the promise, like his predecessors, at least to slow the spiral of violence and to end impunity. However, his administration has been plagued by instability, corruption and a lack of capacity. There have been five interior ministers, two of whom are facing corruption charges, while two police chiefs have been arrested for connections to drug trafficking. The president himself was nearly toppled, when a prominent lawyer and businessman were assassinated under bizarre circumstances in 2009. Nevertheless, some progress has been made with international assistance, in particular from the CICIG. To achieve lasting results, however, Guatemalans and their international counterparts need to act in the following areas:

- The government of Guatemala should give priority to reforming the police and military as well as the corrections and justice systems; ensuring the vetting of and financial disclosure by high-level government and state officials, so as to combat corruption; stimulating the full political and economic participation of indigenous leaders and communities; and improving the legislature's professional capacity in the area of justice reform and law enforcement.
- Central American governments, as well as Panama and Mexico, together with the Andean region, should continue to advance cooperation and information-sharing initiatives, in order to better combat crime, gangs and drug trafficking.
- UN Secretary-General Ban Ki-moon should quickly appoint a new CICIG director, and the international community should extend CICIG's mandate beyond September 2011; expand it to specifically address crime and corruption; and increase political and financial support. At the same time, the international commu-

nity should increase support for institutional reform and capacity building, so that Guatemala can eventually take over CICIG's functions effectively.

- The U.S., within the Mérida Initiative framework, should increase funding and make its support to Central America, especially Guatemala, more effective.

**Bogotá/Brussels, 22 June 2010**

## GUATEMALA: SQUEEZED BETWEEN CRIME AND IMPUNITY

### I. INTRODUCTION

In recent years, Guatemala has been crippled by soaring levels of violent crime and impunity, which threaten the security of its population and seriously undermine the country's institutions and state authority. Citizens from all walks of life increasingly face the threat of murder, kidnapping, extortion, gang violence and shootouts between rival drug trafficking organisations (DTOs), both Guatemalan and Mexican. Higher levels of violence than during the 36-year armed conflict, which in 1996 was ended through a peace agreement, have produced a pervasive sense of insecurity and hopelessness.

While an outright return of civil war is not expected, the government of President Álvaro Colom (2008-2012) has been unable to reduce violent crime. In the vast majority of cases, perpetrators are never arrested, let alone charged. Extreme levels of impunity have emboldened criminal groups to employ increasingly violent tactics. The widespread perception of a lack of government capacity to stem the violence has caused some communities to turn to brutal and extra-institutional vigilantism.

The International Commission against Impunity in Guatemala (CICIG) has given Guatemala some hope. Established in December 2006, it began working in September 2007 and has contributed to some important inroads in the fight against impunity. 2,000 members of the National Civilian Police (PNC) have been dismissed for corruption, and a number of senior government and state officials have been arrested and prosecuted thanks to its work. CICIG also crucially contributed to solving the bizarre case of Rodrigo Rosenberg, whose assassination in May 2009 by persons he himself had hired through intermediaries put enormous political pressure on the Colom administration.

These advances notwithstanding, CICIG's director, Spanish judge Carlos Castresana, repeatedly warned that impunity continued at an extremely high level and that CICIG did not receive sufficient support from Guatemala's institutions and government. He was particularly displeased by Colom's selection in May 2010 of Conrado Reyes as the new attorney general over CICIG's objections. Also angered by a systematic character assassina-

tion campaign against him, Castresana resigned on 7 June 2010, four days before the Constitutional Court annulled Reyes's selection on procedural grounds. His unexpected departure has cast a large shadow over the future of CICIG (whose mandate is scheduled to expire in September 2011) and the international community's attempt to help salvage Guatemala's justice system.

This report is the first in a new Crisis Group series that will examine different aspects of the effort to recover the rule of law in Guatemala.

## II. ROOTS OF PROTRACTED CONFLICT AND PERVASIVE VIOLENCE

Guatemala's turmoil and pronounced problems of violence, crime and impunity have their roots in a historically weak state, protracted periods of direct military rule or interference by the armed forces in politics and deep-seated economic, social and cultural inequality. Central America's largest country has long had one of the most unequal distributions of resources in the world, concentrating wealth in the hands of a small elite. The indigenous population, an estimated 40-60 per cent of society,<sup>1</sup> has been systematically marginalised since colonial times.

Independence from Spain in 1821 and foundation of the republic did not improve the situation of largely rural indigenous communities, which were excluded from politics, education and other social services. Divided by geography, culture and their 24 languages, indigenous people have had a difficult time forming a cohesive political movement and have faced years of repression by the military and police. Labour, student, women's and religious movements also have been excluded and repressed, especially when they have expressed themselves publicly.

In effect, during much of its republican history, white elites sought to maintain long-established patterns of control of the means of economic production at the expense of the majority of the population. Most of this economy is centred on agriculture, in particular production of coffee, sugar and bananas for export. These sectors still employ nearly half the labour force. Paradoxically, the same elite interests have sought to keep the state weak in terms of its ability to exert control over their wealth.

While Guatemala has had some powerful institutions, in particular the military, a strong central government and state were never established. Throughout its history, the government has been unable to provide the most basic services to urban and rural poor, in part because of its inability to approve and enforce a more adequate and more progressive tax code. This failure in turn reflects the economic elite's disinterest in reforming legal structures that

protect its interests.<sup>2</sup> During the past quarter century, the country has seen institutional and political change and modernisation, including the return to democracy and the enactment of a new constitution in 1985, but the pattern whereby the government serves as a tool to advance private interests rather than the public good has been hard to break.

The most visible disputes have centred in rural areas, where struggles over land and labour confrontations laid the foundations for political resistance movements and the internal armed conflict that lasted from 1960 until 1996. In 1944, a group of dissident military officers, with the help of liberal professionals and student activists, overthrew the military government of General Jorge Ubico. Led by a civilian, Juan José Arévalo, the "October Revolutionaries" outlawed forced labour and corporal punishment on plantations. Arévalo's administration also established an eight-hour workday, six-day workweek and the right to unionise.

Arévalo's successor, Colonel Jacobo Arbenz, elected in 1951, pushed further. On the basis of Decree 900, his administration expropriated close to 600,000 hectares of land, of which 160,000 belonged to the powerful U.S.-owned United Fruit Company (UFCO), which filed a lawsuit to stop the takeover. When that failed, it used its ties to the administration of President Dwight Eisenhower to influence U.S. policy. Arbenz had also opened political space for the burgeoning Communist Party, worrying the U.S. and hard-line Guatemalan military officers. Consequently, in 1954 the military, with U.S. assistance and backing from the country's landed elite and multinational companies, engineered a coup that ended the political process known as the "ten years of spring in the country of eternal tyranny". Arbenz fled to Switzerland, then to political asylum in Mexico.

The military government of Colonel Carlos Castillo outlawed opposition political and labour organisations and began the systematic repression of social, political and indigenous groups that came to characterise Guatemala for decades. The 1954 coup also started a 35-year period of direct military rule or armed forces tutelage of elected civilian governments, with the devastating consequences of which the country is still struggling.<sup>3</sup>

<sup>1</sup> As in other Latin American countries with large indigenous populations, such as Bolivia, Peru and Ecuador, there is debate about how many Guatemalans self-identify or are counted as being of Mayan or other indigenous origin. Estimates range from 40 to 60 per cent. See "Indigenous Peoples, Democracy and Political Participation", Political database of the Americas, Georgetown University, 2006, at <http://pdba.georgetown.edu/IndigenousPeoples/demographics.html>.

<sup>2</sup> Tax collection represents only 9.9 per cent of the GDP. Latin America's average is 14.5 per cent. "Background Note: Guatemala", U.S. State Department, at [www.state.gov/r/pa/ei/bgn/2045.htm](http://www.state.gov/r/pa/ei/bgn/2045.htm); "Guatemala: Colom scores a rare victory", LatinNews, Weekly Report, 6 May 2010.

<sup>3</sup> See Markus Schultze-Kraft, *Pacificación y poder civil en Centroamérica. Las relaciones cívico-militares en El Salvador, Guatemala y Nicaragua en el posconflicto* (Bogotá, 2005), pp.

## A. CIVIL WAR

In 1960, a small group of young army officers declared the military government corrupt and rebelled against it unsuccessfully. Refusing to admit defeat, however, they fled to the countryside and mountains and began an insurgency. Initially, it drew from labour, student and social movements in the cities, but over time, groups of Marxist-Leninists, as well as revolutionaries supported by Cuba's Fidel Castro, joined or formed their own movements. Some integrated indigenous members, but at the onset, these groups were also mostly made up of students, intellectuals and liberation-theology-inspired clergymen from the cities. After numerous military failures in the north east, they shifted their efforts towards the north-west highlands, where they made their base, coordinated armed operations and recruited more indigenous foot soldiers.

In the early 1980s, the groups formed a coalition, the Guatemalan National Revolutionary Unity (Unidad Revolucionaria Nacional Guatemalteca, URNG), that at its apex had some 8,000 full-time guerrillas and close to 200,000 support and part-time insurgents.<sup>4</sup> The rebels attacked military garrisons, ambushed army columns, kidnapped large landowners, cut off electricity and, in some cases, occupied entire villages. However, the URNG was not nearly as potent or as coordinated as the FMLN (Frente Farabundo Martí National Liberation Front) insurgency in neighbouring El Salvador, and it replicated some of the traditions of the government it fought. Thus, while most foot soldiers were indigenous, the leadership was mostly white, upper middle class. Rodrigo Asturias, the son of Nobel Prize winner for literature Miguel Angel Asturias, led one guerrilla faction. Ricardo Arnoldo Ramirez de León studied law before forming the Guerrilla Army of the Poor (Ejército Guerrillero de los Pobres, EGP), the URNG's most indigenous faction, in the north west.

The 36-year civil war that followed the 1960 insurrection left an estimated 200,000 people dead or "disappeared" and over a million displaced, most of them from rural, indigenous populations.<sup>5</sup> The Historical Clarification Commission (Comisión de Esclarecimiento Histórico, CEH), a UN-backed Guatemalan/international truth and

reconciliation commission that began work in 1997 after the signing of the so-called final peace accords between the government and the insurgents,<sup>6</sup> found that the government and its paramilitary groups (Patrullas de Autodefensa Civil, PAC) were responsible for the vast majority of these victims. It registered 626 massacres by the army, mostly in poor, rural predominantly Mayan areas.<sup>7</sup> "The violence was fundamentally directed by the State against the excluded, the poor and above all, the Mayan people, as well as against those who fought for justice and greater social equality", the commission said.<sup>8</sup> Women, mostly of Mayan descent, were systematically subjected to sexual violence and torture.<sup>9</sup>

On the basis of an investigation of massacres and violence, the CEH concluded that "agents of the State of Guatemala, within the framework of counterinsurgency operations carried out between 1981 and 1983, committed acts of genocide against groups of Mayan people which lived in the four regions analysed".<sup>10</sup>

During this period, the armed forces did not always run the government, but they were always its principal instrument in the conflict with civil society, thus further polarising the country, limiting the possibility of peaceful resolution and impeding the development of a functional state. The military's dominance of the executive branch in the 1960s, which included periods of running the government, began a process whereby it penetrated every aspect of the state and, later, the country's economic, political and social spaces. This included development of the army's own bank, Banco del Ejército, creation of political parties that represented its interests and establishment of a landed and business class of former military officials that owned cement factories, parking garages, fish farms and textile factories, among other enterprises.<sup>11</sup>

Part of the military's strategy was to terrorise and fragment society. Racism, the UN commission found, played a key role in this repression. Entire areas were targeted because of their ethnicity and presumed sympathy with the guerrillas, and their populations were relocated to "model villages" to "re-educate" them. In 1981, the army began forcibly recruiting thousands of civilians over the age of fifteen and incorporating them into a paramilitary group, the PAC, which operated as its proxy, sometimes unwillingly. The CEH documented hundreds of cases in which the army forced PAC members to rape women, tor-

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54-71; Stephen Schlesinger & Stephen Kinzer, *Bitter Fruit. The Untold Story of the American Coup in Guatemala* (London, 1982); James Dunkerly, *Power in the Isthmus: A Political History of Modern Central America* (London and New York, 1988).

<sup>4</sup>"Why the 'Tanda' phenomenon does not exist in the Guatemalan Military", U.S. Department of Defense Intelligence Brief, 26 August 1991, p. 3, National Security Archives, at [www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB32/39-03.htm](http://www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB32/39-03.htm).

<sup>5</sup>"Guatemala: Memory of Silence", Report of the Commission for Historical Clarification, para. 2, at <http://shr.aaas.org/guatemala/ceh/report/english/concl.html>.

<sup>6</sup> See Section II.C below.

<sup>7</sup>"Guatemala: Memory of Silence", op. cit., para. 86.

<sup>8</sup> Ibid., para. 3.

<sup>9</sup> Ibid., para. 91.

<sup>10</sup> Ibid., para. 122.

<sup>11</sup> Jennifer Schirmer, *A Violence Called Democracy* (Philadelphia, 1998), p. 19.

ture, kill and mutilate corpses.<sup>12</sup> The victims were often neighbours. The PAC also substituted for the traditional Mayan authorities, taking the place of Mayan elders and further destroying communities' social fabric.<sup>13</sup>

Return to democracy in 1986, when the Christian Democrat Vinicio Cerezo took office, did little to stem the violence. Instead, it ushered in an era of more subtle, yet equally powerful military control over government institutions and society. Much of this control came via the army's intelligence services and the Presidential General Staff (Estado Mayor Presidencial, EMP),<sup>14</sup> which had penetrated social, human rights and labour movements, as well as other government and state institutions. The intelligence services used their information to stigmatise and, later, eliminate opposition and ensure impunity for the army's criminal acts. They also systematically violated the laws and corrupted the security and justice systems, while establishing a parallel government that responded to no authority but their own.

## B. LEGACY OF THE CONFLICT

The legacy of the conflict goes beyond accounting for the victims, reparations for their families and accountability for the crimes. Thousands of orphans have grown up without fathers and mothers. Hundreds of thousands of victims and victimisers have dealt with the psychological horrors of war on their own. The CEH found numerous cases of sexual violence and rape of prisoners, which have left scars on individuals and communities. Rifts persist between neighbours over involvement in the civil war. Fear is often ingrained in entire villages. Survival depends on silence about criminal matters and keeping a limited public profile, neither of which makes for a thriving participatory democracy.

Hundreds of labour leaders, community activists, students, professors, catechists, priests and peasant leaders were assassinated by the government's security apparatus. Others fled the country, leaving civil society bereft of energy and creative spirit. Hundreds of thousands of refugees settled in places like Mexico and the U.S. Hundreds of thousands more moved to urban areas in Guatemala. These mostly poor, uneducated Mayan populations have struggled to adjust to new countries and new urban circumstances, sowing the seeds for another round of violent confrontation manifested through youth gangs and organised criminal activity.

The conflict severely fractured any trust the populace had in its government. Mistrust of public institutions is, in some cases, endemic. The government and the political and economic elite facilitated this by abdicating power to the military for years and undermining the tax system – one of the most inefficient and under-funded in Latin America. Lack of investment in social and economic infrastructure, even during good economic times, has widened the chasm between the populace and the governing class. Problems are particularly acute for the Mayan population, which suffers substantially higher levels of poverty and malnutrition than its mixed-blood (*ladino*) counterparts.<sup>15</sup>

Finally, the conflict undermined confidence in the legal and judicial systems. Prosecutors' failures to investigate crimes committed by the state as well as judges' refusal or inability to conduct the relevant court proceedings eroded faith in justice. The treasury police, the unit designated to investigate crimes, was deeply involved in repression, particularly in Guatemala City, making it harder for today's police to establish community relations. Impunity became the rule, during and after the conflict, especially in cases implicating senior military officials.<sup>16</sup>

## C. PEACE AND DISILLUSION

On 29 December 1996, the government of Álvaro Arzú (1996-2000) and the umbrella guerrilla organisation URNG signed the last of a series of peace accords.<sup>17</sup> The sweeping agreements called for a ceasefire, demobilisation of the guerrillas, establishment by the URNG of a political party, reduction of the military by about one third and creation of a new National Civilian Police (Policía Nacional Civil, PNC). They also stipulated land reform to

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<sup>15</sup> The European Commission says that 74 per cent of the indigenous population lives in poverty, compared to 56 per cent of the general population. "Guatemala Country Strategy Paper 2007-2013", 29 March 2007, pp. 2-10; Millennium Development Goal Indicators, 2008 Statistics, the World Bank Group.

<sup>16</sup> "Guatemala: Memory of Silence", op. cit., para. 10.

<sup>17</sup> The peace process unfolded over several years. In April 1991, the Jorge Serrano government (1991-1993) and the URNG signed a first procedural agreement (*Acuerdo del procedimiento para la búsqueda de la paz por medios políticos*) in Mexico, followed by the Framework Agreement on Democratization for the Search for Peace by Political Means (*Acuerdo marco sobre democratización para la búsqueda de la paz por medios políticos*) in July. Moving slowly and suffering several setbacks, the UN-mediated negotiations produced nine accords on substantive issues and a tenth on implementation and verification. With the exception of the human rights agreement, signed and immediately in effect in 1994, they became effective on signature of the final peace agreement (*Acuerdo de paz firme y duradera*) on 29 December 1996. Schultze-Kraft, op. cit., pp. 350-351, 372.

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<sup>12</sup> "Guatemala: Memory of Silence," op. cit., para. 50.

<sup>13</sup> Ibid, para. 63.

<sup>14</sup> On the EMP see Section III.A below.

address the conflict's underlying causes of rural poverty and alienation, as well as inclusion of indigenous peoples by recognition of their languages and customary laws. Extremely low tax revenues were to be increased in equitable and progressive fashion by 50 per cent by 2000, in line with GDP growth (with 1995's tax revenue as the base), so as to enable sound socio-economic development.<sup>18</sup>

The accords also contained provisions for establishment of a truth commission, justice reforms and a limited amnesty for military, police and guerrillas, except in cases of genocide, torture and forced disappearances. On the basis of Security Council Resolution 1094 (20 January 1997), 155 military observers and medical personnel were attached to the UN Verification Mission in Guatemala (MINUGUA), created in 1994. Their task was to monitor the ceasefire, separation of forces, disarmament and demobilisation of URNG combatants and other provisions of the Agreement on the Schedule for the Implementation, Fulfilment and Verification of the Peace Accords.<sup>19</sup>

Constitutional amendments were required to convert many elements of the peace accords into political and institutional reality, but President Arzú's National Advancement Party (Partido de Avanzada Nacional, PAN) did not have a majority in Congress, which had to approve the proposals before they could be submitted to a referendum. The URNG lost credibility and bargaining power due to the 1996 kidnapping for ransom of 87-year-old Olga de Novella, a friend of Arzú and member of one of Guatemala's most prominent families. The kidnapping was attributed to a faction of the movement led by Rodrigo Asturias, who was therefore sidelined during the negotiations.<sup>20</sup> The weakened URNG then agreed to demobilise its forces prior to securing an agreement to ensure that the accords would be implemented.<sup>21</sup>

From the beginning, that implementation was in doubt. Not even Arzú's own party wanted reform. The sides were forced into making backroom deals to advance a process that took two years of political haggling and eventually included 47 constitutional changes, only thirteen of which had been part of the original peace accords. In May 1999, with but 18.5 per cent participation, voters rejected the package in the referendum.<sup>22</sup> This crippled the accords and virtually extinguished hopes for any leftist or Pan-Mayan participation in national politics.

Meanwhile, land reform, a key element of the accords, did not move forward. In 1979, 2.6 per cent of the population controlled 64.5 per cent of the land; in 2000, four years after the accords, 1.5 per cent controlled 62.5 per cent.<sup>23</sup> Pressure for reform increased with the onset of a crippling crisis in the coffee industry in 1999 that left 108,000 people out of work. The result was an increase in land disputes. In many cases, the government responded by violently dislodging squatters, reminding many of just how little had changed.<sup>24</sup>

Creation of the CEH was perhaps the peace accords' most visible and immediate result. Chaired by a German lawyer (Christian Tomuschat) and including two Guatemalan personalities (Otilia Lux de Cotí and Alfredo Balsells Tojo), it was designed to document the history of the armed conflict but without naming the perpetrators or establishing the legal foundations to prosecute them. Its results were mixed. It produced a damning report indicting the state for its role in 93 per cent of the documented violations. But without names or the ability to use witness testimony in subsequent investigations of human rights abuses, torture, extrajudicial executions and massacres, its conclusions felt empty.

In part because it was frustrated by the commission's limitations, the Guatemala Archdiocese's Office of Human Rights (ODHA) launched the Historical Memory Recuperation Project (Recuperación de la Memoria Histórica, REMHI).<sup>25</sup> On 24 April 1998, its head, Bishop Juan Gerardi, publicly presented the four-volume 1,400-page document. Two days later, assassins bludgeoned him to death after he parked his car in the garage of the archdiocese's residency in the centre of Guatemala City.

This murder shocked the country and the international community and further undermined the peace accords' call for truth and reconciliation. The resulting investigation lasted more than eight years. After initial attempts to paint it as a crime of passion subsided, suspicion fell on the clandestine networks of active and retired military personnel, some of whom maintained close ties to the government's intelligence apparatus. These networks (discussed further below) reached deep into the Arzú and subsequent governments and are part of the current organised criminal activity. The authorities eventually arrested and sentenced Colonel Byron Disrael Lima Estrada, Captain Byron Lima Oliva and the Catholic priest Mario Orantes Nájera to twenty years in prison for their roles in the murder.

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<sup>18</sup> "Agreement on Socio-economic Aspects and the Agrarian Situation" (*Acuerdo sobre aspectos socioeconómicos y situación agraria*), Mexico City, 6 May 1996, paras. 47-49.

<sup>19</sup> *Acuerdo sobre el cronograma para la implementación, cumplimiento y verificación de los acuerdos de paz*.

<sup>20</sup> Schultze-Kraft, op. cit., pp. 392-394.

<sup>21</sup> Ibid.

<sup>22</sup> Ibid, p. 406.

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<sup>23</sup> "Guatemala: Land of Injustice?", Amnesty International, 29 March 2006.

<sup>24</sup> Ibid.

<sup>25</sup> Francisco Goldman, *The Art of Political Murder* (New York, 2007), p. 5.

The Gerardi case notwithstanding, the military has largely escaped prosecution since the peace accords came into effect. The accords' limited amnesty did not extend to military, insurgent or PAC personnel involved in torture, genocide or forced disappearance. But of the 626 massacres documented by the UN commission, only three (one involving PAC members), have been successfully prosecuted. A 2010 report outlined the obstacles as follows:

Guatemalans seeking accountability for past abuses face daunting obstacles. Prosecutors and investigators receive grossly inadequate training and resources. The courts routinely fail to resolve judicial appeals and motions in a timely manner, allowing defense attorneys to engage in dilatory legal maneuvering. The army and other state institutions resist cooperating with investigations into abuses committed by current or former members. And the police regularly fail to provide adequate protection to judges, prosecutors, and witnesses involved in politically sensitive cases.<sup>26</sup>

In this context, it is not surprising that police reform has also been slow. The 1996 accords envisaged that the "new police" would be on the streets by late 1999.<sup>27</sup> However, approximately 11,000 of the 19,000 "new" officers were recycled from the old force after receiving minimal training and background checks. The police academy nearly closed due to lack of funding. In 2001, the government cut the police budget by 20 per cent and the academy's by 72 per cent, while raising the military budget above the limit set by the peace accords.<sup>28</sup> The president's Security Advisory Council, established in 2004 to monitor implementation of the accords, has had little impact on the reform or professionalisation of the police.<sup>29</sup>

Presidents Alfonso Portillo (2000-2004) and Oscar Berger (2004-2008) were no more successful in implementing the accords. Portillo did recruit strong critics of the military to run his security intelligence forces. As called for in the peace accords, one of these recruits, Edgar Gutierrez, worked to create a civilian intelligence service, so as to remove much of the function from the military. However, Portillo was as weak as his predecessor in containing the ex-military forces inside his administration.<sup>30</sup> The ex-president is currently in jail in Guatemala, accused

of embezzlement, and the U.S. seeks to extradite him to stand trial for money laundering in the U.S.<sup>31</sup>

Berger began his administration with promises of renewing the peace accords and passed a law through Congress to that effect. Faced with rising homicide and crime rates, he also instituted a policy that led to the jailing of thousands of alleged gang members. Violence, however, has not subsided, and the prison system has nearly collapsed. The extent of the transnational organised crime problem was underlined on 25 March 2008, when the leader of a powerful local crime family was killed by a group of heavily armed men who presumably form part of a Mexican DTO.<sup>32</sup> The ambush, which left eleven people dead, came a few months after three Salvadoran members of the Central American Parliament and their driver were murdered close to Guatemala City. Authorities arrested four suspects – all members of a special police unit – for the parliamentarians' murders, but four days later, the suspects themselves were killed in prison.<sup>33</sup>

#### D. MONUMENTAL CHALLENGES

The Berger administration's most lasting legacy may be that it oversaw revision of the voting registry and opened polling stations throughout municipalities, giving indigenous people more opportunity to vote. The changes arguably helped Álvaro Colom of the National Unity for Hope (UNE) party – the first candidate ever to win the presidency without carrying Guatemala City – to a slim victory in 2008 over retired General Otto Pérez Molina of the Patriot Party (PP).<sup>34</sup>

To an extent, President Colom and his wife, Sandra Torres, represent a revival of leftist and Pan-Mayan hopes that the change promised by the peace accords will finally become reality. He led the National Fund for Peace

<sup>26</sup> "World Report 2010", Human Rights Watch, 20 January 2010.

<sup>27</sup> Schultze-Kraft, op. cit., p. 389.

<sup>28</sup> Seventh report of the United Nations Verification Mission in Guatemala (MINUGUA), 2002.

<sup>29</sup> "To Serve and Protect", Washington Office on Latin America, December 2009, p. 28.

<sup>30</sup> See Section III.A below.

<sup>31</sup> "Manhattan U.S. Attorney Unseals Money Laundering Charge against Former President of Guatemala", U.S. Department of Justice, 25 January 2010; "Informe de dos años, 2007 a 2009 a la Comisión Interamericana de Derechos Humanos", CICIG, Washington DC, November 2009, pp. 10-11; "Dos años de labores: un compromiso con la justicia", CICIG, pp. 18-19; "Tribunal de Guatemala autoriza extradición de Alfonso Portillo a EEUU", *EFE Dow Jones News Service*, 18 March 2010.

<sup>32</sup> "Masacre en Zacapa", *el Periódico*, 25 March 2008. See below for more detail.

<sup>33</sup> "3 Guatemalan Security Officials Resign in Wake of Killings", *The New York Times*, 8 March 2007.

<sup>34</sup> Taken from the Centro de Estudios y Documentación Internacionales de Barcelona: [www.cidob.org/es/documentacion/biografias\\_lideres\\_politicos/america\\_central\\_y\\_caribe/guatemala/alvaro\\_colom\\_caballeros](http://www.cidob.org/es/documentacion/biografias_lideres_politicos/america_central_y_caribe/guatemala/alvaro_colom_caballeros).

(Fondo Nacional para la Paz, FONAPAZ) in the 1990s,<sup>35</sup> then helped implement the accords as a presidential Peace Secretariat (Secretaría de la Paz, SEPAZ) adviser and executive director of the agrarian institute, CONTIERRA. That work brought him into close contact with indigenous communities and returning refugees, who once honoured him by dressing him in full indigenous garb and calling him “the man who is a bridge to the Western world”.<sup>36</sup>

Still, Colom has obstacles to overcome. UNE is a coalition party, comprising a mix of political forces from the left and the right whose infighting has hamstrung efforts to implement his legislative agenda.<sup>37</sup> Part of this agenda includes the perpetual pledge of tax reform. Colom has pushed important changes through, particularly relating to the justice system. These include a 2009 law that created a more transparent selection of Supreme Court and appellate court judges and extended by two years the mandate of the International Commission against Impunity in Guatemala (CICIG), the joint UN-Guatemalan prosecutors’ office established in December 2006 to investigate sensitive cases.<sup>38</sup> However, he lacks a majority in Congress.<sup>39</sup> His main opposition, Pérez Molina’s PP, in coalition with other parties, has blocked numerous proposals.

Colom may have had more success had Rodrigo Rosenberg not been assassinated on 10 May 2009. The murder paralysed the government, in part because the well-connected lawyer and businessman had made a video days before, pre-emptively accusing Colom of involvement in the murder of his client, Khalil Musa, and his daughter, Marjorie Musa, as well as in his own anticipated killing. In the video, Rosenberg said Musa was preparing to report on money laundering and embezzlement schemes at the Rural Development Bank (Banrural). The bank, which operates with both private and public capital, manages several government programs, including some of the First Lady’s initiatives. Rosenberg claimed Musa’s decision to denounce the scheme and refusal to serve as a bank director led to the murders. He attributed his own expected death to being Musa’s lawyer and investigating the Musas’ deaths.

The case illustrated how little support the Colom administration has in the upper echelons of society. Thousands of upper-class citizens, who told reporters they had never marched in their lives, protested against the government

and called for the president to step down.<sup>40</sup> Colom may have saved his government by turning to CICIG, which in January 2010 announced stunning findings: Rosenberg had organised and financed his own assassination to destabilise Colom’s administration.<sup>41</sup> CICIG and the attorney general’s office (the Ministerio Público) have since brought landmark cases against allegedly corrupt police, ex-ministers and ex-President Portillo and may have given the government’s program some momentum in the process.<sup>42</sup>

However, Colom’s task remains monumental. Facing pressure in Mexico, drug traffickers have established a firm foothold in Guatemala. The situation parallels that of an insurgency: several provinces are considered under DTO control. The level of penetration was suggested in March 2010, when authorities arrested the chief of police and his top intelligence official for alleged connections to unidentified DTOs.<sup>43</sup> Meanwhile, the murder rate, already one of the highest in the world, continues to rise. In 2002, there were 28 murders per 100,000 inhabitants; in 2008, the rate was 48 per 100,000.<sup>44</sup> Authorities say as many as 45 per cent are connected to drug trafficking.

DTOs are just one facet of the country’s organised crime. Kidnapping, extortion, arms trafficking and illegal adoption rings flourish. The reasons go beyond the failure of the peace accords or the inability of the government to obtain needed tax revenues to finance a modern law enforcement system. Guatemala is a country with high mountains, impenetrable jungles and vulnerable coastlines. Its diverse and divided population has long seen a minority ruthlessly control its land and limited natural resources. At the centre of the crisis, is a failure and unwillingness of political and economic leaders and security officials to institute and follow through on critical reforms of the legal, justice and security systems; as well as an inability to remove and prosecute corrupt military, security and government officials.

<sup>35</sup> FONAPAZ, established in 1991, was designed to foster development in poor and largely indigenous regions.

<sup>36</sup> Quoted as: “Hombre puente con el mundo occidental”, Centro de Estudios, op. cit.

<sup>37</sup> “Agenda legislativa estancada ante desacuerdo por las comisiones”, *el Periódico*, 6 April 2010.

<sup>38</sup> See Section IV.D below.

<sup>39</sup> UNE has 48 of 158 seats in the unicameral legislature.

<sup>40</sup> “Thousands protest over allegations president had lawyer murdered”, Associated Press, 18 May 2009.

<sup>41</sup> CICIG press conference, Rosenberg case, 14 January 2010, available on YouTube, [www.youtube.com/user/CICIGgt#grid/user/3144D6C7854F1211](http://www.youtube.com/user/CICIGgt#grid/user/3144D6C7854F1211).

<sup>42</sup> “Dos años de labores”, CICIG, op. cit.; “Informe de dos años de actividades”, CICIG, op. cit.

<sup>43</sup> “Guatemala Dismantles ‘Criminal Structure’ in Police Force”, *EFE*, 3 March 2010.

<sup>44</sup> “Informe sobre desarrollo humano para América Central 2009-2010”, United Nations Development Programme (UNDP), October 2009, p. 69.

### III. CRIME AND THE STATE

#### A. THE ARMED FORCES

The relationship between Guatemalans and their security forces is complicated and troubled, mostly due to the armed forces' long history as the government's major interlocutor with much of the populace and record of brutally repressing social and political opposition. As noted above, the military, beginning in the 1950s, became the government's de facto intermediary for relations with the civilian population on political, civil and security matters. This role expanded over time, eventually encompassing education, health and economic services in the countryside, in addition to its security, intelligence and police functions.

For many, the military was both protector and predator. Nowhere was this more true than in the north-western highlands, where in the early 1980s, particularly under the military government of General Efraín Ríos Montt (1982-1983), the army committed hundreds of massacres, leaving thousands dead and thousands on the run.<sup>45</sup> Following his retirement, Ríos Montt started a political party, the Guatemalan Republican Front (FRG). In 1999, with strong support from the highland electorate, it won a majority in Congress.<sup>46</sup> Ríos Montt was barred from the presidency because of his involvement with the coup that put him in power in 1982. However, he won a congressional seat and became president of the Congress, while his handpicked candidate, Alfonso Portillo, won the presidency.<sup>47</sup>

This contradiction is manifested in other ways as well. Numerous presidents, including Colom, have declared their intention to prosecute former generals for massacres and widespread human rights abuses, but few find the political will or the public support to move. The military as an institution is held in high regard. Most polls place it beside the Catholic Church in trust and popularity.<sup>48</sup> When asked by the Vanderbilt University-based Latin American Public Opinion Project (LAPOP) if a military

coup was justified in view of crime, 53 per cent answered affirmatively.<sup>49</sup> Former generals are regularly tapped for cabinet positions. Ex-General Pérez Molina barely lost the presidency in 2007 and is the frontrunner for the next election. As corruption and high crime rates corrode the public's perception of the police, there have been more calls for direct military intervention in internal security.<sup>50</sup>

The 1996 peace accords relegated the military to a subsidiary internal security role and called for reduction of the army by one third. While the exact number of military personnel in 1996 was disputed, it is estimated that in 1997-1998 troop strength was cut from 44,000 to 31,400. The accords also stipulated a one-third decrease in the defence and security budget in relation to GDP. In 1997-1998, the military closed four "zones" and 35 garrisons, mostly in rural areas, and disbanded the 2,500-strong mobile military police (Policía Militar Ambulante, PMA), though other detachments were untouched and still others were created. The remaining 271,000 of the more than one million PAC members recruited since the early 1980s were demobilised. The Arzú government succeeded in placing military cases under the jurisdiction of civilian courts and changed doctrine to institutionalise the military's subordination to elected civilian authorities.<sup>51</sup>

Despite efforts to verify the accords by the UN Mission (MINUGUA),<sup>52</sup> however, overall military reform was not fully transparent, and two important pieces – Congressional authority to determine when the military would take charge of internal security matters and a civilian defence minister – were rejected in the failed 1999 referendum. In fact, the Arzú administration seemed unwilling or unable to push real reform. Part of this was due to the changing security situation. The call for diminishing the army's role coincided with a spike in violent urban crime that a poorly trained, small police force could not handle. Arzú turned to the army, one of the few functioning institutions, to help with patrols and organisation. Congress approved, and the public was supportive.<sup>53</sup>

Arzú's decision not to dissolve the Presidential General Staff (EMP), however, is harder to explain. The EMP (long known as the Archivo) was ostensibly set up in the mid-1970s to protect the president and his family, but it evolved into an intelligence service that focused on opposition forces and political movements and eventually

<sup>45</sup> "Guatemala Memory of Silence", Commission for the Historical Clarification, 25 February 1999, at <http://shr.aaas.org/guatemala/ceh/report/english/toc.html>.

<sup>46</sup> Montt's party won 63 seats. Some human rights groups link this voting pattern more to coercion than support. See "The Civil Defence Patrols Re-Emerge", Amnesty International, 4 September 2002.

<sup>47</sup> He stood unsuccessfully in 2003 after the Constitutional Court controversially overturned the bar on his candidacy.

<sup>48</sup> Taken from the AmericasBarometer by the Latin American Public Opinion Project (LAPOP), [www.LapopSurveys.org](http://www.LapopSurveys.org), specifically: <http://lapop.ccp.ucr.ac.cr/Dummies.html>.

<sup>49</sup> Ibid.

<sup>50</sup> "Que vengán los soldados", *el Periódico*, 25 January 2010.

<sup>51</sup> Schultze-Kraft, op. cit., pp. 78, 391-408.

<sup>52</sup> MINUGUA teams of military, police, judicial and civilian observers worked to oversee the peace accords, 1997-2004.

<sup>53</sup> Mark J. Ruhl, "The Guatemalan Military Since the Peace Accords: The Fate of Reform Under Arzú and Portillo", in *Latin American Politics & Society*, vol. 47, no. 1 (2005), p. 63.

into a force for repression. It was at the centre of numerous human rights violations, including kidnappings, disappearances and extrajudicial executions.<sup>54</sup> A military intelligence document listed 183 Guatemalans the EMP “disappeared” in 1983-1985.<sup>55</sup> Courts found an EMP officer responsible for the 1990 murder of the anthropologist Myrna Mack.<sup>56</sup> It was at the centre of the investigation into the death of a guerrilla leader married to a U.S. citizen and the murder of Bishop Gerardi. Instead of abolishing the unit, Arzú relied more on it and gave it another function: to combat kidnapping. He later promoted its head, General Marco Tulio Espinosa, to be defence minister.

Congress finally abolished the EMP in 2003 and created the Secretariat for Administrative and Security Matters (Secretaría de Asuntos Administrativos y de Seguridad de la Presidencia de la República, SAAS), which received training from Israel, Spain and the U.S.<sup>57</sup> However, critics argued that the government did not vet the new unit properly to ensure it was not populated by former EMP officials.<sup>58</sup>

From its onset, the EMP’s access to the presidency placed it in a unique position to exert influence over the government. Some former and current security officials say the EMP and its former employees were at the heart of the “hidden powers” running the state for years.<sup>59</sup> These “hidden powers” included active and ex-military officers, special forces operatives and senior government officials. Many operated in intelligence branches, the military’s G-2 and D-2 as well as the EMP.<sup>60</sup> In some instances, they ran their own operations. In others, they offered their services, including intelligence, weapons, planning expertise and a near guarantee of impunity.

These “hidden powers” eventually acquired a name by way of an acronym, CIACS, which loosely translates as Illegal Clandestine Security Apparatuses (Cuerpos Ilegales

y Aparatos Clandestinos de Seguridad). The most famous was the Cofradía (The Brotherhood), drawing its name from groups formed by village church elders in the Mayan highlands. The military Cofradía began as an elite group of intelligence officers who worked with the EMP or military intelligence. These officers, often the best and the brightest of their classes, formed a “club”, according to U.S. Defense Department documents.<sup>61</sup>

Eventually the Cofradía became an organised criminal enterprise in which many military officials undermined the authority of civilian governments, using the intelligence services and their knowledge of the gaps in public security to make money both legitimately and illegitimately. Criminal activities included drug trafficking, contraband, sale of passports, adoption rings and many other enterprises. The Cofradía embezzled government money, sold arms in the black market and engineered lucrative public works contracts for a fee.<sup>62</sup> Other CIACS have emerged, each with its own loyalties. Most were spawned from the Cofradía.<sup>63</sup>

However, reducing the activities of organised crime in Guatemala to the CIACS may be simplistic and outdated. The CIACS were both products of and contributors to the debilitated state the current generation of organised criminals are taking advantage of, but the former military officers who once operated these clandestine organisations are mostly either dead, jailed or permanently retired, numerous analysts and intelligence operatives told Crisis Group. The importance of the remainder is considerably diminished.

## B. FAILURE OF POLICE REFORM

Police officers have been involved in many of Guatemala’s big scandals. The CICIG has charged that a group of active and former police and military officers executed the murder of the lawyer Rodrigo Rosenberg, who had hired them. Four members of the special anti-narcotics

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<sup>54</sup> See “The Guatemalan Military: What the U.S. Files Reveal”, National Security Archive (U.S.), vol. II, “The Documents”.

<sup>55</sup> See “Guatemalan Death Squad Dossier”, National Security Archive, Washington DC, 20 May 1999.

<sup>56</sup> Mack’s murder spurred an unprecedented investigation into state involvement in political killings. Led by his sister, Helen, it helped reveal the intricate operations of these clandestine death squads as well as leading to reform of the legal system.

<sup>57</sup> Goldman, *op. cit.*, pp. 311-312.

<sup>58</sup> See Centro de Estudios y Documentación Internacionales de Barcelona, [www.cidob.org/es/documentacion/biografias\\_lideres\\_politicos/america\\_central\\_y\\_caribe/guatemala/Alfonso\\_portillo\\_cabrera](http://www.cidob.org/es/documentacion/biografias_lideres_politicos/america_central_y_caribe/guatemala/Alfonso_portillo_cabrera).

<sup>59</sup> Crisis Group interviews, Guatemala City, January-February 2010; also Goldman, *op. cit.*; “Hidden Powers: Illegal Armed Groups in Post-conflict Guatemala and the Forces Behind Them”, Washington Office on Latin America, September 2003.

<sup>60</sup> “The Guatemalan Military: What the U.S. Files Reveal”, *op. cit.*

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<sup>61</sup> “Why the ‘Tanda’ phenomenon does not exist in the Guatemalan Military”, *op. cit.*, p. 4.

<sup>62</sup> Several alleged Cofradía members are in jail on corruption charges. Another lost his U.S. visa for presumed ties to drug traffickers. In Crisis Group interviews, former and current Guatemalan intelligence officials connected the CIACS to arms, drugs and human trafficking as well as contraband and the illegal sale of passports.

<sup>63</sup> Crisis Group interviews, former and current Guatemalan intelligence officials and analysts, European and U.S. diplomats in Guatemala, Guatemala City, 19 January-4 February 2010; “Crime and Development in Central America. Caught in the Crossfire”, United Nations Office on Drugs and Crime (UNODC), May 2007; “Hidden Powers in Post-Conflict Guatemala”, Washington Office on Latin America, Washington DC, 2003.

unit were arrested for the brutal 2007 murders of the three Central American Parliament members and their driver. Police also allegedly orchestrated the robbery of a drug stash in April 2009 from an unidentified DTO; the counterattack by the DTO left five police dead; the fallout from the affair has included arrest of the PNC director and his intelligence chief.<sup>64</sup> Crisis Group interlocutors claimed that police officers have been involved in the following illegal activities:<sup>65</sup>

**Safe passage of illegal drugs and contraband.** Permitting illegal goods to pass through checkpoints is perhaps the main police connection to organised crime. In some cases, police are said to accompany the illegal goods.

**Robberies.** Police officers take part in *tumbes* (robberies), in particular of illegal narcotics moving north. Some robberies are camouflaged as seizures, and the police sell the drugs back to the trafficking organisation or to rivals.

**Hired assassins.** Police and ex-police are said to have formed groups that rent out their services. The Rosenberg case appears to have been the most notorious example: six active and four former police, as well as one ex-soldier have been arrested for that murder.

**Extortion.** Police officers have been connected to highly organised rings, in particular in relation to local street gangs. In a recent case, a local captain was arrested while receiving his share at a police station from a gang leader.

**Kidnapping.** Police officers reportedly provide protection, intelligence and logistics for gangs of kidnapers.

**Arms trafficking.** Police are said to provide intelligence and to have been involved in theft and drawing up false manifests and sales orders, as well as in shipments of weapons and ammunition.

The disintegration of the police, the only internal security force, has demoralised the citizenry. A 2008 survey found that 58 per cent of victims did not report crimes; 45 per cent explained, “it does not do any good”; and 23 per cent said they “feared reprisals”.<sup>66</sup> Police failure has opened the way for criminal groups to operate with impunity. Many who spoke to Crisis Group felt this was intentional, a belief that history suggests may have merit.

Throughout the civil war, the military used the attorney general’s office and *judiciales* (police detectives) to commit grave human rights violations against social movements and groups that acted in opposition to the government. The police were also involved in massacres of civilians in numerous villages.<sup>67</sup> In Guatemala City, they were tied to “social cleansing”, in which patrols assassinated indigents, prostitutes and other “undesirables”. In concert with military forces and intelligence services, they “disappeared” people, most of whom were in opposition to the government.<sup>68</sup> Police set up “clandestine prisons”, where they tortured civilians who participated in social and political movements.<sup>69</sup> The police intelligence branch, the Departamento de Investigaciones Crimino-lógicas (DIC), investigated “political” crime, not organised crime.<sup>70</sup> Its Comando Seis (special unit) notoriously directed an operation against protestors in the Spanish embassy in 1980, in which 36 demonstrators were burned alive.<sup>71</sup>

Not surprisingly, police reform was a critical part of the peace accords, which called for “restructuring” into a “multi-ethnic and multi-cultural” force. As part of the constitutional reforms, the police were to become the sole actor in matters of internal security. Special emphasis was placed on the police academy, recruitment and training of the new force, as well as “just salaries” and a 50 per cent budget increase. By 1999, the new force was to have 20,000 officers nationwide.<sup>72</sup>

There were immediate problems. The provision for the police to be the sole actor in internal security was part of the larger constitutional reform package that voters rejected in 1999. Facing a crime wave, President Arzú hastened the vetting and training of the new force. Members of the old unit received just three months of training, new members six. The result was predictable: in 2002, six years after the signing of the accords, 11,000 of the 19,000-strong new force came from the pre-accord unit that had been

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<sup>64</sup> Audio from “Conferencia de prensa sobre captura Director PNC”, CICIG, 2 March 2010.

<sup>65</sup> Crisis Group interviews, former and current Guatemalan intelligence officials and foreign diplomats accredited in Guatemala, Guatemala City, 19 January–4 February 2010.

<sup>66</sup> The AmericasBarometer, op. cit.

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<sup>67</sup> *Guatemala Never Again* (Guatemala City, 1999), Recovery of the Historical Memory Project, pp. 142–143.

<sup>68</sup> *Ibid*, p. 161.

<sup>69</sup> “Guatemala: Memory of Silence”, op. cit., para. 40.

<sup>70</sup> *Guatemala Never Again*, op. cit., p. 108.

<sup>71</sup> On 31 January 1980, 37 Mayan protestors took over the Spanish Embassy in Guatemala City to protest government repression of their highland communities. The army stormed the embassy, 36 protestors and some embassy staff were killed. The lone survivor was snatched from the hospital and assassinated that night. *Guatemala Never Again*, op. cit., p. 109; Goldman, op. cit. This resulted in Spain’s immediate termination of diplomatic relations with Guatemala. “Outright Murder”, *Time* (online), 11 February 1980.

<sup>72</sup> “Acuerdo sobre fortalecimiento del poder civil y función del ejército en una sociedad democrática”, 19 September 1996.

subordinate to the military and connected to massive human rights abuses and systematic obstruction of justice.<sup>73</sup>

Recruitment and vetting of the new force has been a nearly constant problem. In 2000, the government formed a unit to vet recruits, which over the next two years suspended 2,000 applicants for falsifying data or other problems with their paperwork. In 2004, the government reduced the vetting unit to four persons, making it impossible to adequately screen all recruits.<sup>74</sup> A poor public image and low salaries have made the police an unattractive option for educated Guatemalans. A study found that more than half the members of the force in 2004 had only finished primary school.<sup>75</sup> On 4 March 2010, Interior Minister Carlos Menocal said 70 per cent of police lived in poverty.<sup>76</sup> The academy has been woefully underfunded. After the force reached the 20,000 target, the academy was nearly shut down because of budget cuts.<sup>77</sup> “Lacking the minimal resources and infrastructure to do their jobs, many honest and hardworking members of the police are demoralised”, MINUGUA reported in 2004.<sup>78</sup>

The military has continued to influence development of the institution. President Arzú assigned military units to patrol with the new police. This continued through the Portillo administration, predominantly in rural areas where military zone commanders led operations against suspected criminals.<sup>79</sup> Military intelligence initially trained the special investigative unit. Like their predecessors, the police have also been linked, almost from the onset, to corruption, human rights abuse and criminal activity. Extrajudicial killings by police went from seven in 1998 to 43 in 2002, a MINUGUA study found. In those same years, MINUGUA chronicled a yearly average of 66 torture cases. It reported that as of July 2003, some 2,300 officers (12 per cent of the force) had been implicated in crimes, including corruption, robbery, extortion, fraud and extrajudicial executions. It said, “a consistent pattern of neglect since 1998 has transformed the institution responsible for guaranteeing public security into the principal source of human rights violations in the country today”.<sup>80</sup>

Unlike in El Salvador, which sought to integrate portions of the former leftist guerrillas into its new police, the peace accords contained few provisions to ensure a more

politically balanced and multi-ethnic institution. In 2001, the new force was just 12 per cent indigenous and 10 per cent female.<sup>81</sup> It took the government six years after the accords were signed to create police offices dealing with human rights, gender, community policing and multicultural issues.<sup>82</sup> The deficiencies were most evident in predominantly rural areas, such as Huehuetenango, which is 65 per cent indigenous and where nine languages are spoken. One of the largest provinces in area and population, it has one of the highest poverty rates and a 160km border with Mexico. MINUGUA found in 2004 that of the 696 officers in the province, 44 spoke an indigenous language, but only seventeen were assigned to areas where their language was in use.<sup>83</sup>

From the beginning, the police have also had a shortage of investigators. In 2001, MINUGUA reported that there were 742, but two years later that number had gone down to 637, about half of what it thought was needed. In early 2010, there were close to 800 investigators, government intelligence officials said, still too few to handle the volume of homicides and other crimes.<sup>84</sup>

Reform has been hurt by instability at the top. The new police are under the interior ministry, whose ministers and direction frequently change for political or corruption-related reasons. The Portillo administration (2000-2004) had four ministers and eight national police chiefs. The Berger administration (2004-2008) had three ministers and three chiefs. President Colom has had five ministers and four chiefs. Reportedly, Colom fired the previous minister in March 2010 on account of accusations that he had misappropriated funds intended to be used to buy gasoline for the police.<sup>85</sup> The president brought the case before the attorney general’s office. Another former interior minister faces charges that he misappropriated funds meant to be used for armoured vehicles for CICIG.<sup>86</sup>

There are also questions about whether the force is too small to effectively police such a large and geographically diverse country. According to the 2004 MINUGUA report, a country of Guatemala’s size should have 44,000 police, more than double the current force.<sup>87</sup> Guatemala

<sup>73</sup> Jack Spence, *War and Peace in Central America* (Massachusetts, 2004), p. 62.

<sup>74</sup> *Ibid.*, p. 63.

<sup>75</sup> “To Serve and Protect”, *op. cit.*, p. 13.

<sup>76</sup> Marta Sandoval, “El hombre que esta en la garita”, *Prensa Libre* (online), 17 April 2010.

<sup>77</sup> Ninth report of MINUGUA, 2004.

<sup>78</sup> *Ibid.*, p. 13.

<sup>79</sup> Eighth report of MINUGUA, 2003.

<sup>80</sup> Fourteenth report on Human Rights, MINUGUA, 2003.

<sup>81</sup> Seventh report of MINUGUA, 2002.

<sup>82</sup> Eighth report of MINUGUA, 2003.

<sup>83</sup> “To Serve and Protect”, *op. cit.*

<sup>84</sup> Crisis Group interviews, Guatemalan and international prosecutors from CICIG, Guatemala City, 19 January-4 February.

<sup>85</sup> “Destituyen a Ministro de Gobernación en Guatemala”, *Milenio*, 1 March 2010.

<sup>86</sup> CICIG has brought the case before the attorney general’s office. The former minister, who currently serves as the mayor of Villa Nueva municipality, has denied any wrongdoing. “CICIG presenta denuncia contra Salvador Gándara por peculado”, *el Periódico*, 16 March 2010.

<sup>87</sup> Ninth report of MINUGUA, 2004.

has the second lowest ratio of police per population and one of the lowest ratios of police per sq km in Central America. The extensive ungoverned territories make it ideal for moving and storing drugs, weapons and contraband. Even in more populated areas, the force appears understaffed. In Alta Verapaz province, for example, there are only 415 officers for a population of almost one million.

Instead of being a model of reform, the police have become a symbol of instability, corruption, impunity and ineptitude. In March 2010, the authorities arrested the police chief, Baltazar Gómez, and the top anti-narcotics intelligence officer, Nelly Bonilla, who have been charged with several crimes relating to the so-called Amatitlán case.<sup>88</sup> Dozens of other police have been arrested for crimes ranging from extortion to kidnapping and murder.

However, few cases go to trial or lead to jail time. In 2009, the police Office of Professional Responsibility (ORP) reported receiving 776 complaints, including seventeen involving killings, three forced disappearances, eleven kidnappings, six illegal detentions, 80 thefts, three rapes, 81 threats and 323 abuse of authority. It investigated only 69. Reportedly, officers accused of criminal activity are routinely transferred rather than investigated.<sup>89</sup>

The problems go from top to bottom. Poorer communities have troubled police relations. In a recent study on gangs, 67 per cent of respondents said they were unsatisfied with the police; 36 per cent of “neighbours” and 22 per cent of businessmen and bus and truck drivers believed street gangs obtained their weapons from the police. 73 per cent of ex-gang members polled said the police set the “tax rate” the gangs extorted from local businesses and neighbours. “After spending a few weeks with us, the police become extortionists with a uniform”, one said.<sup>90</sup>

The problem may be much more complicated than the possible connections of senior officers to drug traffickers and local officers to gangs. Some police seem to be criminals for hire, with autonomy to decide who they work with and how. This appears to have been so in the Amatitlán case, in which one group of police were stealing from another that appears to have worked with a DTO. This is in line with the way organised crime operates in the coun-

try. As opposed to El Salvador and Honduras, where many organised criminal gangs have diversified, criminals in Guatemala tend to specialise, according to numerous analysts and government security officials. Some police officers lend their services on an ad hoc basis and are not an organic part of the criminal gangs. This distinction is important. The diversity of police criminality may make it more difficult to identify rotten elements and clean up the force.<sup>91</sup>

### C. GANGS

Street gangs (*maras*) began operating in Central America in the early 1990s. The myriad reasons for their growth include poverty, marginalisation, lack of access to basic services and educational opportunities; dysfunctional families; rapid and unplanned urbanisation; repatriation of experienced gang members from the U.S.; and a preceding culture of violence in which guns were prevalent and ex-combatants from the region’s protracted civil wars were active in criminal networks.<sup>92</sup>

Gang activity is concentrated in two groups: the Mara Salvatrucha or MS-13, and the Barrio 18 or Mara 18. Both began in the U.S. (Los Angeles). The Mara 18 also has Mexican roots. The MS-13 also has Salvadoran roots. Both have spread throughout the U.S., Mexico and Central America, partly as a result of the U.S. policy of repatriating both undocumented immigrant and permanent resident gang members to their home countries after they have served prison sentences. Estimates vary wildly on the numbers of gang members. However, the UN and the U.S. Southern Command estimate that there were approximately 70,000 in 2009, most of whom were concentrated in the so-called Northern Triangle: 36,000 in Honduras, 10,500 in El Salvador and 14,000 in Guatemala.<sup>93</sup>

These gangs are having a grave impact on the region’s security. The explosion in *mara* activity as it relates to violence, extortion, kidnapping and other crimes has crippled many communities and even some parts of the state. The gangs have set up elaborate extortion rings that target small business owners and transportation companies. They have taken over large parts of the prison systems, control much of the local illegal drug distribution networks and traffic illegal immigrants across borders

<sup>88</sup> “Conferencia de prensa, sobre captura Director PNC”, CICIG, 2 March 2010, <http://cicig.org/index.php?page=conferencia-de-prensa-sobre-captura-director-pnc>. On the Amatitlán case see Section III.B above.

<sup>89</sup> “2009 Human Rights Reports Guatemala”, U.S. Department of State, 11 March 2010. The U.S. was not given information about the 69 cases investigated by the ORP.

<sup>90</sup> “Maras, pandillas, comunidad y policía en Centroamérica”, Demoscopia S.A., 2007, pp. 87-90.

<sup>91</sup> Crisis Group interviews, Guatemalan and international prosecutors at CICIG, European and U.S. diplomats accredited in Guatemala, Guatemala City, 19 January-4 February 2010.

<sup>92</sup> Jose Miguel Cruz (ed.), *Street Gangs in Central America* (San Salvador, 2007).

<sup>93</sup> “Gangs in Central America”, Congressional Research Service (CRS), 4 December 2009, p. 4.

with the help of corrupt police and border guards.<sup>94</sup> Estimates vary, but it is safe to say that the high murder rates that make the Northern Triangle one of the world's most dangerous places<sup>95</sup> have some correlation with the *maras*, although the assumption that the gangs are at the heart of this violence is somewhat flawed. In Guatemala, for instance, authorities connect nearly half the murders to drug trafficking, only part of which involves the *maras*.

There is a perception that the *maras* have an increasingly organic connection to organized crime in the region. However, it is difficult to generalise. Gang size and dynamics are different in each country. Leadership is amorphous. Some *maras* have a more horizontal structure, others are more vertical and hierarchical. What is clear is that the *maras*' main function in the organised criminal world is that of local distributors of illegal drugs, something that may lead them eventually into the wholesale business. In some cases, they are hired assassins. They also run, mostly from jails in El Salvador and Honduras, extortion rings with cross-border reach.<sup>96</sup>

There is growing evidence that *maras* are increasingly linked to DTOs, especially the Zetas, in the Northern Triangle. Interior Minister Carlos Menocal asserted in April 2010 that gang members had become the armed wing of organised crime in Guatemala, selling drugs, committing assassinations and robbing cars and banks for the Zetas.<sup>97</sup> Security experts told Crisis Group, however, that many of the largest Guatemalan DTOs operate in areas with limited numbers of gang members, such as Alta Verapaz.<sup>98</sup> In El Salvador, there is growing evidence that gang leaders have met with large cartels in an effort to become more involved in wholesale narcotics transport.<sup>99</sup> On 14 April 2010, Salvadoran President Mauricio Funes said the Zetas had travelled to El Salvador to explore contacts with gang members. Three days later, the defence minister reported that he had indications that Salvadorian members of MS-13 had gone to the Guatemalan department of Petén to

receive training from the Zetas.<sup>100</sup> In Honduras, the *maras* reportedly offered to assassinate Citizen Security Minister Oscar Alvarez.

The Guatemalan *maras* disrupt civilian life and destabilise the government. They collect "taxes" from local businesses, their neighbours and transportation companies. Some of this extortion is run from jails where the "Plan Escoba" ("clean sweep") policy of imprisoning *mara* leaders and "soldiers" has led to a proliferation of gang activity and *mara* control. The *maras*, DTOs and organised crime increasingly form alliances in jail and run their criminal activities from there.<sup>101</sup>

One of the most disruptive and lucrative *mara* activities is extorting the public transportation system. The struggle between bus company owners and the gangs has left an estimated 391 bus drivers dead nationwide from 2007 to February 2010, including 192 in 2009 alone.<sup>102</sup> Another 110 bystanders and 43 presumed extortionists have also died in violence that has terrified hundreds of thousands who use the system daily. The government has created a special police unit and has several prosecutors working on extortion and murder rings, but they have had little impact. In January 2010, for example, thirteen bus drivers, ten bus assistants who collect the money (*brochas*) and four passengers were killed.<sup>103</sup>

The extortion of the public transportation system is much more complicated than it appears. It touches multiple parts of society and government, and untangling it reveals a web of motives and influences on various levels. It begins with the Q335 million (about \$40 million) annual government subsidy the bus companies receive. Without it, most citizens would not be able to afford the buses, whose operation costs an estimated three times the ticket revenue. However, investigators say the government does not regulate the companies' use of the subsidy, allowing them to put fewer buses on each route than claimed and pocket much of the money. They believe the bus assistants who collect the fares (*brochas*) and who are often members or loosely associated with the *maras* tipped the crime bosses off to the opportunity. Coordinating from jail, the *mara* leaders demand a certain amount per week per bus on each route. Investigators say the rate is about Q200 (\$25) per week per bus. There are as many as 200

<sup>94</sup> See *ibid*; also "Informe sobre desarrollo humano para América Central 2009-2010", UNDP, October 2009.

<sup>95</sup> In 2008, Honduras had 58 homicides per 100,000; El Salvador had 52; and as noted above, Guatemala had 48. Central America registered 79,000 homicides between 2003 and 2008. "Informe sobre desarrollo", UNDP, *op cit.*, pp. 68-69.

<sup>96</sup> Crisis Group interviews Guatemala and El Salvador, 19 January-20 February 2010.

<sup>97</sup> Coralía Orantes, "Mareros son el brazo armado de los Zetas", *Prensa Libre*, 28 April 2010; Julio Lara, "Los Zetas contratan a pandilleros para cometer crímenes, señala Menocal", *ibid*. See next section for more on the Zetas.

<sup>98</sup> Crisis Group interviews, Guatemala, 19-27 January 2010.

<sup>99</sup> Crisis Group interviews, anti-gang police, El Salvador, 15-20 February 2010.

<sup>100</sup> "El Salvador tiene informes sobre contactos de 'Zetas' con pandillas", *Prensa Libre* (online), 17 April 2010.

<sup>101</sup> In April 2010, the interior minister reported that imprisoned gangs members and the Zetas had formed alliances in the prisons. Coralía Orantes, Julio Lara, both *op. cit.*

<sup>102</sup> "Asesinato de pilotos: conteo para 2010 lleva 14 víctimas", *elPeriódico*, 2 February 2010.

<sup>103</sup> *Ibid*.

buses on any one line, thus Q40,000 (\$5,000) per week per route.

Investigators say the *mara* leaders distribute some of the money to family, girlfriends and close associates. Some they receive themselves, normally smuggled into the prisons by wives or girlfriends. Some goes to the police and prison guards and some to bus drivers. Most of the dead drivers are killed because their bosses, who siphon off parts of the subsidy, refuse to pay.<sup>104</sup>

What is most remarkable about this example is the nearly complete absence of government authority on every level. The government arguably starts the chain of events that leads to the murders by not regulating the subsidy. At every stage thereafter, someone appears to be trying to benefit from the initial absence of state regulation: from the *mara* leaders and their families; to the *brochas* and possibly the drivers; and finally to the police and prison guards. No authority figure breaks the chain.<sup>105</sup>

#### D. DRUG TRAFFICKING AND INSTABILITY

Large drug trafficking organisations have long operated in Central America. The Honduran drug-trafficker Juan Ramón Matta Ballesteros worked closely with both Colombian and Mexican traffickers in the 1980s. President Manuel Noriega let Medellín cartel traffickers use Panama as a safe-haven, bank and launching pad for drug shipments throughout that decade. The right-wing militia group the Contras used the Mosquito Coast in Nicaragua at that time as a staging area for drug trafficking to finance their war against the Sandinista government.<sup>106</sup> In the 1990s, Mexican traffickers began a more concerted effort to control the flow of drugs through the region.<sup>107</sup>

These days, it is generally accepted that Mexican DTOs are strongly present. Cocaine seizures in Central America have steadily climbed, between 2002 and 2007, from thirteen to 97 metric tons.<sup>108</sup> The increase suggests that larger

organisations have begun to use the region to store and move vast quantities of drugs. This requires more infrastructure. U.S. officials estimate that close to half the 700 metric tons of cocaine now transiting north toward their border passes through Central America and that 250-300 metric tons of this goes through Guatemala.<sup>109</sup>

The largest seizures occur near the “mouth” of what remains the world’s biggest cocaine depot: Colombia. In 2007, Panamanian authorities captured 21 metric tons off the coast, the largest seizure ever recorded.<sup>110</sup> But other sizeable seizures have occurred farther north. In February 2010, Costa Rican authorities captured three metric tons in a cargo truck, one of the biggest seizures ever there.<sup>111</sup> U.S. inter-agency estimates from 2008 indicate that only 3.4 metric tons of the some 180 metric tons of cocaine that passed through Guatemala that year were seized by the local authorities.<sup>112</sup> In October 2009, Guatemala and the U.S. captured a semi-submersible carrying 4.9 metric tons.<sup>113</sup>

Recent reports indicate that Guatemala has also become one of the principal transport routes for pseudoephedrine, which is used to produce methamphetamines. According to the interior ministry, the government seized 10,630 kilos and over 1.2 million pills of pseudoephedrine valued at Q177 million (\$22 million) in 2009. In the first two and a half months of 2010, it seized fifteen kilos and 900,000 pills. Most of the pseudoephedrine reportedly comes from Bangladesh and India, increasingly passes through Europe and Guatemala and is destined for Mexico and Canada, where it is processed into amphetamines.<sup>114</sup>

Guatemala’s geographic position, large ungoverned spaces, civil war and corruption have made it ideal for moving illegal narcotics, and DTOs have used it for transit since the 1970s. Hundreds of secret runways appeared in the 1980s, many enjoying protection from corrupt army officers. Organisations, mostly family-run businesses referred to in Central America as *transportistas*, helped with transit north. They have experience in contraband, know the routes and have contact with the right officials.

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<sup>104</sup> Crisis Group interview, public prosecutor handling the bus driver cases, Guatemala, 27 January 2010.

<sup>105</sup> The bus company owners want the government to beef up route security but have not been urging better regulation of the subsidy. Without the subsidy, the *maras* would probably still seek to extort the companies, but profits would be less and the stakes lower. The *maras* do not kill nearly as many drivers from businesses they regularly extort.

<sup>106</sup> “Kerry Report: Drugs, Law Enforcement and Foreign Policy”, U.S. Senate Committee on Foreign Relations, Subcommittee on Terrorism, Narcotics and International Operations, Washington DC, 1989.

<sup>107</sup> “The Drug Lord Who Got Away”, *The Wall Street Journal*, 13 June 2009.

<sup>108</sup> “World Drug Report: Seizures”, UN, 2009.

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<sup>109</sup> “International Narcotics Control Strategy Report”, vol. I, U.S. Department of State, March 2010.

<sup>110</sup> Karen P. Tandy, Panama Cocaine Seizure Press Conference, U.S. Coast Guard Headquarters, Washington DC, 21 March 2007.

<sup>111</sup> “Decomisan tres toneladas de cocaína en Costa Rica”, EFE in *Proceso Digital*, 26 February 2010.

<sup>112</sup> Mark Schneider, “Guatemala at a Crossroads”, testimony to the U.S. House Committee on Foreign Affairs’ Subcommittee on the Western Hemisphere, Washington DC, 9 June 2009.

<sup>113</sup> “International Narcotics Control Strategy Report”, op. cit., p. 308.

<sup>114</sup> Cristina Bonillo, “Guatemala is principal puente de psuedoefedrina”, *Prensa Libre* (online), 3 March 2010.

Drug trafficking added another major player after the civil war. The end of fighting left thousands of former military without an institution or job. Many joined private security firms. Others became involved in drug trafficking and contraband. Some maintained government connections, making them valuable resources for organised crime. Their penetration of the government reached the top. The U.S. revoked the visas of several Guatemalan officials in 2002 for alleged trafficking ties. The Guatemalan government dissolved the special anti-narcotics unit that year, after sixteen members were convicted for roles in extrajudicial executions in Izabal.<sup>115</sup> The U.S. subsequently “decertified” the government for its lack of cooperation on narcotics issues.<sup>116</sup>

Meanwhile, *transportistas* continue to grow.<sup>117</sup> They carry illegal narcotics for the major Mexican cartels, including Sinaloa, a loose federation of groups that is Mexico’s most powerful, with operations from Argentina to Colombia and throughout Central America.<sup>118</sup> In recent years, it has moved to buy more cocaine and heroin in source countries, displacing some traditional distributors, particularly in Colombia.<sup>119</sup> Sinaloa factions have been operating along Guatemala’s Mexican border and its southern coast for years, which may help explain why anti-narcotics agents believe most transiting cocaine comes via the Pacific. Sinaloa has teamed with powerful *transportistas* in San Marcos and along the Pacific coast, as well as a host of smaller families in the Huehuetenango region along the Mexican border.<sup>120</sup> It has set up receiving and transport-

ing operations in eastern Guatemala and western Honduras and moves illegal product in trucks with hidden compartments, flatbed pickups and private vehicles.

The other major cartel present in Guatemala is the Zetas, which formed in the late 1990s, when a Mexican group known as the Gulf Cartel recruited members of a Mexican Air Mobile Special Forces Group as its enforcers. The Zetas have split from and are reportedly now fighting with the Gulf Cartel.<sup>121</sup> Pressure from the U.S. and Mexico has pushed organisations like the Zetas further south.<sup>122</sup> In Guatemala, this has led to bloody gun battles between the Zetas and Guatemalan groups affiliated with the Sinaloa Cartel.

On 25 March 2008, the Zetas ambushed the Leones clan in Zacapa, along the eastern border with Honduras, killing eleven, including a leader, Juancho Leon. The Zetas have since displaced Guatemalan *transportistas* and taken over hundreds of unsanctioned border crossings.<sup>123</sup> They now control much of the area around Cobán, which, along with Sayaxché, is thought to be their main headquarters. Cobán, in the central highlands north of Guatemala City, gives them access to Petén in the north and the capital; it is also the crossing point for the Transversal Norte, the key trucking route across the north to Mexico through Huehuetenango, where the Sinaloas have been operating for years and the two Mexican cartels have fought their fiercest battles.

Increasingly, the bloody struggles of the Mexican cartels over trafficking routes are shifting to Guatemala. Cobán is split between local groups reluctant to give up their territory and the Zetas. Its rising murder rate includes mafia-style hits and gun fights in public places. A shootout at the main mall in 2008 left several members of a local faction dead. A local fireman said his team picks up three to six bodies monthly, with hands and feet tied and showing signs of torture. Drive-by shootings are also common, police said.<sup>124</sup> The local groups appear to be

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<sup>115</sup> Eighth report of MINUGUA, 2003.

<sup>116</sup> “Graft Aggravates Woes Plaguing Central America”, *The New York Times*, 25 February 2003. The U.S. makes an annual determination whether a country is cooperating sufficiently with its counter-narcotics efforts. Countries deemed to be uncooperative are “decertified”, meaning that all U.S. aid except that involving counter-narcotics is withdrawn. Decertification also means the U.S. will vote against that country receiving loans from international lending institutions and may involve additional financial penalties. The president has authority to decertify a country but grant a waiver if he deems it in the interest of U.S. national security.

<sup>117</sup> In April 2010, the U.S. treasury department put nine Guatemalans on its list of “Specially Designated Narcotics Traffickers”. Assets of individuals on the list are frozen and U.S. citizens and residents prohibited from engaging in commercial transactions with them. “Treasury sanctions Guatemala drug family”, Reuters, 27 April 2010.

<sup>118</sup> The Sinaloa Cartel is connected to Joaquin “Chapo” Guzmán, who was arrested in Guatemala in 1993 and deported to Mexico, where he was jailed but escaped in 2001.

<sup>119</sup> For background, see Crisis Group Latin America Reports N°25, *Latin American Drugs I: Losing the Fight*; and N°26, *Latin American Drugs II: Improving Policy and Reducing Harm*, both 14 March 2008.

<sup>120</sup> Crisis Group interviews, Guatemala, 19 January–4 February 2010.

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<sup>121</sup> Crisis Group interview, U.S. counternarcotics official, Guatemala, 28 January 2010; “Fearing Drug Cartels, Reporters in Mexico Retreat”, *The New York Times*, 13 March 2010.

<sup>122</sup> Crisis Group interviews, Guatemalan and U.S. officials, Guatemala, 19 January–4 February 2010.

<sup>123</sup> The Zetas’ increased control over this region explains much of their entry into the human smuggling business. After Hurricane Stan destroyed portions of the railroads in southern Mexico vital for human smuggling in 2005, the routes shifted north into less populated areas where the cartel was smuggling drugs, weapons and cash. Crisis Group interviews, Guatemala, 4–19 February 2010. See also “Gangs in Central America”, op. cit., p. 5.

<sup>124</sup> Crisis Group interviews, Cobán, 23–24 January 2010.

looking for allies, possibly from the Sinaloa Cartel, in their fight with the more organised, well-armed Zetas.<sup>125</sup>

However, the battle-lines between the Mexicans are most acute in Huehuetenango, where pro-Sinaloa factions and the Zetas are struggling for control of what may already be the region's drug superhighway. The fighting is centred in La Democracia, a small city along the north-western road, where a local government intelligence source says between five and ten DTO "soldiers" are gunned down monthly. The battle for La Democracia began when Zetas ambushed pro-Sinaloa groups who were hosting a horse festival in November 2008, leaving as many as 60 dead.<sup>126</sup>

The ability of Sinaloa factions to keep the Zetas at bay in Huehuetenango speaks to their different operating methods. While the Zetas attempt to take territory by force, Sinaloa seems more willing to negotiate with local traffickers. In Huehuetenango, Sinaloa members have integrated themselves into the communities and have attempted to replace the state for security and social services. They give jobs, provide health care and fund local festivals. The Zetas appear to use a more vertical structure, in line with their military background. They rarely negotiate with the locals; they impose their will.<sup>127</sup>

The Zetas' approach appears to have attracted ex-military. Former members of Guatemala's Special Forces, the Kaibiles, who participated in many civil war massacres, reportedly trained the Zetas from 1994 to 1999. There are indications that, as the Zetas move into Guatemala, Kaibiles deserters are joining them.<sup>128</sup> High unemployment among the Kaibiles following the 1996 peace accords and cuts in the military are said to contribute to this phenomenon. Guatemalan intelligence officials reported that ex-Kaibiles and other military personnel also work with other Mexican cartels.

A large private security industry has emerged since the peace accords. In 2010, the interior ministry reported that there are 148 such firms, with an additional 70 in the process of obtaining legal registration, as well as a hand-

ful that operate illegally. Official 2009 figures put the number of private security firms at 143, weapons they legally possessed at 24,000 and private security guards at 25,000, many of them ex-military and police.<sup>129</sup> But Crisis Group was told repeatedly that government statistics on guards and weapons vastly underestimate actual numbers.<sup>130</sup> A 2010 UN report found 106,700 private security guards in Guatemala, a ratio to citizens of 1:216, compared to the police ratio of 1:717.<sup>131</sup> A 2009 study indicated that two years earlier, there may have been up to 150,000 private security guards.<sup>132</sup> Numerous private security firms were said to gather intelligence illegally for their clients.<sup>133</sup>

DTOs and *transportistas* have penetrated the police, interior ministry, attorney general's office and customs; recent arrests of senior police provide stark evidence of their reach.<sup>134</sup> They also regularly try to engineer the selection of judges in the higher courts through bribes and favours that can stretch back to paying for law school. The connections help even to the point at times of obtaining armed escorts for moving drugs. When they are arrested, government contacts ensure favourable jail conditions or a quick release because of a prosecutor's "weak" case.<sup>135</sup>

The DTOs exercise even tighter control at the local level. Sinaloa's reach in Huehuetenango extends to political parties and important economic sectors like construction, and it often uses its government connections there in more subtle ways than its criminal competitors. A Huehuetenango official, for instance, said the cartel in recent months had engineered searches at twenty drug and weapons stash houses in the area tied to rivals. In San Marcos, pro-Sinaloa factions tightly control the police. When the governor requested 120 extra officers for the

<sup>125</sup> Crisis Group interviews, anti-drug officials and analysts, Cobán, 23-24 January 2010.

<sup>126</sup> Crisis Group interviews, locals who spoke to the firemen who recovered the bodies, Huehuetenango, 1 February 2010. Most of the dead were said to be tied to the Zetas. A helicopter allegedly picked up some of the injured and dead. "Los hechos ocultos tras la matanza de Huehuetenango", *elPeriodico*, 15 December 2008.

<sup>127</sup> Crisis Group interviews, San Marcos, 30 January-1 February 2010.

<sup>128</sup> Lisa Skeen, "The Zetas and the Kaibiles: A Mexican Hit Squad Reconnects With Its Guatemalan Trainers", North American Congress on Latin America (NACLA), 11 October 2009.

<sup>129</sup> "Situación en Seguridad, Justicia y DDHH", Centros de Estudios de Guatemala, November 2009.

<sup>130</sup> Professor William Godnick, the UN Public Security Program Coordinator for Latin America and the Caribbean, said there are an estimated 2.5 million private security guards in the region. "Final Report: Parliamentary Action on Small-arms Policies, legislation and regional approaches", conference, Managua, Nicaragua, 22-23 October 2009.

<sup>131</sup> Marta Sandoval, "El hombre que esta en la garita", *Prensa Libre* (online), 17 April 2010. The UN document was the "Report on Human Development".

<sup>132</sup> Patricia Arias, *Seguridad privada en América Latina. El lucro y los dilemas de una regulación deficitaria* (Santiago, 2009), p. 27.

<sup>133</sup> Crisis Group interviews, government intelligence personnel, Guatemala, 19 January-4 February 2010.

<sup>134</sup> See above for 2010 arrests of ex-police chief, Baltazar Gómez and top anti-narcotics intelligence officer, Nelly Bonilla.

<sup>135</sup> Crisis Group interviews, government intelligence personnel and foreign investigators, 19 January-4 February 2010.

province, traffickers allegedly supplied three luxury buses to bring them in.<sup>136</sup>

The authorities seem to have little interest or ability to fight back. The private armies are evident on the streets of places like Cobán, where heavily armed men dressed in plain clothes ride around on truck beds. Police collusion is well known. When Zetas overran a nearby private recreation area in January 2010, fearful owners called the police. Officers and up to five vehicles responded and surrounded the recreation area, but when they were about to move on the Zetas, their commander received a phone call from his regional boss that sent the patrol back to base.<sup>137</sup>

## IV. EFFORTS TO REVERSE THE SLIDE

### A. GUATEMALAN GOVERNMENT

Diplomats and Guatemalan authorities are quick to say that the country is not a failed state. In general terms, it “works”, they argue. There are functioning schools, hospitals, a new public transportation system in the capital, better roads and infrastructure in the countryside and other indications of stability. There are fewer violent attacks on human rights workers, indigents and opposition politicians than a decade ago, when the country was still recovering from its civil war. Some police and high-level political figures have been jailed.

However, these positive developments have not reduced the chasm between the country’s poor majority and the elite in terms of access to services or justice. It is also acknowledged that numerous regions of the country are not under government control, including seven of 22 provinces: San Marcos, Huehuetenango, Petén, Alta Verapaz, Izabal, Jutiapa and Zacapa. What they mean seems to vary depending on the province. In Petén, they are referring to the vast territory without government presence, areas such as Laguna del Tigre, in the far north bordering Mexico, where authorities have found numerous clandestine airstrips. In Cobán, they are referring to the central government’s inability to control DTOs, which seem to operate with impunity in city and countryside. In Zacapa, they are referring to U.S. and Guatemalan authorities’ inability to capture a suspected drugs trafficker (Waldemar Lorenzana) during an operation in a small city, La Reforma, in January 2010. That operation, which involved helicopters and a large ground contingent, was blocked by “protestors” as it was about to make the arrest. In San Marcos, they are talking about how 30 armed men attacked a police convoy in 2007 and freed Cornelio Chilel, on his way to trial in Guatemala City for drug trafficking.<sup>138</sup>

They also seem to be referring to the government itself. Distrust and dysfunction are the rule. Two of President Colom’s interior ministers face corruption investigations. Prosecutors routinely battle police and police investigators; they raised flags about police involvement in the Amatitlán drug case when refused crime scene access. Prisons are controlled by gangs and organised criminal groups, such as MS-13. The four officers accused of murdering the Central American Parliamentarians in 2007 were killed days after their arrest inside the prison by

<sup>136</sup> Crisis Group interviews, San Marcos, 30-31 January 2010.

<sup>137</sup> Crisis Group interviews, Cobán, 23-24 January 2010.

<sup>138</sup> “Top Guatemala drug trafficker freed by 30 armed men”, Reuters, 23 July 2007. The police who had been transporting Chilel fled, reportedly chased into the mountains by 500 locals.

gang members, possibly at the behest of organised criminal groups.<sup>139</sup>

The government seems to be focusing on judicial and police reform. As discussed below, it has passed numerous laws to modernize the legal codes and crime-fighting techniques. It also pushed through the comprehensive “National Accord for the Advancement of Security and Justice” that was established between the president, the attorney general’s office, the Supreme Court and Congress and covers everything from arms control to police reform. Colom named Helen Mack, head of the Myrna Mack Foundation and long a government critic, to direct the police reform commission.<sup>140</sup>

In April 2010, the Secretary General of the Central American Integration System (SICA), Juan Alemán, announced that Mexico, Guatemala, Belize, El Salvador, Honduras, Nicaragua, Costa Rica and Panama plan a joint initiative to combat drug trafficking, organised crime and gang violence. The Central American countries are seeking \$953 million from the international community for this purpose. The aim is to cooperate with SICA under the 1995 Treaty on Democratic Security signed by the presidents of those countries. According to the Salvadorian foreign minister, Hugo Martínez, Central American leaders have already drafted a plan and engaged in dialogue and information sharing, especially regarding combating the Zetas, and are seeking U.S. support.<sup>141</sup> In May 2010, U.S. Assistant Secretary of State for Western Hemisphere Affairs Arturo Valenzuela announced that he was studying a proposal to create an entity similar to CICIG for all Central America.<sup>142</sup>

## B. U.S. GOVERNMENT

The U.S. is working closely with the Guatemalan government. As part of the \$1.4 billion Mérida Initiative it allocated only \$165 million for Central America in FY2008 and FY2009, but the Obama administration has requested another \$100 million for FY2010.<sup>143</sup> Guatemala’s per-

centage of Mérida Initiative funds is miniscule compared to Mexico’s. Counting additional aid, it received \$68 million for FY2008 and \$83 million for FY2009, and will receive an estimated \$90 million for FY2010. The money is split between institution-building, rule-of-law and development programs on the one hand, and anti-gang and anti-narcotics enforcement on the other. Overall, about 70 per cent goes toward some aspect of law enforcement.<sup>144</sup>

The U.S. concentrates in Central America on strengthening justice systems and encouraging changes to legal codes to facilitate modern crime fighting techniques, prosecutions and more extraditions. On the policing side, it aims at improving port (sea and air) and border security and helping governments mount more effective interdiction efforts with fixed and mobile inspection equipment. The Federal Bureau of Investigation (FBI) has set up a special anti-gang task force. Based in El Salvador, it is trying to increase the use of databases, community policing and better prison management. It is also focused on information sharing, including increased access to U.S. files on repatriated gang members, and developing a regional fingerprint analysis system. NGO groups in Guatemala and the U.S. have criticised these anti-gang initiatives for concentrating too much on policing rather than prevention.

The Agency for International Development (USAID) has worked in Guatemala on a series of justice sector reforms at the local level. One is particularly noteworthy. Villa Nueva is a municipality near Guatemala City that has a population approaching 500,000 and some of the highest levels of gang violence and homicides in the country. Beginning in 2002, USAID helped fund a community policing program and several preventative programs. These suffered from nearly constant shifts in Guatemalan government personnel and priorities, while gang members who participated were subjected to threats and even killings from former colleagues. There were modest achievements: some youths gave up gang life, and after-school programs began. But in essence, the programs failed. Crime and homicide rates went up in the municipality; levels of gang participation stayed steady.<sup>145</sup>

The U.S. has had success in encouraging amendment of legal codes to allow for more modern crime fighting techniques, such as wiretapping, undercover operations and controlled sales and buys of narcotics. The justice department (DOJ) has helped implement legislation that al-

<sup>139</sup> Crisis Group interviews, foreign investigators working on the case, Guatemala, 3 February 2007.

<sup>140</sup> On Helen Mack, see also fn. 56 above.

<sup>141</sup> “El SICA apoyará seguridad”, and “Se unen contra narcotráfico”, both *Prensa Libre* (online), 15 April 2010.

<sup>142</sup> “Valenzuela dice que estudia crear una especie de Cicig para el Istmo”, *Prensa Libre* (online), 3 May 2010.

<sup>143</sup> Under the Mérida Initiative, a U.S.-Mexican security cooperation agreement launched in October 2007, the U.S. has pledged \$1.4 billion for the period 2008-2010 in equipment and training for combating organised crime and drug trafficking in partnership with the Central American governments, Mexico, the Dominican Republic and Haiti. “Mérida Initiative”, U.S. State Department, [www.state.gov/p/inl/merida/](http://www.state.gov/p/inl/merida/).

<sup>144</sup> See “Mérida Initiative for Mexico and Central America: Funding and Policy Issues”, CRS, 21 August 2009.

<sup>145</sup> “Experience in prevention and combating youth violence and crime in the Municipality of Villa Nueva” (2009), *Coalición Centroamericana para la Prevención de la Violencia Juvenil (CCPVJ)*, pp. 50-56.

lows judges to grant leniency to cooperative witnesses and has started to create effective witness protection programs that include specially trained police. The DOJ is also assisting in the creation of a Financial Intelligence Unit to lead local and cross-border money laundering investigations. Guatemala still needs updated search and seizure laws, so authorities can better squeeze traffickers via their assets and bank accounts. Extradition is a difficult diplomatic issue, partly due to a history of unilateral U.S. actions against traffickers in countries where the U.S. feels the local judicial systems have failed.

The USAID justice initiative has assisted with equipment and workshops on best practices that have contributed to prosecutors doubling the number cases they clear. In a recent investigation of the murder of a man who was speeding in Guatemala City, prosecutors used GPS systems installed in the police cars in 2007 to track the movements of the officers who were in the area. The three officers present at the time of the shooting were identified in eighteen hours and subsequently arrested and charged with the killing.

### C. CANADA AND EUROPE

Canada, the EU and several European states also support Guatemala. Canada, working through its International Development Agency, provides resources for economic development projects as well as a peacekeeping training school in Cobán. The EU focuses on helping build sustainable economic growth, democracy, human rights and modernising government ministries. Among its efforts, it sponsors programs to expand opportunities for youths at risk of entering gang or organised criminal activities. Both the EU and Canada keep a close eye on indigenous communities and food security issues. Among European nations, Sweden supports healthcare and economic initiatives such as micro-credits, as well as human rights and democratic governance issues. Germany, Guatemala's largest EU trading partner, is a major donor, supporting development, climate protection and debt assistance.

### D. THE CICIG

These countries, along with the U.S., are focused on strengthening the rule of law by funding the International Commission against Impunity in Guatemala (CICIG), the UN-sanctioned body that works with Guatemalan investigators and police to prosecute high-profile cases. As described below, it has made a number of important arrests, establishing that it is possible to break through the wall of impunity that has long plagued the country. However, its mandate ends in September 2011. Its legacy may depend more on how much it changes the structures that have opened the way for impunity than on how many high-level criminals it incarcerates.

After several years of negotiations, the government and the UN signed an agreement to create the CICIG in December 2006. It was designed to strengthen Guatemala's capacity to dismantle clandestine networks that use close contacts in the government to ensure impunity. As an investigative and prosecutorial body, its mandate is somewhat different from the international tribunals established in Rwanda, the former Yugoslavia, East Timor, Cambodia, and Sierra Leone. The attorney general's office refers cases to the commission, which has full powers of subpoena and judicial authority. In addition, it has authority to propose removing or sanctioning public officials whom it deems corrupt or are inhibiting its work and to propose and promote new legislation. It has flexibility to shift its focus and resources to new areas, as it did by publicly advocating changes in how high court officials are selected. Its prosecutorial mandate touches implicitly on organised crime as well as human rights abuse. Its job is as much public relations as crime fighting and structural reform; its representatives say it is to create hope.<sup>146</sup>

With strong support from the business and political elite, CICIG began functioning in September 2007. It has steadily built up to full strength and currently has a staff of 172, from 21 countries, working as investigators, administrators and security and administrative personnel.<sup>147</sup> Part of this process has included creating working relations with Guatemalan prosecutors and police, as well as politicians and judges, something that has been difficult at times. Especially over the last few months, it has developed strong relations with the local media, which has played a key role in both disseminating its findings and spreading its message that change is possible. It has also begun untangling complicated and high-profile cases. While the core of CICIG's efforts must remain focused on long-term structural changes in the justice system, the short-term success of its cases may be a catalyst for those changes, which is why some staff call 2010 the year of "results".<sup>148</sup>

In part, this need for results comes from the legacy of previous UN interventions, specifically MINUGUA, which was designed to oversee implementation of the 1996 peace accords but generated few tangible results, according to some Guatemalan and international analysts. Its ineffective handoff of responsibilities to the Human Rights

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<sup>146</sup> Crisis Group interview, Ana Garita, CICIG chief of staff, and Yolanda Pérez, CICIG consultant and former Guatemalan judge, Guatemala City, 25 January 2010.

<sup>147</sup> "Informe de dos años de actividades, 2007 a 2009 a la Comisión Interamericana de Derechos Humanos", CICIG, November 2009, p. 6.

<sup>148</sup> Crisis Group interview, Ana Garita, CICIG chief of staff, and Yolanda Pérez, CICIG consultant and former Guatemalan judge, Guatemala City, 25 January 2010.

Ombudsman left many Guatemalans disillusioned with the UN's ability to effect long-term structural change.

The head of the commission, Carlos Castresana, is a Spanish jurist whose credentials include co-authoring the indictment in his national courts against Chilean dictator Augusto Pinochet. He appears to have been the right man to shift debate away from MINUGUA's shortfalls and towards the future of a more stable justice system. Many with whom Crisis Group spoke said that his charismatic, dynamic personality, investigative know-how and dogged nature opened vital space within both the government and the public sphere and that he was instrumental to the commission's impact.

However, on 7 June 2010, Castresana resigned, citing systematic attacks on his character and "personal life" and recommending that the new attorney general, Conrado Reyes, whom he accused of corruption, be dismissed.<sup>149</sup> Reyes denied the allegations and accused Castresana of irresponsible declarations and four crimes: violating the constitution, sedition, public irritation and false accusation. He also insinuated that the UN had forced Castresana out because of a scandal.<sup>150</sup> UN Secretary-General Ban Ki-moon expressed support for Castresana, promised to appoint a replacement as soon as possible and urged the Guatemalan government to support CICIG.<sup>151</sup> On 11 June, the Constitutional Court annulled Reyes's appointment on procedural grounds.

The CICIG and the attorney general's office are investigating some 39 cases covering a wide range of criminal activities and potentially affecting many parts of the state apparatus. These include embezzlement cases involving ex-President Alfonso Portillo and his former defence minister, Eduardo Arévalo Lacs, and the kidnapping and assassination of the wife of the former human rights ombudsman. There are also investigations into allegations that the sister of a congressman ran an illicit adoption ring;<sup>152</sup> a senior official in the attorney general's office obstructed justice;<sup>153</sup> four police officers led an extortion and assault ring; and a rival gang was responsible for the massacre of eleven drug traffickers. Selecting the cases to take on has been difficult. The commission seems to have cast its net

wide in an attempt to track and document the broad range of organised criminal activity. However, in doing so, it may have set itself up to fail, as dismantling the full networks and organisations may prove much harder than taking down any one part of them.

CICIG's most important test, and perhaps the one by which it will ultimately be measured, has been the Rodrigo Rosenberg case. As described above, days before the politically-connected lawyer was assassinated in May 2009, he made a video stating that if he was killed, President Colom should be held responsible. His death led to street protests and appeared to put Colom's administration in peril.<sup>154</sup> Some 300 personnel from eleven countries worked on the case. CICIG employed 21 of its own and eleven Guatemalan investigators who were assigned to it permanently. Eleven police, ex-police and ex-military were arrested.

There were mixed reactions when Castresana announced the results of the investigation in January: that for complicated personal and political reasons, Rosenberg had orchestrated his own assassination.<sup>155</sup> Nonetheless, the public was supportive of the commission and the process it followed to reach those conclusions.<sup>156</sup> The technical aspects of the investigation – built on triangulating cellular phone calls, phone records and other forensic matters – made an impression. The tradition in Guatemala has been to arrest only those who are caught in the act or are implicated by witnesses,<sup>157</sup> while conspiracies are pursued in the media rather than the courtroom. In the Rosenberg case, CICIG and its Guatemalan partners followed the phones and the money more than the theories that Rosenberg himself had given the press by his video.

In January 2010, former President Portillo was arrested. Though he has declared his innocence, he and several former military allies are accused of embezzlement and fraud. Together with the earlier arrest of ex-Defence Minister Lacs, and provided that convictions follow, it may weaken the seemingly impenetrable former military networks that have long undermined institution-building, especially since the end of the civil war.<sup>158</sup>

Still, there are so many organised criminal activities that it is hard to measure the CICIG's impact. Details have been

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<sup>149</sup> Olga Lopez and Giovanni Contreras, "Castresana deja la Cicig por ataques sistemáticos", *Prensa Libre* (online), 8 June 2010.

<sup>150</sup> "Ban Ki-moon agradece a Castresana por su labor y pide mas compromiso a Guatemala", *Prensa Libre* (online), 7 June 2010.

<sup>151</sup> Cristina Bonillo, "Accusaciones son falsas, dice fiscal", *Prensa Libre* (online), 8 June 2010.

<sup>152</sup> "Intervention in the Criminal Process, Case no. 01079-2008-05306, 7th Criminal Court, 4th Official", CICIG.

<sup>153</sup> "Intervention in the Criminal Process, Case no. 01079-2009-00211, 8th Criminal Court, 1st Official", CICIG.

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<sup>154</sup> "Denuncia el presidente de Guatemala en la ONU que estuvo en riesgo de golpe de Estado por el caso del asesinato de Rodrigo Rosenberg", *Notimex*, 24 September 2009.

<sup>155</sup> Press conference, CICIG, op. cit.

<sup>156</sup> Crisis Group interview, Guatemala City, 20 January 2010.

<sup>157</sup> A top security official called the Rosenberg case "a game-changer" because it did not rely on eyewitness testimony, the most fragile part of any case.

<sup>158</sup> See Section III.A above.

revealed on fewer than ten of the 39 cases. Moreover, as a person working with the government on police reform pointed out, the networks revealed thus far by the commission were well-known. He expressed concern for the “parts that we don’t see or hear about”, those entrenched at mid-levels of government that are harder to detect and extract.<sup>159</sup> A senior security official echoed these sentiments.<sup>160</sup> However, both strongly support the CICIG’s work.

The Rosenberg and Portillo cases typify the commission’s approach – apply maximum resources to ensure maximum results – but they also indicate a potential shortcoming. The successes have gained more support for the judicial system, but the consensus of Guatemalans interviewed was that the CICIG – the “foreign investigative units” – and Castresana himself were the beneficiaries of this increased trust. The perception of the Guatemalan judicial system may not be changing; indeed, dependence on the foreign model may be deepening.

These cases have also demonstrated the inequalities between the foreign investigators and their local counterparts. CICIG has received some \$15 million in funding,<sup>161</sup> allowing Castresana to use dozens of investigators on a single case like that of Rosenberg. CICIG investigators move in armoured cars with armed bodyguards. Most have left their families in their home countries while they do their dangerous work. Their underfunded partners live a very different reality, with families in Guatemala and their identities well known. Local employees lack the same legal as well as physical protection of UN-contract workers.<sup>162</sup> The differences have been exacerbated by the lack of trust that often exists between the foreigners and Guatemalans. Information is compartmentalised, especially in investigations involving the police.<sup>163</sup> This affects cooperation with the government and could make results ephemeral, especially if the CICIG cannot train its Guatemalan counterparts effectively.

Training programs include three four-man prosecutor teams from the attorney general’s office receiving on-the-job instruction by working with CICIG on cases. The concept is to create autonomous cores of strong investigators in the hope they can replicate their work from inside their

tainted institutions. This may be easier in the attorney general’s office than the police. The commission has also given short workshops to hundreds of police and works full time with twenty officers. But CICIG officials admit this is a difficult arrangement and not a single high-impact case has resulted from the relationship. Still, they insist no information has leaked from the police on a major case.<sup>164</sup>

The effort to achieve a lasting effect on the justice system is the greatest challenge. The CICIG has sought to play a public role in the selection of Supreme Court and appellate court judges. High court action, or more commonly inaction, is a crucial reason why so many criminal organisations have enjoyed impunity, according to CICIG analysis.<sup>165</sup> The origins of this impunity are in the selection process for judges, which is heavy with cronyism and corruption. Congress selects the members of the Supreme Court from a list submitted by the bar association, law school deans, a university rector and appellate judges. In 2009, the CICIG identified eight judges who were up for selection as unfit. While three were eventually chosen, five were excluded.

The commission has also recommended removal of 1,700 police and a number of judges and prosecutors, including Attorney General Juan Luis Florido. It has taken a major part in revising the legal code to introduce modern crime-fighting tactics, as well as flexible sentencing for collaborators, wiretapping, controlled drug buys, gun control and more agile forms of property seizures. It is pushing for creation of special courts so high-impact cases can be removed from local courts, whose judges and prosecutors have little protection against reprisals. Part of this effort includes helping create the infrastructure that needs to accompany such changes. For example, it has worked to create a program whereby witnesses can be protected by newly trained police or receive asylum in Spain.<sup>166</sup>

Castresana is aware of the risk of too great dependence on the CICIG, so has said the commission’s mandate, which has already been extended by two years, should end as scheduled on 4 September 2011, even though it is unlikely its work will have been completed.<sup>167</sup> However, some do-

<sup>159</sup> Crisis Group interview, Guatemala City, 3 February 2010.

<sup>160</sup> Crisis Group interview, Guatemala City, 25 January 2010.

<sup>161</sup> Crisis Group interview, donor, Guatemala City, 29 January 2010.

<sup>162</sup> Andrew Hudson and Alexandra W. Taylor, “The International Commission against Impunity in Guatemala”, *Journal of International Criminal Justice* (2010), p. 19.

<sup>163</sup> Crisis Group interview, Ana Garita, CICIG chief of staff, and Yolanda Pérez, CICIG consultant and former Guatemalan judge, Guatemala City, 25 January 2010.

<sup>164</sup> Ibid. CICIG’s 2009 annual report said the program began with 30 police but was cut to twenty for unexplained reasons.

<sup>165</sup> “Informe proceso de elección de magistrados a la Corte Suprema de Justicia y cortes de apelaciones y otros tribunales colegiados de igual categoría año 2009,” Comisión Internacional Contra la Impunidad en Guatemala, Resumen Ejecutivo.

<sup>166</sup> Hudson and Taylor, *op. cit.*, p. 12.

<sup>167</sup> CICIG representatives acknowledged the danger of creating dependency on the commission. Crisis Group interview, Ana Garita, chief of staff, and Yolanda Pérez, consultant and former Guatemalan judge, Guatemala City, 25 January 2010.

nors have called for a second extension. On 20 April 2010, Castresana was joined by Guatemalan Nobel Peace Prize winner, Rigoberta Menchu, and former Vice President Eduardo Stein at a presentation on CICIG's successes. Castresana used the occasion to solicit additional international support for the commission and argue that its mandate should be broadened to specifically include combating organised crime and corruption. Stein took up mandate extension, saying, "we're convinced that we need more time, the training, the experience sharing, the institution strengthening process needs more time".<sup>168</sup>

In a subsequent interview, however, Castresana said:

CICIG is by its nature a short-term mission. I like to see CICIG as an "ice-breaker", created to pave the way but not exist indefinitely, because the country should at some point take responsibility for itself. But certainly once CICIG finishes, there should be other United Nations entities there to consolidate results.<sup>169</sup>

Guatemalan analysts and authorities seem to have mixed feelings.<sup>170</sup> Whatever happens, politics certainly will play a role. Those arguing for the commission to stay note that presidential and congressional elections are scheduled for August 2011, making it a critical year for the commission to monitor organised crime's influence on parties and candidates. They add that there is a risk the next government may not be as friendly to the commission or its partners in the Public Prosecutor's Office and police.

Detractors argue that the CICIG model is not realistic for a country that lacks the resources and capabilities to continue the commission's activities after its mandate expires. While they value its work, they do not believe it is able to change the political nature of the justice system or remove the organised criminal gangs entrenched in nearly every level of government. Only Guatemala itself can deal with that challenge, they say, and on that point, CICIG agrees. In any event, the commission faces difficult months as it tries to balance short-term results with the long-term structural needs of the justice system, a balance made even more difficult by the approaching elections. To achieve lasting impact, its mandate probably must be both extended and expanded. For Guatemala to be able to take over the work whenever the mandate expires, the government must engage in urgent institutional reform, and donors and international organisations must support its efforts both financially and technically.

## V. CONCLUSION

In 2010, the homicide rate appears to be at least on a pace with 2009 and gang culture is becoming increasingly ingrained in poor urban communities. The government, still shaken by the events around the death of Rodrigo Rosenberg, faces political opposition to some key reforms. While President Colom obtained a "bonds law" in May, which will help to tackle the fiscal deficit, tax code changes are not in sight. Leadership in the interior ministry, the public prosecutor's office and the police is unstable and corrupt. Organised crime is tightening its grip on certain regions, and the bloody feuds of the Mexican cartels appear to be moving to Guatemala.

The government has made some progress. With international help, several high-profile officials and former leaders have been arrested. Prosecutors and police are learning new crime-fighting techniques that help to break the wall of impunity that has existed for so many years. Qualified, determined citizens, such as Helen Mack, have been tapped to work on perhaps the most pressing issue: police reform.

However, there is no easy path. Colom appears willing to address the problems and seek help in the right places, but his administration has multiple enemies, many in powerful positions in government, the military, political parties and the business community. And he has little time, with both elections and the end of the CICIG scheduled in 2011. Security is sure to be a central election issue, and the opposition will most likely seek to capitalise on arguments about the "weak" president, regardless of any advances. The president's challenge, therefore, may be to consolidate the achievements, focus on the initiatives in place to effect change and insulate the institutions that deal with law and order from political influence. Perhaps then Guatemala may begin to feel the winds of change.

**Bogotá/Brussels, 22 June 2010**

<sup>168</sup>"UN-backed war on impunity should be strengthened – commission head", UN News Agency (online), 20 April 2010.

<sup>169</sup>"UNODC enters partnership to address organized crime in Guatemala", UN Office on Drugs and Crime, 29 April 2010.

<sup>170</sup>Crisis Group interviews, Guatemala City, Cobán, Huehuetenango, 19 January-4 February 2010.



## APPENDIX B

### ABOUT THE INTERNATIONAL CRISIS GROUP

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The International Crisis Group (Crisis Group) is an independent, non-profit, non-governmental organisation, with some 130 staff members on five continents, working through field-based analysis and high-level advocacy to prevent and resolve deadly conflict.

Crisis Group's approach is grounded in field research. Teams of political analysts are located within or close by countries at risk of outbreak, escalation or recurrence of violent conflict. Based on information and assessments from the field, it produces analytical reports containing practical recommendations targeted at key international decision-takers. Crisis Group also publishes *CrisisWatch*, a twelve-page monthly bulletin, providing a succinct regular update on the state of play in all the most significant situations of conflict or potential conflict around the world.

Crisis Group's reports and briefing papers are distributed widely by email and made available simultaneously on the website, [www.crisisgroup.org](http://www.crisisgroup.org). Crisis Group works closely with governments and those who influence them, including the media, to highlight its crisis analyses and to generate support for its policy prescriptions.

The Crisis Group Board – which includes prominent figures from the fields of politics, diplomacy, business and the media – is directly involved in helping to bring the reports and recommendations to the attention of senior policy-makers around the world. Crisis Group is co-chaired by the former European Commissioner for External Relations Christopher Patten and former U.S. Ambassador Thomas Pickering. Its President and Chief Executive since July 2009 has been Louise Arbour, former UN High Commissioner for Human Rights and Chief Prosecutor for the International Criminal Tribunals for the former Yugoslavia and for Rwanda.

Crisis Group's international headquarters are in Brussels, with major advocacy offices in Washington DC (where it is based as a legal entity) and New York, a smaller one in London and liaison presences in Moscow and Beijing. The organisation currently operates nine regional offices (in Bishkek, Bogotá, Dakar, Islamabad, Istanbul, Jakarta, Nairobi, Pristina and Tbilisi) and has local field representation in fourteen additional locations (Baku, Bangkok, Beirut, Bujumbura, Damascus, Dili, Jerusalem, Kabul, Kathmandu, Kinshasa, Port-au-Prince, Pretoria, Sarajevo and Seoul). Crisis Group currently covers some 60 areas of actual or potential conflict across four continents. In Africa, this includes Burundi, Cameroon, Central African Republic, Chad, Côte d'Ivoire, Democratic Republic of the Congo, Eritrea, Ethiopia, Guinea, Guinea-Bissau, Kenya, Liberia, Madagascar, Nigeria, Rwanda, Sierra Leone, Somalia, Sudan, Uganda and Zimbabwe; in Asia, Afghanistan, Bangladesh,

Burma/Myanmar, Indonesia, Kashmir, Kazakhstan, Kyrgyzstan, Nepal, North Korea, Pakistan, Philippines, Sri Lanka, Taiwan Strait, Tajikistan, Thailand, Timor-Leste, Turkmenistan and Uzbekistan; in Europe, Armenia, Azerbaijan, Bosnia and Herzegovina, Cyprus, Georgia, Kosovo, Macedonia, Russia (North Caucasus), Serbia and Turkey; in the Middle East and North Africa, Algeria, Egypt, Gulf States, Iran, Iraq, Israel-Palestine, Lebanon, Morocco, Saudi Arabia, Syria and Yemen; and in Latin America and the Caribbean, Bolivia, Colombia, Ecuador, Guatemala, Haiti and Venezuela.

Crisis Group receives financial support from a wide range of governments, institutional foundations, and private sources. The following governmental departments and agencies have provided funding in recent years: Australian Agency for International Development, Australian Department of Foreign Affairs and Trade, Austrian Development Agency, Belgian Ministry of Foreign Affairs, Canadian International Development Agency, Canadian International Development and Research Centre, Foreign Affairs and International Trade Canada, Czech Ministry of Foreign Affairs, Royal Danish Ministry of Foreign Affairs, Dutch Ministry of Foreign Affairs, Finnish Ministry of Foreign Affairs, French Ministry of Foreign Affairs, German Federal Foreign Office, Irish Aid, Japan International Cooperation Agency, Principality of Liechtenstein, Luxembourg Ministry of Foreign Affairs, New Zealand Agency for International Development, Royal Norwegian Ministry of Foreign Affairs, Swedish Ministry for Foreign Affairs, Swiss Federal Department of Foreign Affairs, Turkish Ministry of Foreign Affairs, United Arab Emirates Ministry of Foreign Affairs, United Kingdom Department for International Development, United Kingdom Economic and Social Research Council, U.S. Agency for International Development.

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**June 2010**

## APPENDIX C

### CRISIS GROUP REPORTS AND BRIEFINGS ON LATIN AMERICA AND THE CARIBBEAN SINCE 2007

- Bolivia's Reforms: The Danger of New Conflicts*, Latin America Briefing N°13, 8 January 2007 (also available in Spanish).
- Haiti: Justice Reform and the Security Crisis*, Latin America/Caribbean Briefing N°14, 31 January 2007 (also available in French).
- Venezuela: Hugo Chávez's Revolution*, Latin America Report N°19, 22 February 2007 (also available in Spanish).
- Haiti: Prison Reform and the Rule of Law*, Latin America/Caribbean Briefing N°15, 4 May 2007 (also available in French).
- Colombia's New Armed Groups*, Latin America Report N°20, 10 May 2007 (also available in Spanish).
- Consolidating Stability in Haiti*, Latin America Report N°21, 18 July 2007 (also available in French).
- Ecuador: Overcoming Instability?*, Latin America Report N°22, 7 August 2007 (also available in Spanish).
- Bolivia's New Constitution: Avoiding Violent Conflict*, Latin America Report N°23, 31 August 2007 (also available in Spanish).
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- Peacebuilding in Haiti: Including Haitians from Abroad*, Latin America/Caribbean Report N°24, 14 December 2007 (also available in French).
- Latin American Drugs I: Losing the Fight*, Latin America Report N°25, 14 March 2008 (also available in Spanish).
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- Colombia: Making Military Progress Pay Off*, Latin America Briefing N°17, 29 April 2008 (also available in Spanish).
- Bolivia: Rescuing the New Constitution and Democratic Stability*, Latin America Briefing N°18, 19 June 2008 (also available in Spanish).
- Venezuela: Political Reform or Regime Demise?*, Latin America Report N°27, 23 July 2008 (also available in Spanish).
- Reforming Haiti's Security Sector*, Latin America/Caribbean Report N°28, 18 September 2008.
- Correcting Course: Victims and the Justice and Peace Law in Colombia*, Latin America Report N°29, 30 October 2008 (also available in Spanish).
- Haiti 2009: Stability at Risk*, Latin America/Caribbean Briefing N°19, 3 March 2009.
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- Haiti: Saving the Environment, Preventing Instability and Conflict*, Latin America/Caribbean Briefing N°20, 28 April 2009.
- The Virtuous Twins: Protecting Human Rights and Improving Security in Colombia*, Latin America Briefing N°21, 25 May 2009 (also available in Spanish).
- Venezuela: Accelerating the Bolivarian Revolution*, Latin America Briefing N°22, 5 November 2009 (also available in Spanish).
- Uribe's Possible Third Term and Conflict Resolution in Colombia*, Latin America Report N°31, 18 December 2009 (also available in Spanish).
- Haiti: Stabilisation and Reconstruction after the Quake*, Latin America/Caribbean Report N°32, 31 March 2010.

## APPENDIX D

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Crisis Group's President's Council is a distinguished group of major individual and corporate donors providing essential support, time and expertise to Crisis Group in delivering its core mission.

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Crisis Group's International Advisory Council comprises significant individual and corporate donors who contribute their advice and experience to Crisis Group on a regular basis.

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Crisis Group's Senior Advisers are former Board Members who maintain an association with Crisis Group, and whose advice and support are called on from time to time (to the extent consistent with any other office they may be holding at the time).

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