

GUATEMALA'S FIGHT AGAINST CRIMINAL IMPUNITY:
CICIG, A HYBRID APPROACH

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Abstract. The focus of this paper is CICIG, la *Comisión Internacional Contra la Impunidad en Guatemala* (the International Commission against Impunity in Guatemala). Established through an agreement between the United Nations and Guatemalan government in 2006, CICIG is the first commission of its kind, functioning as a hybrid effort in the battle against Guatemalan criminal impunity. This paper will provide an overview of the multi-faceted problem of impunity within Guatemala. This investigation will also examine CICIG's establishment, structure, and goals. Furthermore, this paper will discuss the encouraging results that CICIG has achieved in its first two years of work, while also addressing the challenges that the commission has encountered. Finally, this paper will examine the future implications of CICIG within Guatemala, and also the implications of a possible replication effort of a CICIG-type commission in a different society, beyond Guatemala.

Introduction: The Problem of Impunity and CICIG

Criminal impunity in Guatemala is endemic. "Injustice and privation are the norm for the vast majority" and the blanket of impunity extends to every level of the country's judicial system (Manz, 2008, p. 156). Impunity is the lack of justice when a crime has been committed. Overall, less than 2% of all criminal acts in Guatemala are punished by the judicial system ^[1] (Alston, May 2009, p. 6). The police force, poorly trained and ripe with corruption, investigates only a fraction of all criminal cases, and conclusive resolutions to these investigations are rare. Prosecutors and judicial officials, along with police officers, experience strong external pressure (in the form of bribes or threats) from illegal security organizations, which provide incentives to

not investigate criminal activity. In fact, criminal impunity has become so commonplace in Guatemala that many crimes are not even brought to the attention of proper justice authorities, which, in turn, contributes to a lack of justice when crimes are committed and reinforces the system of impunity. Shockingly, the system of impunity has become so entrenched in Guatemalan society that it, not justice, is now the norm outcome for criminal behavior. Truly, Guatemala has developed a distinct “culture of impunity” (Jorgensen, 2009, p. 386). This culture is sustained through corruption in government institutions and strong out-of-government groups wielding influential power.

In order to combat the culture of impunity in Guatemala, the U.N., in conjunction with the Guatemalan government, has established a new type of commission. Called CICIG (*Comisión Internacional Contra la Impunidad en Guatemala*; International Commission against Impunity in Guatemala, in English), this commission is a hybrid effort, combining both national and international resources in order to achieve its goals. CICIG aims to: fight the culture of impunity that has become engrained in Guatemalan society, investigate and dismantle illegal clandestine security organizations, build relationships with different government justice institutions, strengthen the weak Guatemalan judicial system, and make recommendations for reforms to the Guatemalan government on combating illegal groups and strengthening their own justice institutions.

CICIG is, to date, one of a kind. The commission’s mandate is *sui generis*, as there has never been a U.N.-sponsored hybrid commission like this, taking on issues of impunity, organized criminal activity, and corruption within a host government. CICIG is also a mechanism of transitional justice in that it seeks to promote democratic ideals and peace process procedures following Guatemala’s prolonged civil war. CICIG’s novel mandate and many

commendable goals make this an incredibly interesting time for justice efforts in Guatemala. This investigation will analyze the system of impunity in Guatemala, CICIG's structure and formation, results achieved by CICIG, and the future implications of this commission, both within and beyond Guatemala. Before delving into the workings of CICIG, however, an understanding of Guatemala's recent history, and its thirty-six year civil war, is needed.

Guatemala's Internal Conflict ^[2]

Guatemala's history is filled with internal conflict. The true beginning of this conflict varies according to point of view. Conflict began in 1960 with the rebellion of young military officers against the then-current government (Arriaza & Roht-Arriaza, 2008, p. 155). Or, it began six years earlier in 1954 when the United States' CIA organized a coup against the democratically elected government of Jacobo Arbenz Gúzman because of his "communist" policies (Booth, Wade, & Walker, 2006, p. 117). Even Philip Alston, United Nations Special Rapporteur on extrajudicial, summary, or arbitrary executions is not one hundred percent clear, as in his 2007 report on Guatemala he cites that the armed conflict began in 1962 (p. 4). In a more fundamentally historic perspective, the internal armed conflict began in the 16th Century when Spanish invasion forces first landed in what is now Guatemala (Arriaza & Roht-Arriaza, 2008, p. 154). For the purposes of this investigation, Guatemala's civil conflict traces its roots back to 1954 and a governmental coup.

In 1950, the Guatemalan people elected Jacobo Arbenz Gúzman to the presidency. Arbenz, a young military officer, worked to pursue reform in Guatemala, wanting to push beyond the scope of his predecessor's reforms (which included: "social security, a labor code, professionalization of the military, rural education, public health promotion, and open elections")

(Booth et al., 2006, p. 116)). With an overall goal of addressing the root of Guatemala's social struggles, "the extreme maldistribution of land," Arbenz began his own reform agenda (ibid). In 1952 he legalized the Guatemalan Communist Party (*Partido Guatemalteco del Trabajo*), and began organizing labor and land reform efforts ("Background Note: Guatemala," 2010). These actions directly conflicted with the interests of (at that time) the most powerful company in Guatemala, United Fruit, which had strong ties to the United States government (Booth et al., 2006, p. 117). When Arbenz began redistributing land belonging to United Fruit, the company used its American connections to destabilize the Arbenz government. In 1954, after diplomatic and economic pressure from the U.S., the CIA helped rightist Guatemalan forces plan a coup, and Arbenz was forced to resign (ibid).

Up to 1960, the rightist, CIA-instilled government ruled Guatemala with repressive policies, but, nevertheless, maintained U.S. support^[3]. In 1960, reform-oriented army officers, in "response to the increasingly autocratic" government rule, attempted to oust the repressive government from power ("Background Note: Guatemala," 2010). The coup was defeated and the officers were forced to flee (Booth et al., 2006, p. 118). The group of escaped officers would go on to form the guerrilla groups that would become the anti-government insurgency for the next thirty-six years (Inksater, 2007, p. 1). Because of these guerrilla organizations "the state launched a counter-insurgency campaign that militarized the country and permeated its institutions and the daily life of its citizens" (ibid).

During the first years of the war, the government's efforts to wipe out insurgent groups proved ineffective, even with ever increasing U.S. support and aid (Booth et al., 2006, p. 118). In the latter half of the 1960s, however, government efforts to defeat the rebel groups increased dramatically. In 1968 alone, during the government's Zacapa campaign, government forces

(trained and heavily supported by the U.S.) killed approximately ten thousand civilians in their quest against the “internal enemy” (ibid). Also during this time, the first state sponsored (or, at least, state-backed) “death squads” began operating against insurgency forces (ibid). These death squads are the roots of the clandestine organizations operating in Guatemala today. While the names and goals of these organizations have changed over the last forty-plus years, the squads of the 1960’s, comprised of military and police forces, acted with the same autonomous authority that today’s illegal and clandestine organizations continue operating with. Though the civil conflict in Guatemala spanned the entire decade of the 1960s, the coming phase of counterinsurgency efforts would make the first ten years of the conflict look mild.

The government’s efforts against revolutionary forces during their 1968-1970 campaign were effective at diminishing the threat, and dismantling the structure, of rebel forces (Booth et al., 2006, p. 121). After successfully reducing the threat of insurgent forces, however, the Guatemalan government grew more fraudulent and corrupt during the 1970s^[4] (ibid). Today’s corruption of Guatemala’s institutions can, in part, be traced back to this period when governmental corruption became commonplace. Indeed, during, and just prior to, this time, the control of counterinsurgency efforts was effectively taken out of the president’s hands, and given solely to high-ranking military officials (Handy, 1984, p. 163). In 1978, General Fernando Romero Lucas García won the presidency and began a counterinsurgent crackdown that would mark the worst period in the thirty-six years of Guatemala’s civil war (Booth et al., 2006, p. 121).

As outside opposition to Lucas García’s government grew, clandestine security forces (products of the “death squads”) began to assassinate and disappear local opposition and reformist leaders (Booth et al., 2006, p. 122). People targeted by Lucas García’s repressive

tactics included: students, academics, trade union members, opposition members, and, especially, peasant and rural workers (Handy, 1984, p. 178). Apart from increased death squad activity, Lucas García also ordered the Guatemalan army's attack on the Spanish Embassy on January 31st, 1980, when a peaceful rally of local protestors took refuge within the embassy's walls ^[5] ("Report on the Situation of Human Rights," 1981). Before being forced from office, Lucas García initiated a "scorched earth campaign" against the newly conglomerated insurgent group, the UNRG (*Unidad Revolucionaria Nacional Guatemalteca*) ("Truth Commission: Guatemala").

The Lucas García government, like so many previous and successor governments, did not remain in power long due to the unstable domestic situation. By 1982, Lucas García's government had lost much of its credibility (Booth et al., 2006, p. 122). The presidential election of 1982 was again ripe with fraud, and the Lucas García government was ousted by a coup that placed yet another military figure in the presidency, this time, General Efraín Ríos Montt ^[6] (Handy, 1984, p. 183). Ríos Montt's main policy while in office was the continuation and escalation of repressive programs began by the Lucas García government. Ríos Montt annulled the 1965 constitution, dissolved Congress, suspended political parties, and canceled the electoral law, all while escalating counterinsurgent measures against opposition forces ("Background Note: Guatemala," 2010). Under Ríos Montt, Guatemala experienced one of the most brutal eras in its history:

The army massacred numerous whole villages and committed many other atrocities against suspected guerrilla sympathizers. The army forced the relocation and concentration of [Mayan] Indians, many of whom were pressed into work on modern, army-owned farms producing vegetables to export, frozen, to the United States. The military formed army-controlled, mandatory "civil self-defense patrols" involving [the

conscription of] virtually all adult rural males. Estimates of the rural counterinsurgency's death toll range up to 150,000 persons between 1982 and 1985 (Booth et al., 2006, p. 123).

All in all, of the more than 200,000 deaths during the thirty-six years of the conflict, approximately 75% of them occurred between the years 1978 and 1985, under the government's scorched earth counterinsurgency campaigns of Lucas García and Ríos Montt (ibid, p. 122).

Ríos Montt's presidency lasted just over a year. He was deposed in 1983 when his "increasingly erratic public behavior embarrassed the military reformists" (Booth et al., 2006, p. 124). General Oscar Humberto Mejía Victores replaced him, in an "unsurprising move" (Comisión para el Esclarecimiento Histórico (CEH), 1999, p. 201 ^[7]). Mejía Victores began to reinstitute government reforms, and was the first to attempt to decrease the hostilities between government forces and insurgency groups (Booth et al., 2006, p. 124). Although the government was still controlled exclusively by military and rightist forces, under Mejía Victores a new constitution was drafted in 1985 and elections were established for "president, Congress and municipalities" later that year (ibid). 1985 also marked the beginning of the long process back to civil integration when the first constitutional government (in more than three years) was elected, and when Vinicio Cerezo Arévalo became the first president elected (in more than ten years) without widespread fraud (CEH Report, 1999, p. 210; Booth et al., 2006, p. 124).

The peace process in Guatemala would be a long and difficult one. Though the Cerezo government was elected freely, Cerezo, and his successors, continued to have limited control over the Guatemalan military and rebel movement (Booth et al., 2006, p. 124). Indeed, Cerezo himself was victim of two failed-coups in 1988 and 1989 ("Background Note: Guatemala," 2010). Though the Cerezo government did prove effective in preventing opposition political parties from aligning completely with insurgent movements, it could not reach out to the military or revolutionary blocs well enough to cease hostilities (Booth et al., 2006, p. 124). Cerezo's

successor, Jorge Serrano Elías, was elected in 1990, promising to continue the peace negotiation process, but ultimately ran himself out of office (ibid, p. 126). Serrano, a former minister in Ríos Montt's government, attempted an "*autogolpe*" ("self-coup") in which he "illegally dissolved the Supreme Court and Congress, censored the press, restricted civil liberties, and announced his intention to rule by decree" (ibid). Unlike past coups, however, Serrano's actions were met with enormous resistance. Within Guatemala, citizens, social organizations, and government institutions reacted to Serrano's self-coup with extreme protest, while internationally, the U.S., Organization of American States (OAS), and other powerful international players responded that they "would look with great disfavor on a deviation from constitutional practice" and withhold vital financial aid for Guatemala's recovery process if the government abandoned constitutionality (ibid). With both internal and external pressure, the Guatemalan Constitutional Court (*Corte de Constitucionalidad*) ruled against Serrano's actions, and he fled the country ("Background Note: Guatemala," 2010). The Congress then appointed Ramiro de León Carpio, the country's human rights ombudsman, to finish out the current presidential term (CEH Report, 1999, p. 224).

In 1996, more presidential elections were held, this time culminating in the appointment of Alvaro Arzú, the former mayor of the capital, Guatemala City (Booth, et al., 2006, p. 127). After winning the election, Arzú took quick steps to involve himself, and his government, in the continuing peace process. He quickly moved to replace problematic military and police officials, embraced peace process negotiations, and held serious meetings with rebel leaders (ibid). In the last days of 1996, the Arzú government and insurgency forces approved the terms of a lasting peace agreement ("Background Note: Guatemala," 2010).

As per the agreements reached in the Peace Accords, the Guatemalan military “came under increased civilian authority and found their responsibilities curtailed” (Booth et al., 2006, p. 128). Police reform also was begun. The rebel forces, including leftist groups, indigenous organizations, and others, who had previously been severely repressed by the government, now had legal access to the political system (ibid). The war had left more than a million people internally displaced, over 200,000 dead, and another 200,000 externally displaced (Inksater, 2007, p. 1). Indigenous Mayan casualties totaled 83% of all deaths recorded in the conflict (Booth et al., 2006, p. 128). Post-conflict reports also place blame for the casualties squarely on the governmental apparatus. The Commission for Historical Clarification (CEH: *Comisión de Esclarecimiento Histórico*), a truth commission created to investigate wartime human rights abuses, found that 93 percent of human rights violations reported were committed by military or military-connect personnel (Oglesby and Ross, 2009, p. 24). Contrasting this outrageous statistic, other findings showed that “insurgent actions produced 3% of the human rights violations and acts of violence” (“Truth Commission: Guatemala”).

Even though hostilities between government forces and insurgent organizations came to an official end, Guatemala still experienced tremendous violence. Now, the violence was not committed through actions of the state, but by illegal security organizations operating outside of government control. These illegal security groups sprouted during the war as paramilitary death squads, found government-backed leadership, and morphed into organizations independent from state control. President Oscar Berger, in 2003, attempted to combat continuing violence and these illegal security organizations. During his presidency, he confronted stubborn military officials and reduced the scope in which the military was allowed to act (Booth et al., 2006, p. 130). Also during this time, significant progress was made in the Myrna Mack and Bishop

Gerardi trials, helping to publicize the still-new ideas that: human rights would be upheld, provisions of the Peace Accords would be followed, and criminals would be brought to justice (ibid). However, with these accomplishments came significant backlash. In 2004, Berger, in an effort to curb crime, dismissed both his interior minister and chief of police, also ordering over 1,600 soldiers to join the police, from the military, in order to combat crime (ibid). This decision proved imprudent. As the military had already become accustomed to acting autonomously, the state police force now became even more militarized and further from the central government's control. Murders continued to occur in spite of Berger's efforts to combat crime as few killings were ever investigated, though some media installations had been reporting heavily on them (ibid). Impunity had sunken in. Guatemala was now experiencing not only actions by illegal clandestine group and corruption of government, both consequences grown out of the civil war, but now its police force had become further militarized and impunity dominated the justice system. In this context, the Guatemalan government, in conjunction with an internationally backed transitional justice apparatus, chose to fight illegal security organizations and the overall system of criminal impunity.

Transitional Justice and Guatemala

Guatemala should be considered a post-conflict country, even almost fifteen years after the signing of the Peace Accords. As such, Guatemala has been employing, and should continue to use, transitional justice mechanisms. The term 'transitional justice' is an approach to combating widespread disregard and violations of human rights ("What is Transitional Justice?," 2008). Transitional justice "seeks recognition for victims and to promote possibilities for peace, reconciliation and democracy" (ibid). This method is not simply a checklist of necessary justice

protocols, but more an overall process allowing post-conflict societies to deal with prior systematic human rights violations (ibid). Transitional justice mechanisms, therefore, will not look the same in all places. What works well for one post-conflict society dealing with an extended period of human rights abuses, might not necessarily work well for another post-conflict society. Because transitional justice has no set protocol or structure, transitional justice mechanisms may include very different initiatives.

Criminal prosecutions, or tribunals, often pushed for vigorously by victim rights groups, are one way of dealing with the consequences of a civil conflict and human rights violations (“What is Transitional Justice?,” 2008). Prosecutions are a way of holding human rights violators responsible for their criminal actions, hopefully bringing a sense of justice to the victims of these abuses (ibid). Criminal prosecutions can seek to punish not only the people directly responsible for criminal action (e.g. a gunman in a drive-by shooting), but can also seek to hold responsible ‘intellectual authors’ as well (e.g. high ranking members of the military who organized and ordered criminal abuses). Domestic courts for such criminal prosecutions “remain the preferred forum to bring lasting change,” but specific countries have received internationally backed criminal tribunals (Yugoslavia and Rwanda, with the ICTY and ICTR, respectively), and the International Criminal Court (ICC) is also a mechanism for prosecuting such criminal cases (ibid).

There are several challenges in implementing criminal prosecutions in a post-conflict society, not the least of which being that many former human rights violators, those who ought be prosecuted, remain in positions of power. In Guatemala, for example, Ríos Montt “survived to found a political party (the Guatemalan Republic Front [FRG: *Frente Republicano Guatemalteco*]) and to be elected President of Congress in 1995 and 2000,” after having been

responsible for a scorched earth campaign against insurgent groups and mass human rights atrocities (“Background Note: Guatemala,” 2010). It is possible, as Borzutzky (2007) asserts, that these criminal trials are only effective in bringing human rights violators to justice after the full transition to peace has been achieved by a post-conflict society (p. 184). Seeing that there is no definitive end to the peace transition process, the decision to proceed with criminal prosecutions presents a challenge to those who would use this transitional justice mechanism, as prosecutions might prove ineffective against former human rights violators. Another challenge to criminal tribunals is that direct evidence proving officials’ involvement in human rights abuses may not exist, or may be too difficult to uncover, leaving violators unpunished. Finally, as with many transitional justice efforts, the political situation may simply be too delicate and unstable in the post-conflict society to pursue prosecutions against high-ranking and well-connected human rights violators.

A further way in which transitional justice may be implemented is through the establishment of truth commissions. Truth commissions have the function “of investigating and reporting on key periods of recent past abuse” (“What is Transitional Justice?,” 2008). In these commissions, victims of human rights violations are able to come forward and let their story be heard. In this way, victims may feel that their personal suffering has not been forgotten, or quietly buried, in the post-conflict society. Truth commissions may act in place of criminal prosecutions, and, as such, generally do not produce judicial action against human rights perpetrators (ibid). Even if these commissions could use their findings in a judicial setting, once again, the political situation may yet be too delicate to prosecute human rights violators.

Guatemala’s own truth commission, the CEH, was established through an agreement in 1994 between the Guatemalan government and insurgent groups (Oglesby and Ross, 2009, p.

24). Almost immediately, the CEH found another challenge facing truth commissions as a mechanism of transitional justice. The CEH's original mandate of six months to a year was not nearly enough time to adequately detail the historical complexities of the civil war^[8] (ibid). In spite of this challenge, the CEH was successful in documenting many of the atrocities committed during the war. Also, the commission was able to make recommendations, of other transitional justice mechanisms, addressing the future direction of Guatemala's government and post-conflict efforts. These other transitional justice recommendations included, but were not limited to: the establishment of monuments to victims of human rights abuses, financial assistance in exhuming victims, reclamation of stolen Mayan land, and structural reform of the military and government institutions to strengthen democratic practices ("Truth Commission: Guatemala").

Unfortunately, most of the CEH's recommendations have never been fully implemented, leaving Guatemalan society to suffer through many of the unresolved consequences that developed from the civil war.

Another mechanism of transitional justice is hybrid efforts (courts and commissions). According to the International Center for Transitional Justice: "hybrid courts generally operate where the crimes occurred but employ international personnel, and usually have jurisdiction to try international crimes" ("Prosecutions," 2009). Hybrid efforts thus combine national and international resources in their transitional efforts. In this way, a post-conflict society can actively participate in addressing previous human rights violations, while receiving international logistic and political support to accomplish the transitional effort. Furthermore, hybrid courts combine positive characteristics of both truth commissions and criminal prosecutions. Hybrid efforts allow victims to formally share the abuses they suffered, but also use this information to build criminal cases against human rights violators. This process combining truth commission

and criminal tribunal aspects produces endeavors in which victims are allowed to be heard, while subsequently punishing human rights violators. Such hybrid efforts have occurred in such diverse places as: Sierra Leone, Timor-Leste, Kosovo, Bosnia, Cambodia, and Lebanon (ibid).

Guatemala is now in the process of continuing transitional justice efforts with CICIG. As a hybrid endeavor, combining both Guatemalan and international resources, the commission works to combat Guatemala's system of criminal impunity and strengthen the state justice system, while also recommending governmental reform. The hybrid status of CICIG allows it to avoid some of the pitfalls that other transitional justice efforts experience. The commission's strong international backing from the U.N., in stark contrast to other prosecution or truth commission efforts, makes it unlikely that a delicate political situation within Guatemala will affect CICIG's endeavors. At the same time, the inclusion of a significant number of Guatemalan personnel allows the commission better access to local resources in the course of their investigations. Unlike truth commissions, which generally do not have the power to prosecute human rights violators, CICIG was specifically designed to play a significant role in the prosecution of criminals and human rights abusers. Furthermore, CICIG's mandate clearly allows for the establishment of investigative teams, thereby avoiding another problem that transitional prosecution efforts face when they are unable to uncover evidence, on their own, linking individuals to human rights violations.

CICIG's unique status as a hybrid transitional and criminal justice mechanism allows it to function well within Guatemala's weak justice system. As will be further developed in this paper, the commission has already experienced definitive results in strengthening Guatemala's justice system, while combating the culture of criminal impunity. In February 2007, the Secretary-General of the U.N., reporting to the General Assembly, asserted that CICIG would

“play a crucial role in combating impunity, in relation to past as well as ongoing human rights violations” (“Impunity,” p. 7). More than two years later, Philip Alston, U.N. Special Rapporteur on extrajudicial, summary, or arbitrary executions, hailed CICIG’s successes and asked that the commission continue to receive support, both within Guatemala and internationally (May 2009). Locally, Guatemala’s current president, Álvaro Colóm, has also voiced his support of CICIG’s efforts (2009, p. 2). Thus, CICIG has received, and continues receiving, support from many locally and internationally relevant sectors. But, before delving into the commission’s current work, a clear understanding of the multi-faceted problem of Guatemala’s criminal impunity must be reached.

Impunity: Definition

Guatemala’s prolonged armed conflict had the effect of creating societal “zones of impunity” which became the new norm in the Guatemalan justice system. “Zones of impunity” are created in societies where accountability for criminal action does not exist (Sriram and Ross, 2007, p. 46). While Sriram and Ross specifically discussed zones of impunity as a function of the inability to fully prosecute transnational crimes, their discussion can be applied to Guatemala’s problem of impunity (ibid, p. 45). When crimes committed during the Guatemala’s civil war went unpunished, the seeds of impunity slowly began to be planted. Mass atrocities, along with ordinary crimes, were carried out against the Guatemalan civilian population during the war. The vast majority of those responsible for these crimes have never been held accountable for their actions. During the war, it is easy to see how such human rights violations were overlooked. While most of the government’s efforts revolved around hunting the “internal enemy,” whether a real or only perceived threat, very little of their efforts were devoted

to monitoring the actions of their own government-sponsored forces (CEH Report, 1999, p. 117). Yet, as the peace process came into force, criminals who carried out and masterminded human rights abuses were still never held accountable. Even now, almost fifteen years later, few human rights violators from the war have been brought to justice ^[9].

Guatemala's culture of impunity springs directly from the government's failure in asserting the rule of law. Official impunity, as is the case in Guatemala, stems from "the failure of governments to ensure that [its] agents are bound by the same laws that apply to the rest of the population" (Jorgensen, 2009, p. 386). Had the post-conflict government punished those responsible for wartime human rights violations, perhaps the culture of impunity would not have taken hold (or, at least, not have taken hold so strongly). Guatemalan society would have seen criminals held responsible for their actions, thus discouraging criminal impunity. But in a climate of tenuous peace, the government did not wish to risk devolving the state into outright civil unrest, and so did not pursue judicial actions against criminals. Truly, today's impunity in Guatemala "stems from the culture of impunity that has grown out of Guatemala's refusal to prosecute the heinous crimes committed during the civil war" (Minteer, 2007).

As has been seen, the government was not simply complicit in acting against its population, but its agents during the conflict were the main perpetrators of crimes against Guatemalan society (Oglesby and Ross, 2009, p. 24). In his essay on impunity, Jorgensen (2009) argues that impunity denotes more than just one crime, but a "particular 'culture' or 'climate'" related to the violation of legal and social norms and the refusal to punish them (p. 387). Jorgensen derives his argument in a somewhat mathematic equation: "Rule → Violation of rule → Failure to punish" (Jorgensen, 2009, p. 388). First, the rule of law is established. Second, there is a violation of the rule of law. Third, this is met by a failure of the government to punish

the violation and violator(s). Finally, if this failure to punish occurs enough to become the norm, then a culture of impunity is established, usurping the rule of law. In culture of impunity societies, individuals perpetrating crimes (in Guatemala's case, largely members of clandestine security forces) do not expect to receive any punishment for their actions. This expectation of no punishment goes beyond perpetrators blissfully believing that they will not get caught. These perpetrators fully expect that no punishment will ever be dealt for their criminal actions. Not only are these perpetrators not held responsible for their crimes, but the victims of their crimes receive no justice, compensation, or closure. The culture of impunity "has a corrosive effect upon the legitimacy and effectiveness of the state itself" as the state's function is to uphold the rule of law (ibid, p. 387). When the state cannot punish criminals, it cannot uphold the rule of law. Because of this, the state's legitimacy is eroded and it loses power to combat crime. Impunity is thus self-perpetuating.

Guatemala's culture of impunity shares common factors with impunity in other societies as well. Generally, impunity is worse in places facing insurgencies, with poorly institutionalized control of military establishments, and is better in places where more freedom is provided to the press (Jorgensen, 2009, p. 386). Guatemala meets all of these characteristics, having faced a thirty-six year insurgency, having little control over its military, and having a history of restricted press freedom. Impunity's self-perpetuating nature also strengthens over time. When one person harms another through criminal action, never being held accountable for that crime, the victim is left not only with a sense of deprivation of justice, but also with an understanding that criminal actions will not be punished. Therefore, the victim could use this to his advantage in the future and deprive another of their rights. Today in Guatemala, there are many examples of how the system of impunity continues to thrive. According to Scholfield (2008), there were

6,000 murders during 2007 in Guatemala, yet only 100 of these cases made it to court (less than 2%). In 2005, of the 13,709 complaints of criminal offenses toward women reported to the Public Prosecutor's Office, only 106 of these investigations led to convictions ("Report of the High Commissioner for Human Rights," 2006, p. 6). This figure means that only .7% of all complaints of criminal acts against women produced a conviction. Also in 2005, the newly created Office of the Special Prosecutor for Human Rights received 129 complaints of threats against justice officials, only one has produced a conviction, in spite of 118 investigations having been opened (ibid, p. 9). Sadly, during the course of investigating these threats, "six justice officials, including judges, prosecutors and auxiliary staff were murdered" (ibid). The best example illustrating Guatemala's system of criminal impunity, however, even twenty years after her assassination, is the case of Myrna Mack.

Impunity: The Example of Myrna Mack

Developing over the past fifteen-plus years, the murder case, and subsequent trial, of Myrna Mack today remains particularly tragic. Myrna Mack Chang was an anthropologist working in Guatemala as a human rights advocate, investigating "the unjust treatment of the internally displaced people in Guatemala" (Weisel & Corillon, 2003, p. 2). On September 11th, 1990, Myrna Mack was assassinated outside her office in Guatemala City by members of a clandestine security organization with ties to the military ("Human Rights Defenders"). Members of this clandestine group attacked Mack, killing her in response to her work criticizing the government's actions against the indigenous population and advocating for human rights (ibid). The following, prolonged investigation of the Myrna Mack case provides an excellent example of the workings of the culture of impunity in Guatemala.

The Guatemalan police did open an investigation shortly after Mack's murder. The police report discovered that the murder had political motivations, and also confirmed that military intelligence officers were involved (Weisel & Corillon, 2003, p. 3). With this information, Helen, Myrna Mack's sister, launched a "private prosecution" against the people responsible for Myrna's murder, marking the first time that Guatemala's system of impunity had been challenged in court ("Human Rights Defenders"). The prosecution of those responsible in Mack's murder would be a long and devastatingly difficult road. In August 1991, the police officer who first investigated the Myrna Mack case was brutally murdered, in front of his family, shortly before he was to testify to the Inter-American Commission on Human Rights of the OAS (Weisel & Corillon, 2003, p. 3). This attack demonstrated the lengths to which illegal security groups would go to keep justice from being levied against them. Thankfully, in 1993, Helen Mack's case won a significant victory when one of the attackers of Myrna Mack was convicted of the murder in a Guatemalan court ("Human Rights Defenders"). A former member of the Intelligence Branch of the Presidential High Command, Noél de Jesús Beteta Alvarez, received a twenty-five year sentence for his involvement in the Myrna Mack assassination, along with another five year sentence on an unrelated charge (Weisel & Corillon, 2003, p. 3). An apparent victory against human rights violations, the Guatemalan system of impunity countered this success. The judge responsible for the Mack case refused to allow the prosecution to continue its efforts in bringing the "intellectual authors" of the Mack murder to justice (ibid). Without the prosecution of those responsible for planning the assassination, criminal impunity continued in the Myrna Mack case. Justice had yet to be fully served.

Even with this setback, the Myrna Mack case marked the first victory for prosecuting human rights violations by Guatemalan government and security forces. This small victory

empowered various other human rights organizations in attempting to hold other Guatemalan human rights abusers responsible for their crimes (“Human Rights Defenders”). In 1996, the intellectual authors of Mack’s murder were indicted in the case (all military officers, two colonels and a general), and one was eventually convicted in a Guatemalan court, during late 2002, for his part in Mack’s murder (ibid). But this victory was soured by the system of impunity yet again, as an appeals court subsequently overturned this conviction in 2003 (ibid). Because of this, none of the intellectual authors of Mack’s assassination have been held responsible for their part in her murder. The case has been recommended to the Guatemalan Supreme Court, but an outcome has yet to be reached (ibid).

Through her efforts to bring her sister’s killers to justice, Helen Mack experienced the full system of impunity that strangleholds Guatemala’s justice system. Although the conviction of a low-level conspirator came rather quickly (less than three years after Myrna Mack was murdered), the conviction of just one of the intellectual authors took almost twelve years, and was later overturned. During this long process, the trial was besieged by “serious obstacles [hampering] the investigation and prosecution of the case, including the destruction of evidence, the withholding of documents, threats and attacks on witnesses, lawyers, judges and investigators, and the exploitation of Guatemala's weak judicial system” (“Human Rights Defenders”). Because of the inability, and lack of will, to move forward with the trial within Guatemala, Helen Mack sought help internationally. In an effort to bolster her national case with international backing, “Helen sought the support of Human Rights First, which initiated an action before the Inter-American Commission on Human Rights of the Organization of American States. The Inter-American Commission since ruled in the case [in favor of Helen

Mack's efforts] and referred it to the legally binding jurisdiction of the Inter-American Court of Human Rights" (ibid).

Although not achieving all that she hoped for, the criminal trials against Myrna Mack's conspirators have produced results, both within Guatemala and internationally. Helen Mack's success in her sister's murder case is due to combining both national and international efforts in order to influence Guatemala's justice system and its culture of impunity. Helen Mack's national and international technique in this case mirrors the hybrid technique that CICIG now uses in conducting their own investigations into criminal cases and the culture of impunity. In both the Mack investigation and CICIG's later work, a combination of national and international influence has been shown to be key in producing results against Guatemalan criminal impunity.

Causes of Impunity

Hidden Powers The term "hidden powers" refers to illegal security groups that work with different sectors of Guatemala society to further their own gains and circumvent the governmental system (Peacock & Beltran, 2003, p. 2). Synonyms for the term "hidden powers" include: illegal clandestine groups, illegal security organizations, and organized crime (especially in the illegal drug market). While these different terms do not always carry the same connotations, the hidden power groups are at the root of all of these different organizations. The hidden powers groups work with current and ex-police officers, employees of government institutions, and other people in the private sector (essentially, anyone who they can use to further their interests) to circumvent the official channels of Guatemala's government (ibid). The hidden powers have two main interests: to benefit economically from their connections, and to continue the system of impunity that allows their illegal groups to operate and exist.

In perpetuating the system of impunity, “the hidden powers in Guatemala use their connections – with political actors and with the military and police – to intimidate, or even eliminate, those who get in their way, know too much, offer competition, or try to investigate their activities.” (ibid, p. 3). As has been shown, the illegal hidden groups of today spawned directly out of the illegal armed bodies from the civil war. After the war ended, the security groups of the conflict mutated into today’s clandestine organizations. These hidden powers maintain much of the on-the-ground, *de facto*, power, though the Guatemalan state institutions retain power through the constitution (ibid, p. 2).

The leadership of these hidden powers is comprised of ex-military officials (both retired and dishonorably discharged personnel) that held high military positions and committed considerable human rights violations during the war (ibid, p. 3). The leadership uses its governmental contacts and clandestine security groups to exert their power and influence within the country (ibid). “They are single-minded in their determination to prevent justice for past abuses, and military and intelligence reform. It is not surprising, therefore, that the pattern of attacks, harassment and threats by clandestine groups is reminiscent of the counter-insurgency efforts of the Guatemalan Army” (ibid). When the peace process was in full swing, the Peace Accords voiced the opinion that the government had a responsibility to root out these illegal groups and end their influence in the country. This, however, proved too large of a challenge for the new government as the government was not only weary of pursuing any action that could destabilize the peace, but also the hidden powers had co-opted contacts in nearly every government institution imaginable. Recommendations of improvements to the institutional system have not been fulfilled by the government, thus further allowing the hidden powers to not only continue to operate, but to solidify their power and connections within the government

(ibid). The hidden powers are not the only cause for the existence of impunity in Guatemala. They are, however, the direct beneficiary of and impetus for maintaining the culture of impunity.

The Police There are several reasons why the National Police Force (PNC: *Polícia Nacional Civil*) also contributes towards a culture of impunity. First, during the armed conflict the local police forces were militarized into civilian patrols. Civilian patrols (called *Patrullas de Autodefensa Civil*, or PACs,) forcibly recruited civilians to not only join the patrols, but also work to persecute their own communities (“Background Note: Guatemala,” 2010). These patrols were local level efforts at asserting the government’s will in regions where the insurgency was strongest. “Participation was in theory voluntary, but in reality, many Guatemalans, especially in the heavily indigenous northwest, had no choice but to join either the PACs or the guerrillas” (ibid). Regulation of these civilian patrols was minimal, and, after the war ended, “without an adequate influx and integration of police, prosecutors, and courts - left a power vacuum” in which they could now operate autonomously (Alston, 2007, p. 13). Also, the Guatemalan national police force today is comprised of much of the old police force that functioned during the civil war (“Protect and Serve?,” 2009, p. 4). It is no wonder, then, that the police force today is still as militarized, and acts as autonomously, as it did during the war. The police force’s tactics changed irrevocably during the war, and, since the conflict lasted so long, after the peace was reached, the police had no other system of tactics to fall back upon. Impunity today, therefore, is generated from the police continuing to act as a militarized force with the same tactics and personnel from the time of the civil war.

Another main issue for the police force is recruitment. “Poor public image of the police, their low salaries, and their limited advancement opportunities hobble recruitment efforts” (ibid,

p. 13). This leads to a police force that is drastically understaffed. In fact, according to WOLA's "Protect and Serve?" report (2009), Guatemala has a police force of only slightly over 20,000 for a population of over 13 million, with most officers concentrated in Guatemala City (p. 8). That translates into one and a half police officers for every one thousand people. Education of police officers is also a factor as to why they are so inefficient. During and directly after the conflict, most police officers in Guatemala had not graduated beyond the elementary school level of education (ibid, p.13). Furthermore, Guatemala does not possess a formal police career law that would serve to regulate promotions or raises in income, leading to promotions based on nepotism and corruption (ibid). Without formal processes of promotion, police officers are more susceptible to outside pressures, allowing hidden power and clandestine groups to effectively influence them. Beyond these challenges, there is another main reason for police involvement in the culture of impunity in Guatemala. The police are intrinsically linked with the hidden powers groups. The PNC has a history of being linked to the military and to perpetrating human rights violations. With their connections already made to the hidden powers from the war, corruption of the police force was an easy transition after the peace process. Thus, impunity occurs from the police force due to a lack of officers to adequately investigate even a fraction of crime in the country, while, at the same time, these officers are exposed to tempting external pressures.

Corruption in the police is a serious multi-faceted problem. There have been complaints to MINUGUA (*Misión Internacional de las Naciones Unidas en Guatemala*) that have alleged police participation in: "acts of corruption, drug trafficking, organized crime, and extrajudicial executions" (ibid, p. 22). These reports have been found to be "highly credible" according to the U.N.'s Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions (Alston, 2007, p. 9). Generally the police lack accountability for their internal affairs as well. As of mid-2003,

PNC data shows that although there were over 1,600 complaints about police engaging in illegal activity (including: “corruption, robbery, extortion, fraud, extrajudicial killings and torture”), yet only 33 percent of the time was an investigation opened into these allegations (“Protect and Serve?,” 2009, p. 22). Of those investigations that were opened, 55 percent of them proved “inconclusive”^[10] (ibid). And, most alarmingly, “the allegations implicated approximately 2,300 police, or 12 percent of agents at the time” (ibid).

With a police force as untrained, militarized, and corrupt as Guatemala’s, it is easy to see how accountability for criminal activity declines as criminal impunity rises.

The Judiciary The judiciary in Guatemala is the third main component that allows the culture of impunity to exist and thrive. The widely held statistic shows that the Guatemalan judicial system only holds 2 percent of all criminals accountable for their actions (Alston, May 2009, p. 6). Judges are intimidated by the hidden powers groups not to pursue cases that conflict with hidden powers interests. Also, judges can be incorporated into networks of clandestine organizations as well, not just intimidated by them. Successful co-opting and intimidation of judges makes the judicial system of Guatemala weak and untrustworthy.

The judiciary ought to act as a curb on impunity. If criminal acts occur, the courts should have the power to hold criminals accountable. Sadly, in Guatemala, this ideal has not come even close to occurring, allowing criminals to go unpunished. Due to this lack of punishment, impunity thrives. This judicial impunity has already been demonstrated in the Myrna Mack case. Another example also shows obstructionist efforts by the judiciary system in Guatemala. In 1993, Jorge Carpio Nicolle, a reformist, newspaper owner, and outspoken critic of Serrano’s self-coup, and several of his partners were murdered by the state’s PAC groups (Davis &

Warner, 2007, p. 238). The victims' families brought their case to the court system, but "judge after judge refused to hear the case" (ibid). The process to get the case heard, much like the Myrna Mack case, took more than ten years, and "Guatemalan trial and appellate courts twisted the law to block all efforts to hold accountable those responsible for the killings" (ibid). During this extended time, evidence was lost, misplaced, or destroyed (ibid). In 1996, one person was convicted in the case, but the prosecution had gathered evidence linking eleven people to the murders (ibid). Also, tragically similar to the Mack case, after the 1996 conviction of one of the perpetrators, the Guatemalan Appeals Court overturned the conviction, pardoned the criminal, and ordered his release (ibid). "The Court cited numerous evidentiary irregularities, including the broken chain of custody of the alleged murder weapon" which was lost due to the length of time the trial was delayed, but was also misplaced as a complicit government institution (the police) was responsible for said evidence (ibid). Regrettably, the Guatemalan Supreme Court has upheld the appeals court's ruling, and progress on the case has not been made since (ibid).

From the two examples of the Mack and Carpio cases, we can see just how the judiciary functions in allowing impunity to continue to exist in Guatemala. Through intimidation or corruption, the hidden powers networks influence the judiciary to refuse to hear cases that would compromise their members or interests. The judiciary then lacks the ability to hold criminals accountable for their actions. The culture of impunity is thus strengthened every time another judge refuses to hear a case due to these external pressures.

Recognizing the Need to End Impunity

Within the last decade there has been a strong movement, both nationally and internationally, that has recognized the need to end the Guatemalan culture of impunity. In 2003, Guatemala's Human Rights Ombudsman first proposed a substantial effort to combat impunity ("Guatemala: Recent History"). In 2004, the OAS reaffirmed their commitment to "combat corruption and impunity, which undermine the legitimacy of public institutions and jeopardize society, ethical standards and justice, as well as the integral development of peoples" ("Declaration of Managua," 2004, p. 3). Also, internally, in 2007, then Vice-President Eduardo Stein "admitted [to the European Parliament] how difficult it is to fight organized crime when it is deeply entrenched in the public institutions themselves" ("European Parliament Resolution," 2007, p. 4). Even the United States' Congress passed a resolution in 2007 supporting efforts in Guatemala to fight its culture of impunity and clandestine organizations ("110th Congress 1st Session S. Res. 155," 2007). Both the Guatemalan government and international actors recognized that a true effort at combating impunity in Guatemala would need to be both national and international in scope. National efforts alone would be ineffective at dealing with the complexity of impunity and corruption of national institutions. International efforts alone would hardly be sustainable once international actors ended their work, and any suggestion at reform would feel like internationally dictated imperialism. A hybrid effort, with both national and international components, would have the best chance of succeeding, much like Helen Mack used both national and international means in her fight for justice. Now, a decade after the Peace Accords were reached, with both national and international support, Guatemala's government and the international community acted in the fight against impunity. The first of two hybrid commissions were formed: CICIACS.

CICIACS: The Rise and Fall

On January 7th, 2004, with continued domestic pressure, and international pressure from the United States and the U.N., both the Guatemalan government and the U.N. agreed to the *Comisión de Investigación de Cuerpos Ilegales y Aparatos Clandestinos de Seguridad* (CICIACS) (Spanish for the Commission of the Investigation of Illegal Groups and Clandestine Security Organizations) (Guatemala: Recent History ; “Agreement Between The U.N. and Guatemala to Establish CICIACS,” 2004 ^[11]). CICIACS would be the first attempt to break the cycle of impunity in Guatemala. According to its mandate, CICIACS would “strengthen the capacity of the State of Guatemala to effectively fulfill its obligations under the human rights conventions to which it is a party...to investigate the structure and activities of illegal groups and clandestine security organizations and their association with the State and organized criminal activities, as well as prosecute those persons responsible for the formation and operation of these entities” (CICIACS mandate, 2004, p. 1). CICIACS would function to dismantle illegal security groups and clandestine organizations through criminal prosecutions and, through these prosecutions, would reassert the rule of law. CICIACS would also work so that the Guatemalan judicial system could expand its power against clandestine groups that continued to prosper from the system of impunity (“Guatemala: Recent History”).

From the beginning, CICIACS was not viewed as a truly joint effort between the international community and the Guatemalan government. According to the Tula Foundation, the “structure of CICIACS [was] an acknowledgement that no Guatemalan institution can be trusted” (“Guatemala: Recent History”). The commission was obliged, under Article 2, Section 3 of its mandate, to enter into agreements with the Attorney General and Head of the Public Ministry of Guatemala (as well as any other institutions it deemed necessary) to coordinate

responsibilities and the carrying out of its mandate (CICIACS mandate, 2004, p. 3). However, another section of the agreement gave CICIACS the ability to act as independently of the Guatemalan government if the commission chose (ibid). CICIACS could, according to Article 2, Section 2 of its mandate, act as initiator of prosecutions against illegal groups and clandestine security organizations, seemingly without the input or participation of Guatemalan justice institutions (ibid, p. 2). This provision was an unprecedented move, giving CICIACS the power to proceed on its own terms if the Guatemalan government, or specific government institutions, proved to be irresolute or obstructionist in the fight against illegal clandestine organizations and impunity. It was this provision, which could have ultimately given the commission true power to change the weak Guatemalan judicial system, which brought the CICIACS campaign to a halt.

President Berger's government was initially very supportive of CICIACS ("Guatemala: Recent History"). After all, it was his government that had asked for, and agreed to, the creation of such a commission. Yet, after the agreement to create CICIACS was reached, significant backlash erupted. Immediately there was concern from opposition parties that the commission's work would violate Guatemala's state sovereignty since CICIACS would be able to function freely of the Guatemalan government institutions (ibid). "Human rights groups and foreign diplomats [counter]argued that only outsiders could rescue the country's police, prosecutors and judges" from the influences of hidden powers and the culture of impunity ^[12] (Tobar, 2008). Congressional representatives (including a large portion of representatives from the FRG) saw the independent prosecutor clause as a possible violation to Guatemala's sovereignty, and asked the Constitutional Court to rule on the legality of CICIACS ("Guatemala: Recent History"). There, the Court would decide whether CICIACS would be allowed to begin its efforts, or if its agreement was truly unconstitutional.

Before the Court ruled, in May 2004, the FIDH^[13] published an update on the CICIACS situation. In it, the organization argued that the goals and aims of the commission were sound and that the commission was indeed necessary to combat Guatemala's endemic system of impunity ("Guatemala: la CICIACS en peligro!," 2004). The FIDH continued, arguing that the Guatemalan government not reject the whole of the commission, rather just the parts it viewed as unfavorable, thus allowing the commission to continue its overall, commendable, mission (*ibid.*). However, on August 6, 2004 the Constitutional Court ruled that CICIACS did indeed violate Guatemala's constitution and sovereignty ("Constitutional Court Rules," 2004). The Court objected most strongly to an international organization being given powers reserved for Guatemala's Public Prosecutor and judicial system (Atwood, 2008, p. 8). Though this ruling was non-binding, a congressional order soon followed that shelved CICIACS for good (Granovsky-Larsen, 2006, p. 2).

Looking back on the effort to create CICIACS, there were several key reasons that led to it not being implemented. The fact that the CICIACS mandate would allow it to independently initiate and prosecute was clearly the main issue (Atwood, 2008, p. 8). A potential solution to this problem would have been to amend this clause of the agreement, but the Guatemalan government backed out altogether from the CICIACS effort before this possibility could have been discussed. Also contributing CICIACS' defeat was "the combination of an anti-CICIACS media campaign, a lack of governmental political will, and an ineffective promotion of the commission" (Granovsky-Larsen, 2006, p. 2). The fact that pro-CICIACS government groups, those that had originally asked for, and signed on to, the commission, never came forward with shows of support to keep CICIACS clearly signaled "the Guatemalan government does not have the political will to resolve crimes" ("Constitutional Court Rules," 2004). Furthermore, it also

highly implied that the government itself (and its officials) was more interested in maintaining the culture of impunity than trying to re-implement a system of justice in Guatemala (ibid). In a WOLA report issued four years after CICIACS defeat, the organization noted that the commission also failed because the support it had received largely came from the NGO sector (Atwood, 2008, p. 10). Although CICIACS did have support from foreign governments, WOLA found that “representatives of foreign governments who had supported CICIACS were reluctant to believe that the problem of clandestine groups continued under the Berger administration” (ibid, p. 9). Therefore, the international momentum for CICIACS came from human rights NGO’s, organizations not possessing near the level of power as foreign governments. Finally, WOLA notes that the Constitutional Court that ruled on the legality of CICIACS “was dominated by judges appointed by the Guatemalan Republican Front, or FRG, the party of former rightist dictator Efraín Ríos Montt,” who were certainly not the most motivated to bring current (or former) criminals to justice by combating to end impunity^[14] (ibid). Through these factors, CICIACS was defeated before it even had a chance to begin. However, just a few years later a successful campaign, in the same vein as CICIACS, would succeed to be established.

CICIG

The Commission’s Creation The defeat of CICIACS could have ended the movement within Guatemala for a combating illegal clandestine groups and the culture of impunity. Thankfully, when the CICIACS commission was defeated in 2004, work began anew to create a commission with similar goals, while satisfying opponents’ concerns that such a commission would violated Guatemalan sovereignty. In December 2006, the government of Guatemala and the United Nations agreed to the creation of a new commission with the goals of investigating illegal

security organizations and combating the culture of impunity: the *Comisión Internacional Contra la Impunidad en Guatemala* (CICIG) (in English: the International Commission Against Impunity in Guatemala) (“International Commission against Impunity”). This new commission, much like the defeated CICIACS, would attempt to better the Guatemalan legal system while cracking down on impunity and illegal criminal organizations’ activity. Although it was a victory for supporters of the fight against impunity, this new commission began in the same way CICIACS had, as both the Guatemalan government and the United Nations agreed to its establishment. Thus, there was a significant chance that, again, the Constitutional Court might rule against the implementation of such a commission. Before the Court could rule, however, only two months after the agreement for the commission was reached, support for the CICIG endeavor increased dramatically.

On February 19th, 2007, three Salvadoran diplomats (all members of the Central American Parliament) and their driver were on their way to a meeting of regional lawmakers in the Guatemala City when their vehicle was stopped and they were kidnapped (Atwood, 2008, p. 11). The diplomats and their driver were then taken to a secluded area, beaten, tortured, and shot to death (ibid). Two days later, Guatemalan authorities arrested four Guatemalan police officers, including the head of the department of the Organized Crime Unit of the PNC, charging them with the murders of the diplomats (ibid). For those who were not already aware, the involvement of a head of a police unit demonstrated, in chilling fashion, the extent to which clandestine security organizations had infiltrated government institutions. The government of Guatemala was now forced to act. Random killings by illegal security organizations against civilians are one thing. The political will to bring to justice the killers of ordinary people in a society of impunity is not very strong. However, the killing of diplomats of neighboring countries is

another issue entirely. The Guatemalan government could not afford to allow impunity for the murderers of a close, ally country's diplomats. Foreign relations with El Salvador would be permanently scarred. The government now had a lightning rod to push for the implementation of the CICIG. Sadly, even with the government now acting proactively to bring the Salvadoran diplomats' murderers to justice, the conspiracy will probably never be solved. Less than a week after the murders of the Salvadoran diplomats, the suspects were, themselves, killed, while being held in a maximum security facility (Tobar and Renderos, 2007). "All four suspects had their throats slit and were then shot to death inside their cells... just hours before they were to be interrogated by FBI agents aiding in the investigation" (Atwood, 2008, p. 11). The suspects' deaths remain unsolved (ibid). Consequently then, the murders of the Salvadoran diplomats have hit a standstill, and, although Guatemalan officials believe "local drug traffickers and mid-level rogue police officers" to be involved in the conspiracy, these assertions are now much more difficult to prove (Tobar and Renderos, 2007). The system of impunity has stained this case. Even when the government is actively attempting to assert the rule of law, illegal security groups find ways to influence the justice process in order to guarantee criminal impunity. Yet, even with the setbacks in the Salvadoran murder case, the system of impunity was now, more than ever, on display for the Guatemalan government, and the world, to see. Thankfully, this time, significant action occurred.

The goals of the new CICIG commission were quite similar to the goals of the old CICIACS. Specifically, the new CICIG commission had the potential to:

- uncover the full extent of the illegal security organizations and dismantle their underlying structure;

- investigate and promote the prosecutions of members of illegal security organizations responsible for crimes and attacks against human rights defenders;
- prevent future attacks on human rights defenders by putting an end to the culture of impunity that encourages such attacks;
- recommend public policies for eradicating illegal security groups and preventing their re-emergence; and
- support, strengthen and assist Guatemalan institutions to uphold the rule of law.

(“International Commission against Impunity”).

The main concern for CICIG now, after the agreement had been reached but not ratified, was if the Constitutional Court would rule against the commission as it had with the CICIACS. The most objectionable portion of the CICIACS mandate was that the commission’s ability to circumvent Guatemalan justice institutions in its prosecutions, if it so chose (“CICIACS mandate,” 2004). In the CICIG mandate, however, this provision was left out in order to avoid another protracted legal battle in the Guatemalan courts. Instead, the CICIG would act as a third party prosecuting partner with the Guatemalan institutions (“CICIG: Agreement between the U.N. and Guatemala to Establish CICIG,” 2006 ^[15]). CICIG would work in conjunction with the Guatemalan justice institutions, not circumventing them if the commission felt that they were obstructionist or corrupted. CICIG and the Guatemalan government would then be a true team in tackling the issue of impunity and clandestine security organizations. With these changes to CICIG’s mandate, and in light of the lightning rod that was the Salvadoran diplomats’ murders, the government and international community waited to see the Constitutional Court’s ruling on CICIG’s constitutionality. Then, in May 2007, the Constitutional Court ruled in favor of the creation of the CICIG commission, saying that it did not violate state sovereignty (“International

Commission against Impunity”). The commission approved, CICIG began to form. It officially began work in September 2007.

A Hybrid Effort CICIG would be a hybrid model for combating impunity in Guatemala combining both national and international resources to focus on its goals. It combines advantages from both spheres, while reducing opponents’ objections to its weaknesses. “Human rights groups and foreign diplomats argued that only outsiders could rescue the country’s police, prosecutors and judges” from the culture of impunity and the influence of clandestine hidden powers, while national opponents argued against the commission “saying that it would violate Guatemala’s sovereignty” (Tobar, 2008). With a hybrid model combining national and international influences, the CICIG silenced national critics while pleasing international interests groups by having a strong international presence.

According to CICIG itself, the “Commission’s mandate is unprecedented in the United Nations or other international organizations working to strengthen the rule of law” (“International Commission against Impunity in Guatemala (CICIG): One Year Later,” 2008^[16]). CICIG is unique in two main characteristics. First, it is the first international commission to take on the issues of impunity and organized violence in a specific country. Second, the hybrid characteristic of the commission is unique as well. There have been hybrid international efforts before from the U.N.^[17], but these prior hybrid commissions, themselves mechanisms of transitional justice, have largely focused on reestablishing peace and finding reconciliation in host countries. While Guatemala is still dealing with transitional issues from the civil war, CICIG is not a peace process initiative. It is a separate entity, to date, unique in the world, designed to combat the specific problems resulting from a culture of impunity. The commission

is also fully committed to being a hybrid entity, not just in name only. Prior efforts in Guatemala, such as the MINUGUA, have incorporated hybrid characteristics into their mission as well. However, in MINUGUA's case, for a staff of over 400 people, only 140 were native Guatemalans (Manz and Ross, 1996, p. 531). Because of its more internationally focused composition, the changes that the MINUGUA was able to make were small in compared to the changes needed in the Guatemalan government. One observer noted that MINUGUA, due to its high international composition, was unable to make the sweeping changes necessary as that would have been "imperialism" (ibid, p. 532). CICIG's mandate starts from a similar hybrid concept as MINUGUA's, but works to incorporate more Guatemalan participation so as to avoid an imperialistic overtone. Former Vice-President Eduardo Stein has said that the goal of CICIG should be to incorporate "50 por ciento del personal extranjero...[y] la otra mitad de [los] funcionarios [de la CICIG]...serán locales" (Ramirez, 2007). CICIG has recognized that for their efforts to have a profound and lasting effect in Guatemala, it is just as important to incorporate the national system as well as receiving international support backing the movement. In its two year report, CICIG has recognized the continuing importance of working with Guatemalan society, saying that the road to the reestablishment of the rule of law in Guatemala depends on the state, working with the citizenry, working with CICIG, all together, to achieve its goals ("Dos Años de Labores," 2009^[18]). Together, both with international and national participation, hopefully real change can be achieved in Guatemala.

Goals The goals of CICIG are simple. According to the agreement which created it, the purpose of CICIG is to "support, strengthen and assist" the government of Guatemala in investigating and prosecuting illegal clandestine security organizations, as well as helping to

identify the structures of such clandestine organizations and promote their dismemberment (“CICIG mandate,” 2006). Also, CICIG is committed to reestablishing the commitment by the government of Guatemala to the “right to life and to personal integrity...with respect to the protection of fundamental rights” (ibid). Essentially then, the goal of CICIG is two-fold: 1) to investigate, prosecute, and dismantle illegal clandestine security organizations (the hidden powers), and 2) to reassert human rights and the rule of law that have both been neglected in Guatemala. Both of these goals work at combating the central problematic factor of the culture of impunity. The hidden powers are the main beneficiary of the culture of impunity, maintaining it to serve the hidden powers’ needs. And, through the hidden powers’ clandestine security organizations, basic human rights and freedoms have been continuously denied, while eroding the legitimacy of the rule of law. These factors contribute to create Guatemala’s system of impunity.

In order to accomplish its goals, CICIG is able to conduct investigations of illegal clandestine organizations (ibid). The commission is able to enter into agreements with different institutions of the Guatemalan government to help in better accomplishing their investigations and prosecutions, and is also able to make specific recommendations to the government on reforms to combat illegal security organizations and the culture of impunity (ibid). CICIG is still to operate as an independent entity, just as CICIACS was to operate, but it cannot supersede Guatemalan governmental institutions as CICIACS might have done. CICIG will, thus, operate as a third party prosecutor in conjunction with Guatemalan prosecutors, never leaving them behind in a prosecution (ibid). Because of this, CICIG could be considered less powerful than CICIACS since it is bound to the (possibly weak) will of state justice institutions. However, CICIG actually came into being, whereas CICIACS fizzled out and died without ever starting up.

Thus, even though CICIG may not be as strong as CICIACS would have been, at least there is progress being made to combat impunity and illegal clandestine groups. A strong commission that never gets implemented is clearly less helpful than a weaker one that does become established. In just over two years after the implementation of CICIG, President Álvaro Colóm, speaking to the General Assembly of the United Nations, expressed his continued support and appreciation CICIG's work in his country (2009, p. 2).

CICIG Results

CICIG has made significant progress in several areas in the more than two years since it was formed. The following sections will examine different areas where CICIG has achieved results in carrying out its mission.

Structure In the first half of its first year of existence, CICIG focused its efforts primarily in recruiting staff and building relationships with Guatemalan government institutions (“One Year Later,” 2008, p. 2). Through April 2008, the commission had recruited different staff (including “legal, investigative, administrative, and security personnel”) and familiarized itself with the weaknesses present in the Guatemalan government that allowed for a culture of impunity to exist (ibid). During the second half of that year, CICIG began to build a strong relationship with the Office of the Public Prosecutor, and began investigating cases, having acquired over 70% of its desired staff (ibid). CICIG found during this time that the Office of the Public Prosecutor lacked a strong relationship with the PNC, and therefore the two institutions had little ability to cooperate in investigations (ibid). CICIG also began to identify civil servants “who by action or

omission” were impeding or actively obstructing prosecution of criminal cases, “thus facilitating impunity” (ibid).

At the time CICIG’s first year report, the commission’s staff had grown to include over 100 people, both from the international sector and the Guatemalan government (ibid, p. 3). Of the total staff (109 personnel), there were 26 Guatemalans working in the commission (ibid). The report notes that the inclusion of Guatemalans in the commission is an important goal, and that the current level of Guatemalan staff is not as high as they would like (ibid). Therefore, CICIG has committed to increasing the number of Guatemalan staff in the months after the report was published (ibid). Also of note, 47% of the commission’s “substantive and administrative personnel” is made up of women, with a third of them occupying “decision-making posts” (ibid). However, on the whole, CICIG is only made up of 20% women since the majority of the security staff is male, disproportionately skewing the overall gender ratio ^[19] (ibid).

CICIG has achieved the creation of its own Special Prosecutor’s Office in conjunction with the Guatemalan government. This office is called the UEFAC (*La Unidad Especial de Fiscalía de Apoyo a la CICIG*) (Translated by CICIG into English as the: Special Prosecutor’s Office for CICIG) (“Informe de Dos Años,” 2009, p. 9; “Two years of work,” 2010). Created in February 2008 through a bilateral agreement between CICIG and the Office of the Public Prosecutor (although not fully implemented until September of that year), UEFAC was created to “implement the Commission’s technical assistance and support of criminal investigations” (“Two years of work,” 2010). UEFAC is CICIG’s prosecutorial arm in its mission to fight the culture of impunity, and is supported in its investigations by CICIG’s main offices (ibid). UEFAC focuses its efforts in four areas to support the mission of CICIG: case investigations,

coordination of activities and work between the government's prosecutors and CICIG's, strengthening of institutions in Guatemala, and training ("Informe de Dos Años," 2009, p. 9). From the establishing of UEFAC, CICIG is now able to investigate, prosecute, and work extremely closely with Guatemalan government justice institutions. The commission has shaped up rather nicely and, in theory, has significant investigatory and prosecution power. After this powerful branch of CICIG was established, it was time to put the commission to the test to see if it really could create a difference in Guatemala.

Investigations In the commission's first year report, CICIG found that the illegal clandestine groups have become "encrusted" within the state's institutions ("UN-backed probe," 2008). Carlos Castresana, director of the commission, asserted the state's responsibility to dismantle these illegal groups, but reaffirmed CICIG's help in doing so (ibid). Also in the first year report, CICIG informed that it was investigating fifteen high-profile cases with the assistance of the Public Prosecutor's Office ("One Year Later," 2008, p. 4). By its second year update to the Inter-American Commission on Human Rights, the commission had now expanded its efforts to include twenty investigations ("Informe de Dos Años," 2009, p. 11). In order to provide a better idea of what CICIG is currently working on, some of these cases will now be detailed. In all investigations, CICIG has acted as complementary prosecutor, thereby not risking a violation of Guatemalan sovereignty.

Maltus Investigation CICIG is investigating Álvaro Maltus, former head of the department of Crimes against Life and Personal Integrity of the Public Prosecutor's Office, in relation to the murder of Victor Josué Rivera Azuaje ("Informe de Dos Años," 2009, p. 15). Rivera was a

former advisor to the Ministry of the Interior, and was assassinated April 7th, 2008 in Guatemala City (ibid, p. 12). CICIG has accused Maltus for abusing his authority as head of the department, and for dereliction of duty involving the Rivera case (“Two years of work,” 2010). Specifically, CICIG found that Maltus had willfully manipulated the subsequent investigation of the Rivera case. CICIG discovered that Maltus manipulated “the crime scene investigation, the chain of custody of recovered evidence, the handling of witnesses and informants and some investigative tasks” (ibid). Maltus’ motivations for this manipulation of the justice system are not detailed, but can be assumed to be related to trying to cover up different aspects of the investigation. Along with Maltus, four other current and former officials in the Public Prosecutor’s Office have been linked to this case and have been charged with “conspiracy and obstruction of justice” (ibid). This case is not yet resolved, as hearings and a trial have not yet taken place (ibid).

This case is important as it marked the first time that CICIG initiated “criminal proceedings to remove corrupt officials from justice system institutions” (ibid). It is important that CICIG continue to pursue this case as it demonstrates that the commission is not afraid to take on corrupt individuals in the Guatemalan government, including high ranking members of elite government institutions. CICIG can make an example with this case for other corrupt government officials who attempt to hinder criminal investigations. Hopefully, with this example, fewer high-profile government workers will attempt to circumvent the justice system, and the culture of impunity will be weakened as a result of CICIG’s investigation.

Nicaraguan Bus Investigation Another important case that CICIG has undertaken is the “Nicaraguan Bus Case” (*Caso Bus de Nicaragua*) (“Informe de Dos Años,” 2009, p. 12). On

November 8th, 2008, a bus travelling from Nicaragua to Guatemala City was found in the Guatemalan department of Zacapa (ibid). The bus was abandoned, engulfed in flames, and contained the dead bodies of sixteen people (ibid). It was later determined that these unfortunate victims were first shot dead before their bodies had been set ablaze within the bus (ibid). The Public Prosecutor's Office in Zacapa first opened the investigation, but then transferred it over to the UEFAC section of CICIG (ibid). The investigation (along with concurrent investigations by the PNC and the Public Prosecutor's Office of Nicaragua) determined that this criminal action was attributed to an illegal clandestine group "dedicated to trafficking in cocaine and arms, murder for hire, money laundering and other crimes" ("Two years of work," 2010). By April 2009, CICIG and Guatemalan authorities had named eleven suspects in the atrocity, one of whom was a former police officer ("Guatemalan, UN investigators," 2009). Charges have been brought against two men. One suspect, associated with an illegal clandestine group, is primarily accused of the murders of the people on the bus, while the other is primarily accused of trying to cover up the crime ("Informe de Dos Años," 2009, p. 12). A trial date in this case is still pending ("Two years of work," 2010).

This is an important case for CICIG because it not only shows that the commission can work well with other institutions (both nationally in Guatemala, and internationally with the cooperation of Nicaragua's government), but it allowed CICIG to investigate and begin to prosecute criminals of one of the more shocking cases in recent memory. If nothing else, CICIG's role in this investigation has generated some positive publicity for the commission. This case also highlighted the budding cooperation between the Public Prosecutor's Office and the judiciary, as the Criminal Chamber of the Supreme Court worked with the Prosecutor's

Office to allow the case to be brought back to Guatemala City so that the investigation and prosecution could continue more fluidly there (“Two years of work,” 2010).

Portillo Investigation CICIG has also shown its willingness to go after some of the most high-priority criminals Guatemala has seen in recent years. Impunity grows especially when high-profile, celebrity-stature criminals (criminals that everyone knows) go unpunished. Such is the case of former Guatemalan President Alfonso Portillo. Portillo, of Ríos Montt’s FRG party, was narrowly beaten out by Arzú in the 1996 presidential elections (“Background Note: Guatemala,” 2010). Running again for presidency in 1999, Portillo achieved a landslide victory, beating out his eventual successor, Oscar Berger, with 68% of the vote (ibid). Portillo’s FRG party also secured a majority in the Congress, and elected Ríos Montt as Congress president (Booth et al., 2006, p. 129). These two victories would be the greatest of Portillo’s presidency. Portillo’s government was embattled by poverty issues, crime waves, and the corruption of the FRG^[20] (ibid). Also, Portillo and Ríos Montt successfully ousted reformist military officers who had been appointed previously by Arzú, replacing them with former army officers with alleged involvement in prior human rights violations (ibid). After four years in power, Portillo fled to Mexico in an effort to escape charges of (personal) corruption during his presidency (“Background Note: Guatemala,” 2010).

Portillo is accused of embezzling money from the Guatemalan government, during his presidency, totaling \$15 million dollars (“Two years of work,” 2010). According to CICIG, Portillo took at least \$3.75 million for personal use after removing the lump sum of \$15 million from the Ministry of Defense’s budget in 2001 (ibid). In late 2008, Mexican authorities extradited Portillo to face corruption charges in Guatemala (“Background Note: Guatemala,”

2010). Then, in early 2010, the United States' government requested that the government of Guatemala extradite Portillo to the U.S. based on related money-laundering charges ("U.S. seeks charges," 2010). CICIG's investigation into Portillo's money-laundering activities in part made possible his capture on the Guatemalan coast on January 26th, 2010 ("Fugitive ex-Guatemalan leader captured," 2010). It was a truly fortunate time to apprehend the ex-president as he was attempting to flee Guatemala for Belize ("Reaching the Untouchables," 2010). In March 2010, a Guatemala court approved the U.S.'s petition for Portillo's extradition, once Portillo's domestic charges are resolved ("Background Note: Guatemala," 2010).

CICIG's participation in this case was invaluable in leading to Portillo's capture. This case not only illustrates how effective CICIG can be in dealing with high-level corruption (very few people could be on a higher, more elite level than an ex-president), but also showed its ability to once again work with other agencies to accomplish an investigation. CICIG's ability to cooperate with other institutions is clearly one of its greatest strengths.

Rosenberg Investigation Perhaps the most intriguing case that CICIG has investigated so far is the Rosenberg case. On May 10th, 2009, Rodrigo Rosenberg, a top tier Guatemalan corporate lawyer, was gunned down as he rode his bike through Zone 1 of Guatemala City ^[21] (Franklin, 2010). Rosenberg's murder was so intriguing due to an internet video that he had made just days prior to his death. In the video, Rosenberg accuses people in the highest levels of the government with having plotted to assassinate him. Rosenberg accuses current President Álvaro Colóm specifically of conspiring to kill him. "If you are watching this message, it is because I was assassinated by President Álvaro Colóm," says Rosenberg in the video" (ibid). Furthermore, Rosenberg accused President Colóm's wife, and other high-ranking government officials, of

covering up corruption in deals with BanRural, a bank owned by the state (Valladares, September 2009). Rosenberg's prophetic video sparked a wave of demonstrations against President Colóm and his government (Franklin, 2010). Week long protests followed and Colóm was asked several times to resign in the wake of this scandal as the Guatemalan public had been sufficiently swayed by the video accusations (ibid). After all, Rosenberg had great credibility as a top Guatemalan corporate lawyer and as a Harvard-educated man (ibid). This credibility, plus the general culture and system of impunity (even extending up to the level of the presidency, as was seen with Portillo), created the near-perfect storm for removing Colóm from office all as a result of one internet video in the wake of a murder. In the days following Rosenberg's death, the Public Prosecutor's Department of Crimes against Life and Personal Integrity Unit opened an investigation ("Two years of work," 2010). Four days after the murder, May 14th, 2009, the Public Prosecutor's Office turned the case over to UEFAC, which collected evidence and investigated further to discover the masterminds behind Rosenberg's murder (ibid). From here, the case got really interesting.

In September 2009, CICIG, working with Guatemalan police, arrested nine men in connection with the Rosenberg murder (Valladares, September 2009). Already CICIG saw a connection between these suspects, organized clandestine security groups, and Guatemalan governmental institutions. Of the nine men arrested, two were current PNC officers (ibid). One suspect was a former soldier in the army, and another, the suspected ringleader, was a former police officer himself (ibid). The leader is allegedly the head of an organized crime band suspected to have ties to "murders, kidnappings, drug trafficking and extortion" (ibid). CICIG's director Carlos Castresana called these arrests a great success in the bringing Rosenberg's killers to justice, telling the Guatemalan people to "rest assured, today your police, your prosecution

service and your armed forces have arrested the murderers in one of the cases that not only shook Guatemala but the entire international community” (ibid). With the primary suspects now in custody, CICIG began to dig deeper to try and discover the intellectual masterminds of Rosenberg’s death. And they did.

In January 2010 CICIG announced that their investigation had determined that Rosenberg *himself* was the mastermind behind his assassination (Brice, 2010). After an eight month investigation into Rosenberg’s murder, CICIG determined that not only was President Colóm, his wife, and other high ranking government officials, in no way responsible for any part of the assassination, but that Rosenberg had planned the specific details of his death from the very beginning (ibid). Rosenberg had contracted hit men through his former wife’s cousins to deal with a mysterious “extortionist” that had allegedly been threatening Rosenberg (ibid). In reality, this extortionist was Rosenberg himself, using multiple mobile phones to simulate being threatened by an outside party (Franklin, 2010). Rosenberg seemed to have gone off the deep end after the murder of Guatemalan businessman, and Rosenberg client, Khalid Musa and his daughter Marjorie Musa, a month prior to his own death^[22] (Brice, 2010). Rosenberg, a divorced man, had been having an affair with Marjorie Musa, a married woman, and blamed President Colóm for her and her father’s death^[23] (Franklin, 2010). Rosenberg, distraught, attempted to flush out an alleged government conspiracy in the Musa deaths, but never found any evidence to support such a claim (ibid). In his last days, Rosenberg attended to some family matters, made his internet video, and arranged his own assassination as a way of striking back at those who he perceived to be responsible for the Musa murders (ibid).

After all of this preparation, Rosenberg’s plan almost worked. There was clearly enough of a base for a movement to oust Colóm from power, but two factors helped stave off such an

occurrence. First, Colóm's claim of innocence was strongly backed by the United States, and the president also had strong international support from the OAS^[24] (Franklin, 2010). Second, Rosenberg's assassination, in its entirety, was caught on video camera. "Few other square blocks of Guatemala City have more security cameras than the murder site," allowing CICIG good leads with which to start their investigation, as the cameras had captured the assassins' car as they sped off after killing Rosenberg (ibid). Without these two conditions, Rosenberg likely would have succeeded in his revenge plot against President Colóm.

CICIG's role in the Rosenberg case was pivotal. Without the commission, the truth about the self-assassination would have never have been brought to light. CICIG did what the Guatemalan government institutions could not have done by themselves: they thoroughly investigated leads, found clues, and pieced together the puzzle of the mysterious assassination. CICIG has pieced together information from case suspects (now up to eleven in custody, not including Rosenberg's ex-wife's two cousins who have since fled the country (Brice, 2010)) in order to determine what actually occurred (Franklin, 2010). CICIG took its time in uncovering evidence, and was not swayed by popular opinion when it would have been convenient to buy into the theory of Colóm's culpability. The commission used basic police skills in order to find the answers to their investigation. And, the commission accomplished their investigation in conjunction with Guatemalan justice institutions, strengthening these institutions along the way.

The conclusions reached in the Rosenberg case highlight the overall effectiveness of the commission. The case, while extremely bizarre, shows that CICIG can successfully work with Guatemalan judicial institutions in order to affect change in the culture of impunity. Such a famous (infamous?) case is (unfortunately) just the type of case CICIG needed in order to validate its work. With the end of this case, CICIG has shown that they can work in conjunction

with Guatemalan justice institutions, find answers to crime, and address cases that are extremely complex in nature, while coming to the correct conclusions in a frenzied environment. This case should prove to be a classic example of why and how CICIG should work.

Other investigations These high profile cases are not the only ones that CICIG is investigating. Among their total cases, CICIG and UEFAC are currently involved in investigating and prosecuting criminal cases involving: femicide, extortion, illegal detention, assassination, extrajudicial execution, conspiracy, narcotrafficking, fraud and embezzlement, bribery, abuses of power by government officials, etc. (“Informe de Dos Años,” 2009, p. 10). While a detailed explanation of all of these cases is beyond the scope of this paper, concurrent investigations into so many different categories of cases illustrate how CICIG’s active role in fighting corruption and impunity at all levels of the Guatemalan government and society. With such an ambitious scope of investigation, it is a wonder that CICIG has accomplished even its current moderate successes.

Recommendations Another important part of CICIG’s mandate states that the commission should make recommendations to the Guatemalan government on legislative reforms in order to fight corruption and illegal clandestine groups, all while contributing to decreasing Guatemala’s culture of impunity (“CICIG mandate,” 2006). Up to this point, CICIG made several recommendations to the Guatemalan government in this regard. CICIG has submitted to the government reforms on: firearms and ammunitions, criminal procedure, and measures to reduce the effects and influences of organized crime (“Two years of work,” 2010). Of course, it is up to the government to adopt these measures, but the government has already shown itself willing to

work with CICIG's recommendations. For example, on April 1st, 2009, the government passed a law regarding firearms and ammunition, along with several others, that, before CICIG's impetus, had been waiting for over seven years to be passed (Scheiber, April 2009).

In the two plus years that CICIG has been active, the commission has presented the Guatemalan government with two comprehensive packages of legislative reform recommendations. The first package of reforms was submitted to the government in October 2008 ("Informe de Dos Años," 2009, p. 16). Included in this package were recommendations of reforms to: guns and ammunitions laws, the Code of Criminal Procedure, standard procedures used by the Public Prosecutor's Office in regards to witnesses and collaborators of criminal cases, laws on immunities, among other items (ibid, p. 17). The second package of reforms that CICIG submitted came in June 2009 (ibid). This package contained many of the same recommendations as the first package submitted by CICIG, as many of the prior recommendations have yet to be implemented, but also contained new provisions including: laws on human trafficking and trafficking of migrants, laws pertaining to anti-corruption and against organized crime, laws on extradition procedures, and laws on disciplinary matters within the justice system (ibid).

As recommendations from the first reforms package still have yet to be approved by the Guatemalan government, the new recommendations have mostly been looked at, but not put into action. CICIG recommendations seem to be taken under consideration by the government, but substantial implementation of CICIG's reform proposals has not yet occurred. These recommendations have, however, produced some results, encouraging CICIG's efforts in their reform proposals. Four laws passed by Congress have been most important in CICIG's reform efforts (ibid). These four "essential laws" are:

- the Law on Arms and Ammunition (Decreto N° 15-2009)
- the Law to Strengthen Criminal Prosecutions (Decreto N° 17-2009)
- the Law on Jurisdiction in High-Risk Criminal Proceedings (Decreto N° 21-2009)
- and reforms to the Law against Organized Crime (Decreto N° 23-2009), specifically in the area of effective collaboration of defendant-informants

(“Informe de Dos Años,” 2009, p. 17; “Two years of work,” 2010).

The passing of these laws shows that the Guatemalan government is willing to work with CICIG and take their recommendations seriously. CICIG has made a long list of reforms that it would like to see implemented. However, CICIG is not the ultimate authority in Guatemala; the government (corrupted, though it is) retains that power. Reform will, therefore, come slowly, but it is being accomplished. The government’s adoption of these four “essential laws” show that CICIG and government institutions can work together to address larger factors leading to the creation of the system of impunity.

CICIG recommendations to the Guatemalan government do not all pertain directly to criminal procedure or clandestine security organizations, however. CICIG has also taken an active role in attempting to modify the process of selecting judges to the Guatemalan Supreme Court and Appeals Courts (“Informe de Dos Años,” 2009, p. 18). This move proved historic, as it was the first time that improvement of the selection process for judges had been attempted in the history of Guatemala (ibid). CICIG recommended reforming the Law of Nomination Commissions (*la Ley de Comisiones de Postulación*) for prospective judges in order to achieve more transparency in the selection process of judges (ibid). In this way, the government would normalize the mechanisms for selecting judges, securing objective procedures for placement to the high courts, and ensuring not only that the best candidates for these positions got the jobs, but

also that the judiciary remain independent and impartial to the external influences of the hidden powers groups (ibid). The government, acting of CICIG's recommendation, passed a judicial selection reform law (Decreto No. 19-2009) on May 21st, 2009 (ibid). The Guatemalan government has, since the inception of this new law, elected thirteen new judges to the Supreme Court, and ninety new judges to the Courts of Appeals using this new selection system (ibid, p. 20).

CICIG's recommendations have seen some implementation by the government. Not all of CICIG's recommendations have yet been realized, but important changes to the governmental system have occurred in a relatively short time. Since the governmental system contributes to the breeding and sustaining of the culture of impunity, reforms to that system are pivotal in order to combat overall impunity in Guatemala. CICIG can help fight the corruption of government institutions through its recommendations of reforms to the Guatemalan. Hopefully, with such reforms implemented, impunity created through non-regulation of the government system will diminish.

CICIG: Effectiveness

CICIG's effectiveness should be measured by successes in its investigations, the dismissal of corrupt government officials, and the reforms recommended to, and implemented by, the Guatemalan government. Even with CICIG's accomplishments, it may be difficult to see widespread change in Guatemala's culture of impunity so quickly. In a system where only 2% of all criminals are held to justice, it can be hard to see systematic change in so little a time (Alston, May 2009, p. 6).

CICIG Investigations CICIG certainly has already had several “wins” in their investigations. The commission has had success in apprehending street-level suspects (in the Rosenberg case, for example), as well as in apprehending elite-level suspects (ex-President Portillo, or Maltus, who was a head of a department in the Public Prosecutor’s Office) (“Informe de Dos Años,” 2009, p. 15). From these cases, and others, CICIG has shown that it can successfully conclude investigations with the arrests of criminal suspects. The arrests of criminal suspects are part of an important step in bringing criminals to justice and holding them accountable for their actions. CICIG has been able to effectively accomplish this goal, while working together with Guatemalan institutions to develop the government’s capabilities of achieving these results on its own.

Dismissals of Corrupt Government Officials Another accomplishment the commission has achieved is the dismissal of corrupt officials from elite posts in the government. This success is illustrated by the case of the two previous National Police Chiefs. Last year, police chief Porfirio Pérez Paniagua was forced to step down from his post after being arrested for theft of illegal drugs and cash (“Reaching the Untouchables,” 2010). His replacement, Baltazar Gómez (whom, according to the article, was a “respected police officer who had passed a polygraph test”), was subsequently found with ties to drug trafficking after he replacing Pérez, in March 2010 (ibid). Along with Guatemala’s “anti-drug tsar,” Nelly Bonilla, Gómez was accused of attempting to subdue an investigation into an April 2009 incident when five police officers, all with ties to illegal drug trade, were killed by drug traffickers as they met to engage in a cocaine deal (ibid). As this recent example shows, even when corrupt government officials are dismissed, there is no guarantee that their replacements will be any less corrupt (even if a polygraph says otherwise).

In this past, reports like this would have likely broken the will of the movement to end corruption and impunity in Guatemala. Today, there seems to be hope that change will actually endure. Furthermore, in 2008, 1,700 individual police officers were expelled from the PNC, “including 50 police commissioners and the deputy director of the national police” due to corruption charges (“Press Conference,” 2009). Also, CICIG had “also informed the President that it could not get cooperation from the Attorney General, who had subsequently resigned” (ibid). These results show how effective CICIG has been in clearing out corrupt officials from government positions. Whether a low, street-level police officer, or an elite government department head, CICIG has been effective at fighting corruption within governmental institutions.

Reforms and Recommendations CICIG has been successful in putting forth several significant governmental reform packages. Unfortunately, the recommendations for reforms produced by CICIG are subject to government implementation. The commission cannot, on its own, implement the reforms it would like to see. Therefore, many important proposed reforms await government approval. This creates a slower process of reform than if CICIG had the ability to institute reforms on its own. A slower reform process should not reflect poorly on CICIG. The commission has, to this point, accomplished the reforms that the government has been ready to accept. CICIG cannot realistically force reforms on the government, and so, as of now, has been effective at achieve reform successes that the current environment will allow.

Strengthening the Judicial System Each of these accomplishments, the commission’s individual and (especially) joint investigations, the dismissal of corrupt government officials, and the proposed recommendations of reforms, serve to strengthen Guatemala’s justice institutions.

Along with efforts to increase transparency in the judiciary, improve education, training, and recruitment of police officers, and creating better working relationships and avenues of communication between government justice institutions, CICIG has been effective in strengthening Guatemala's justice system since it began its work in 2007. While the task of strengthening the Guatemalan judicial system is in no means completed, CICIG has made positive steps in fulfilling its mission by building up governmental justice institutions.

Support of CICIG's Efforts

Though progress can be hard to measure, CICIG has received several important positive reviews, both nationally and internationally. In his 2009 follow-up report, U.N. Special Rapporteur on extrajudicial, summary, or arbitrary executions, Philip Alston, praised CICIG's work in its effort to end the system of impunity in Guatemala (p. 11). Alston cites in this report that CICIG's accomplishments are encouraging and "optimistic" (ibid). The report notes that CICIG has made effective cooperation agreements with the Public Prosecutor's Office and the Ministry of the Interior, leading, in part, to the creation of the UEFAC (ibid). The creation of a joint police task force between the PNC and CICIG is also reason for optimism, due, in no small part, to the improved training officers receive courtesy of CICIG and the U.N.'s Office of the High Commissioner for Human Rights (ibid). Alston finishes by praising the work that CICIG has done in creating joint investigative teams with Guatemalan justice institutions and their work in "investigating approximately 20 open cases and...prosecuting 4 cases together with local officials" (ibid).

At about the same time as Alston's 2009 report, President Colón also expressed his appreciation for the commission. In his speech to the General Assembly of the U.N., in

September 2009, Colóm expresses his thanks to CICIG for the work that it has done, maintaining that CICIG “has the solid support not only of my Government, but of all of civil society” (p. 2). Furthermore, he has shown his appreciation for the extension of CICIG’s mandate for an extra two years (through September 2011), recognizing “[the commission’s] important achievements since it was established” ^[25] (ibid).

Even some government opposition members have recognized CICIG’s accomplishments in strengthening Guatemala’s weak justice system. One Patriot Party (PP: *Partido Patriota*) lawmaker noted during the ongoing Rosenberg investigation that “a large part of the progress made in the areas of security and law enforcement are due to the work of CICIG,” also noting congressional support of the commission’s work in the form of newly passed laws “on penal jurisdiction and against organized crime” (Valladares, September 2009).

CICIG’s efforts have garnered the commission some well deserved praise, both within Guatemala’s government and internationally as well. Overall, CICIG has the continued support of all relevant international sectors and many national sectors as well. This praise and continued support reflects the significant accomplishments that CICIG has achieved thus far. While CICIG’s work is far from over, the support and praise it has already received are indicators that ought to ensure the commission’s continued presence in Guatemala for the foreseeable future.

Criticism

Although CICIG has made great gains in the two-plus years since it was created, there is significant criticism of its policies and results. Even though the United Nations’ Secretary General, Ban Ki-Moon, agreed to an extension of CICIG’s mandate in April 2009 (“Response to Guatemala’s Minister of Foreign Relations,” 2009, p. 6), in his September 2009 report on the

activities of CICIG the Secretary General illustrated certain challenges that the commission has yet to overcome (“Activities of the International Commission,” 2009). Specifically, the Secretary General found that high turnover rate of elite positions within Guatemalan government institutions contributes to creating difficult interactions between CICIG and these institutions ^[26] (ibid, p. 6). Furthermore, the Secretary General made note of the continued attempts by members of the judiciary to resist CICIG’s investigations and disrupt the justice process due to external influences (from illegal security groups) (ibid, p. 7). The report notes that “dilatory measures to prevent progress in prosecutions through the use of *amparo* procedure ^[27] hinder the commission’s fight against impunity” (ibid).

Other criticism of CICIG has come from Sérgio Morales, Guatemala’s Human Rights Ombudsman. He believes that CICIG has a “serious weaknesses,” specifically, the lack of a system-wide witness protection program, which hinders the commission’s ability to carry out their investigations properly as they cannot guarantee witness safety (ibid). A proposed reform of Guatemala’s witness protection system was included in CICIG’s first package of reform recommendations sent to the government in October 2008 (“Informe de Dos Años,” 2009, p. 17). This proposal calls for reforms to laws regarding changes of identity and relocation of witnesses and collaborators of criminal proceedings, but has yet to be implemented by the government (ibid).

Other CICIG supporters know that it is not a cure-all for Guatemala’s problems of impunity. Philip Alston, in his 2009 report, reminded the world that “neither Guatemala nor the international community should fall into the trap of seeing CICIG as ‘the’ solution to Guatemala’s failing criminal justice system” (p. 12). The commission still faces obstacles in its investigations and actions from the PNC and government officials, not to mention corrupt

judiciary and executive branch members (ibid). CICIG should thus be viewed as part of the solution, a contributing member of the fight to restore legitimacy to Guatemala's judicial system, not the solution itself.

Furthermore, change has not, and will not, come quickly in the fight against illegal clandestine groups and criminal impunity. Alston has also noted, in a statement in 2009, that while "CICIG has the potential to improve criminal investigation and prosecution procedures, witness protection, and to assist the State in implementing necessary national security legislation," it concerns Alston "that the CICIG appears to be devoting itself almost exclusively to the prosecution of corruption cases, and has not placed an emphasis on extrajudicial executions which constitute a central part of its mandate" (p. 6). A counterargument to Alston's statement would assume the position that extrajudicial executions are symptoms of the disease of corruption. Therefore, in working to cure the symptoms, CICIG must concentrate on fighting the disease of corruption itself.

Furthermore, in a recent memo to Guatemala's Attorney General, international human rights groups (among them WOLA and Human Rights First) have noted the absurdness of acquiring the attention of Guatemalan authorities regarding threats on the lives of human rights workers in Guatemala ("US NGOs Appeal," 2009, p. 1). This report gives several examples of various human rights workers within Guatemala being mortally threatened (sometimes up to seven years!) and then, after long periods of threats, being subsequently executed (ibid). While not directly criticizing CICIG, this memo illustrates the continued need for work in the fight against impunity and clandestine security organizations as CICIG has clearly not yet made a large enough impact in this fight.

Finally, and not surprisingly, criticism of the commission has come from opposition party members in Guatemala's government. After being briefly kidnapped in Guatemala City, Congressman Efraín Asij, of the Patriot Party, criticized President Colóm's efforts to rid the country of corruption. Asij said that the government "has no visible plan to combat the lack of security" and "does not have the political will to do so" (Valladares, August 2009). Asij also asserted that if the government had the political will, it would help "purge the police" of corrupt officers (*ibid*). The government, with the help of CICIG's investigative mechanisms, to the time of Asij's statements, had, already dismissed over 800 PNC officers citing corruption charges ^[28] (*ibid*). While not to completely invalidate Congressman Asij's point, change has been occurring in Guatemala's justice system, but change takes time. In order to change the system of impunity, CICIG and Guatemala's government will have to continue to work together well into the future, forming bonds that will help strengthen Guatemala's justice system and combat criminal impunity.

Future Implications

Within Guatemala Currently, CICIG's mandate runs out in September 2011, at which point, if the mandate is not extended, CICIG will leave Guatemala. There have been no provisions, as of yet, which require September 2011 as the compulsory end to CICIG's efforts in Guatemala. CICIG's written mandate only specifies that the commission may be extended past its original two year, September 2009, deadline by an agreement between the UN and the government of Guatemala ("CICIG mandate," 2006). This leaves the door (hopefully) wide open for continued work in the coming years between CICIG and the Guatemalan government. While not meant to be a permanent international fixture in Guatemala, the further extension of the commission, at

least for the foreseeable future, would be beneficial to the Guatemalan government, as there is still much work to be done in dismantling illegal clandestine security groups, strengthening Guatemala's justice system, and ending the culture of impunity. The extension of its mandate need not be an overly pressing concern for CICIG at this time, however. After all, CICIG's original extension was not requested by the Guatemalan government until March 2009, just six months before the commission's mandate was set to expire (Rodas, 2009). Therefore, there is still plenty of time to extend CICIG again before its current mandate expires in September 2011.

The future prospect of the commission's work in Guatemala is encouraging as CICIG has already shown some impressive results in investigations, and has encouraged the government to increase their efforts in combating illegal groups and impunity. In March of 2009, President Colóm authorized the creation of a new commission to fight organized crime, the Presidential Commission Against Impunity (CPCI: *Comisión Presidencial Contra Impunidad*) (Scheiber, March 2009). The president stated that this new commission would act as a mirror to CICIG, taking some of the commission's large workload, but also working together with CICIG to combat organized crime and impunity (ibid). Further, Colóm announced another new Presidential Commission for the declassification of military archives (ibid). Such a commission will have the ability to: actively investigate the military's actions during the armed conflict, examine the military's role in not holding officials accountable for criminal activity and human rights violations, explore the military's part in creating and sustaining the culture of impunity, and put a stop to impunity stemming from the military infrastructure (ibid). Such a remarkable and commendable commission would have been unthinkable just a few years ago. No doubt, the strength of support CICIG has received internationally and within Guatemala, coupled with the

already impressive results the commission has obtained, has allowed Colóm to proceed with such an ambitious measure against militarily-sponsored impunity.

In order to truly address the problem of impunity, and the illegal security forces that benefit from it, the Guatemalan government must live up to its obligation to provide security for its population. The police force is drastically understaffed and undertrained. Guatemala must strengthen its weak government institutions if CICIG's efforts are to prove lasting in the future. In order to do this, Guatemala's economy must be adjusted to better provide for security of its people. President Colóm has said that he would attempt to raise taxes in 2010 in order to better fund Guatemala's own police forces so that corruption would not present itself as such an appealing option ("Reaching the Untouchables," 2010). However, as Helen Mack, sister of Myrna Mack, states: the people of Guatemala "don't want to pay more taxes because they believe the government is already stealing the people's money, and they don't want to give them more to steal" (Mason, 2008). But without raising money to improve national security forces, the government will never be able to adequately address the country's security problems (not to mention other important struggling sectors like healthcare or the education system) (ibid). It is a vicious cycle that must be addressed if Guatemala is to truly make lasting change to its culture of impunity.

Beyond Guatemala CICIG, being the first hybrid commission of its kind, has been, and continues, exploring uncharted waters. As a hybrid commission, CICIG has managed to combine both national and international resources to achieve its goals.

Because CICIG is the first commission of its kind, it presents the possibility for being replicated in other societies where impunity thrives and the governmental justice system is

encrusted with corruption. In early 2009, while making statements on CICIG, Carlos Castresana, the commission's director, expressed the opinion that a CICIG-type commission could be viably reproduced in other countries ("Press Conference," 2009). The idea of a reproduction of a CICIG-type commission is a remarkable one. CICIG, in its own work, has borrowed from certain procedures and ideas that have worked in other countries, integrating them into its own procedures ^[29] (ibid). If a new CICIG-type commission were to be established in another country, the new commission would of course learn from the lessons that CICIG has already experienced, and, hopefully, even in a new society, function more smoothly because of these already learned lessons.

There are many potentially replicable lessons from CICIG that could be used in other societies. If such a new commission were begun, the commission must first be committed to having both a strong national, as well as international, presence. As the efforts of CICIG and Helen Mack demonstrate, success in societies with weak justice institutions comes from a combining of national and international efforts. The failed CICIACS and the continued criminal impunity in the Carpio case illustrate that a hybrid effort will not function well, nor achieve desired results, when either a national or international component is missing ^[30]. Second, the lessons that CICIG has learned in building relationships between different governmental justice institutions should be replicable in other countries. In its "One Year Later" report, CICIG found little coordination between the Office of the Public Prosecutor and the PNC (2008, p. 2). A smooth, working relationship between these two institutions is key in upholding the rule of law and combating impunity. CICIG has worked hard to strengthen ties between these, and other, institutions so that a system of justice may supplant the culture of impunity in Guatemala. Should a CICIG-like commission be duplicated in another society, one of its first priorities must

be to establish, and build upon, these working relationships between government institutions themselves, and also between the institutions and the commission. Third, and most importantly, if a CICIG-type commission is to be replicated, the power to prosecute must be replicated in the new commission as well. A commission's ability to prosecute need not be as powerful as the CICIACS mandate would have allowed (with the power to supersede national institutions), but it is an important feature that should be included in any CICIG-type effort. As has been discussed, certain transitional justice mechanisms lacking prosecutorial power, such as truth commissions, allow criminals and human rights violators to go unpunished. Investigations into criminal activity, while absolutely essential, are, by themselves, not enough to strengthen a weak justice system or combat impunity. The power to prosecute allows for the *actual* strengthening of judicial systems and the reassertion of the rule of law (whereas transitional justice efforts, such as truth commissions, sometimes only allow for *theoretical* strengthening of judicial systems, without proper implementation of recommendations). Ideally, prosecutorial powers would mirror CICIG's position as a third party prosecutor, allowing governmental prosecution to assert its authority in its own country, while the commission concurrently works with the justice institutions to strengthen them. While there are many lessons to be taken and learned from CICIG if a similar effort is to be replicated elsewhere, these lessons detailed here are critical for the new commission's success.

According to a BBC reporter in Guatemala City, a new CICIG-type commission might work well for other countries where government institutions are also weak due to prior civil conflict, perhaps in the region surrounding Guatemala, the Middle East, or Africa, for example (Scholfield, 2008). Not to discount that a new CICIG-type commission might work well in Africa or the Middle East, but if the U.N. were to duplicate the commission in the near future, it

might do well to replicate CICIG in a country with similar national conditions to Guatemala. Mexico, for example, is currently experiencing its own inner conflict with illegal armed groups linked primarily to narco-trafficking cartels^[31], and is currently too weak to properly deal with these challenging illegal groups. Government efforts to bring the cartels to justice, holding them accountable for their criminal actions, have been met with fierce resistance, devolving Mexico's internal situation to an all out drug war. Also similar to Guatemalan conditions, Mexico's police force is riddled with corruption and ripe with the influences of external groups. Recently, 438 municipal police officers in Tijuana were removed from duty after being found "unfit for duty" (due to both the influences of external organizations and physical qualifications) ("Justice in Mexico," 2009, p. 3). Mexico, therefore, seems like a logical choice for a replication of a CICIG-like commission with its weak governmental justice system, organized criminal security groups, and corruption of government officials.

CICIG is the first commission of its kind, but is not unique enough to preclude a similar effort could be duplicated elsewhere. Perhaps a CICIG-type commission would work best in post-conflict societies that have experienced decades-long civil upheaval. Or perhaps the key factor in determining such a commission's success would be a society's massively corrupted government justice infrastructure. If the U.N. wishes to create a CICIG-type model for export and duplication, then it must take into heavy consideration the context of any host country when it is established. CICIG has been able to achieve a certain degree of success in Guatemala because the Guatemalan government has *allowed* the commission to exist and work within the country. The Guatemalan government did not *allow* the CICIACS commission to exist, and so it did not. Guatemala's government *chooses* which CICIG-proposed reform recommendations to implement and which ones to discard. The host government's level of cooperation with the

CICIG-like commission will be the number one factor in whether such a new commission will succeed. If a host country does not accept a commission's investigations, reform recommendations, or mandate, the new CICIG-type commission will simply not function. Fortunately, in Guatemala, the government has been receptive to most of CICIG's efforts and recommendations, allowing the commission to achieve success.

A model CICIG-type commission may prove to be a useful tool, going forward, as a transitional justice mechanism for the future. CICIG has certainly shown the ability to not only investigate complex human rights and corruption cases, but also prosecute criminals from these cases, achieving a surprising degree of success in the commission's short existence. But, a model CICIG-like commission is not the only useful transitional justice mechanism for the future. Truth commissions, other criminal tribunals, reparations, memorialization, and reform efforts are sure to remain just as useful ("What is Transitional Justice?," 2008). Since transitional justice mechanisms that work in one society might not necessarily work in another, it is useful to have an arsenal of mechanisms, allowing a post-conflict society to determine which effort would function best. A model CICIG-type commission would be a useful addition to this arsenal of transitional justice mechanisms, but it is certainly not the only, or most important, transitional justice effort for the future.

Conclusion

Philip Alston, in his February 2007 report to the United Nations, noted that Guatemala stands at an impasse (p. 2). The country must choose how it will deal with violence by illegal clandestine groups. He acknowledges that there are two options to dealing with the increased violence in the country. The first is "to implement a working system of criminal justice based on

human rights” (Alston, 2007, p. 2). Guatemala can accomplish this by accepting third-party, international help, from CICIG, to strengthen its internal justice system while fighting corruption and impunity. The second option would be to commit to a system of “*mano dura*” policies (roughly translated as “iron fist”), consisting of “militarized justice, the execution of suspects by the police, and impunity for vigilante justice” (ibid). Such a system would be reminiscent of policies experienced during the thirty-six years of civil war in Guatemala. This “*mano dura*” system of justice does have its proponents within Guatemala. In a recent report, WOLA found that 47% of Guatemalans supported *mano dura* policies to “reestablish security” (“Protect and Serve?,” 2009, p. 8). Fortunately though, it seems that the Guatemalan government has committed to embracing the former option, continuing to work with CICIG and the international community instead of embracing these harsh “*mano dura*” security tactics.

There is hope in Guatemala these days. Change is occurring. It is a slow, gradual change, but it is occurring. CICIG will continue to work with the Guatemalan government to strengthen their institutions while fighting impunity and clandestine security groups. In a news article from January 2008, Helen Mack expressed her concern that “Guatemalans could soon lose their democracy because excessive violence in a country often leads to authoritarian regimes” (Mason, 2008). Her fear was that the government would soon be replaced (in the then-current 2008 presidential elections) with a government advocating “*mano dura*” policies (ibid). Thankfully, today there is hope that Guatemala’s justice system can be righted and strengthened through CICIG’s efforts in conjunction the government. Guatemala may still be a “nation on the brink,” as Mason’s (2008) article puts it, but, with the help of CICIG and the international community, perhaps Guatemala has taken a step or two back from that brink.

Footnotes

[1] A fact corroborated by the European Parliament's 2007 resolution on Guatemala (p. 4), and in a recent press conference given by CICIG ("Press Conference," 2009).

[2] For a particularly well written, in-depth look at causes and consequences of Guatemala's internal conflict, as well as history of Guatemala prior to the conflict, *Understanding Central America* by Booth, Wade and Walker is highly recommended.

[3] Indeed, the Guatemalan and the United States' governments continued to have strong ties during this time. Some anti-Castro forces of the Bay of Pigs, were, in fact, trained by the CIA in Guatemala to prepare for the ill-fated attempt against the Cuban leader, illustrating the then-strong relationship between Guatemala and the United States (Booth et al., 2006, p. 117).

[4] In fact, due to the atmosphere of corruption during the 1978 presidential election, abstention rates of the Guatemalan electorate reached as high as 64 percent, compared to 44 percent during the 1966 election (Booth et al., 2006, p. 121).

[5] Thirty-seven people died due to an intentional fire started by the army. Victims of this attack included: embassy staff, peasant protestors and university students. A surviving protestor (one of only two survivors of the attack) was subsequently taken to a hospital to receive treatment for his injuries, was kidnapped the next day by armed civilian forces, and brutally murdered for "being a traitor." For this information and a full account of the atrocities committed at the Spanish Embassy, see section D, subsection F of the Report on the Situation of Human Rights in the Republic of Guatemala, as listed in the bibliography.

[6] Handy notes, however, that the election fraud played only a small factor in the 1982 ousting of Lucas García, as military officers had planned the coup well before elections took place. In reality, the officers revolted due to frustrations with the "corrupt and incompetent activities of the top military command...linked to the Lucas administration" (Handy, 1984, p. 183).

[7] Hereafter simply referred to as the CEH Report.

[8] The CEH was, eventually, extended for two full years from February 1997 to February 1999 ("Truth Commission: Guatemala").

[9] No example demonstrates this better than that of Ríos Montt, who has never been held responsible for his wartime actions against the Guatemalan people. In 2003 the Constitutional Court ruled him eligible to run for the presidency in spite of his clear involvement in previous human rights violations and war crimes. Ríos Montt still (Booth et al., 2006, p. 130).

[10] This statistics signifies that of all the complaints that the PNC receives about its officers' behaviors, more than 84 percent of them are either not investigated or are never conclusively resolved.

[11] Hereafter simply referred to as the CICIACS mandate.

[12] These same arguments for and against such a commission would be employed in the discussion of the CICIG mandate a few years later.

[13] The *Federación Internacional de Derechos Humanos* (in English: the International Federation of Human Rights).

[14] Interestingly, one article notes that when the CICIG mandate passed a few years later, FRG government officials fled their positions (“abandoned the Congress”) after the results of the constitutionality of CICIG were announced just a few years later (Inksater, 2007, p. 1)

[15] Hereafter simply referred to as the CICIG mandate.

[16] Hereafter simply referred to as One Year Later.

[17] See the International Criminal Tribunals for Rwanda and Yugoslavia (ICTR and ICTY, respectively), briefly mentioned earlier, for more information on these previous efforts.

[18] The information in “Dos Años de Labores” and “Two years of work” are very similar, although there are some significant differences in their content.

[19] The report also mentions, however, that CICIG is attempting to bring in more female security staff (“One Year Later,” 2008, p. 3).

[20] “Indeed, the Portillo government gained notoriety for high levels of corruption” (Booth et al., 2006, p. 129).

[21] Zone 1 is one of the most modernized parts of the capital city, housing many of the city’s museums and the capital’s historic center.

[22] The Musa murder case itself was turned over to CICIG by Guatemalan authorities at the same time as the Rosenberg case (“Two years of work,” 2010)

[23] Khalid Musa was clearly the target when he and his daughter were killed. A prominent Guatemalan businessman, he was shot six times by assassins on a motorcycle, as his daughter drove their car. Marjorie Musa was killed by one bullet that struck her only after it had already passed through her father’s body.

[24] The journalist who wrote this article cites here that had the Bush Administration still been in power, Colóm likely could have been ousted (Franklin, 2010).

[25] It should be expected that Colóm’s support of the commission would now be even stronger than when he made these comments as CICIG was directly responsible for clearing the president’s name in regards to the Rosenberg accusations, an investigation that was still ongoing at the time the president gave this speech.

[26] The Public Prosecutor's Office, or Ministry of the Interior, for example.

[27] "Amparo procedure" refers to issues of habeas corpus and constitutional guarantees. Judges have been known to question the status of these issues in order to delay prosecution of criminal cases ("Activities of the International Commission," 2009, p. 4).

[28] How these 800 dismissed PNC officers fit into the statistic given earlier of the dismissal of 1,700 officers on charges of corruption remains unclear ("Press Conference," 2009).

[29] Borrowing ideas of witness protection programs from Colombia, for example ("Press Conference," 2009).

[30] The CICIACS case lacked support from the national sector, while in the Carpio case lacked the international influence necessary to achieve results ("Constitutional Court Rules," 2004; Davis & Warner, 2007)

[31] For an example of a recent confrontation (one of many that are becoming more commonplace in Mexico), see the article entitled "18 gunmen killed in attacks on Mexican army bases" (2010) by the Associated Press in the bibliography section.

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