

THE CASE OF IMPUNITY IN GUATEMALA

The Problem of Impunity

Impunity is more than a matter of crime. It is a matter of unpunished crime and thus, of crime unchecked. Let me talk to you of how impunity is affecting Guatemala.

Homicide, extortion and theft are a daily part of our lives for us, Guatemalans. Everyone has someone in the family or a close friend who has been the victim of extortion, assault, kidnapping, of violence or illegal loss of property. Drivers of public buses are killed on a weekly basis and violence spills over onto passengers, wives, sons and daughters. Extortion of small businesses is commonplace. Private property has become a fiction. Even real estate disappears as documents are falsified and public registries forged.

The authorities have proven impotent to stop the violence or ensure basic human and constitutional rights regarding life, security and property. Guatemalans no longer trust their authorities.

In Guatemala, the notion of accountability has been lost. Impunity is prevalent. Crime and the transgression of law, in general, have “no consequences” and this has developed into a general attitude and even a culture of lack of accountability. It is a problem of vast proportions. Out of every hundred cases that are taken to court more than ninety percent remain unsolved. And most Guatemalans no longer believe that these statistics can change. The population has become fatalistic. They have lost hope.

The threats to life, security and property are widespread, of vast proportions and have tremendous implications that exceed national boundaries. The levels of freedom, security and property enjoyed by Europeans or by the citizens of the United States are simply not a realistic expectation for Guatemalans. So they tend to leave our country. It is not simply poverty but above all the unending spiral of insecurity and violence that lead Guatemalans to abandon their homes and families in search of a better life. These are the real causes of migration to the United States.

CIACS

This endless cycle of insecurity and violence is rooted in impunity. There are a number of criminal power groups and organizations that have infiltrated and/or corrupted the Legislative, the Executive and particularly the Justice System. Guatemala’s thirty-six year civil war laid the groundwork for many of these criminal organizations collectively known as “Illegal Security Groups and Clandestine Security Organizations” or CIACS according to their acronym in Spanish (*Cuerpos Ilegales y Aparatos Clandestinos de Seguridad*). They are still operational. They assist criminals in drug trafficking, illegal adoptions, false passport production and contraband, among other crimes. Most importantly, they have the capacity to influence all three branches of the State. Many of these groups are **multinational** organizations with nearly unlimited resources.

A particularly grave instance of how these groups infiltrate State institutions became apparent during last year's process of nomination and election of justices of the Supreme Court and of the Court of Appeals. The process was carried out in violation of the requirements and procedures established by law designed to guarantee the impartiality and independence of the Judicial Branch. The nomination processes were upheld despite international and generalized public opposition to such violations.

The justices took office after the Constitutional Court failed to invalidate the selection and election processes in spite of the many vices incurred and widespread public protest and even concern evinced by international observers. The process was not annulled. Neither was it repeated.

A Justice System that lacks independent, impartial, well-trained and honest judges and justices ensures continued corruption and impunity of Legislative and Executive branch irregularities. Guatemala is, in consequence, deprived of the rule of law. The System of Justice may end up operating for the benefit of illegal power groups whose influence was instrumental in the appointment of justices.

Curtailing the problem: investigation (CICIG)

Over thirty years ago, political power was in the hands of institutions of government and subject to the influence of private sector organizations, labor unions, the Church, the army, press and universities. Today, the situation has changed dramatically and governmental institutions are controlled directly or indirectly by emerging economic groups involved in contraband, human trafficking, drug trafficking, money laundering and other questionable activities.

It is not realistic to expect the citizens of Guatemala to put an end to impunity while the forces causing impunity involve transnational criminal organizations with the ability to significantly influence the institutions of justice. We cannot expect Guatemalan institutions to put an end to impunity while these forces continue to infiltrate and corrupt and thus weaken the very institutions that are supposed to guarantee justice and put an end to impunity.

CICIG has been a vital ally to Guatemalan victims of impunity and to the prosecutors of the Attorney's General Office (Public Ministry in Guatemala), acting as an anchor for rule-of-law issues and as a catalyst for judicial reform. It has gained the respect of Guatemalan interlocutors in government, the police and in civil society.

Today, the continuity of CICIG in Guatemala is under discussion. Guatemala needs the assistance of the International Community to ensure that CICIG remains in Guatemala, its mandate intact with full investigative powers. A fully empowered CICIG is needed to

continue battling against forces that are substantially stronger than the local authorities who lack the elements and resources needed to fight against them.

A problem of interest to Guatemala and the international community

Impunity will not be eradicated in Guatemala if the CICIG mandate is not renewed and while the System of Justice lacks independent, impartial and competent judges and prosecutors.

Impunity is contagious. The Guatemalan problem can only deteriorate further and, what is more, will continue to spread throughout the country and spill over into neighboring nations. Alone, Guatemala is helpless. It is in the interest of the international community as a whole that these illegal power groups and mammoth criminal organizations are deterred and prevented from growing and spreading further. Only support of the international community will be able to eradicate the negative forces in existence in Guatemala today.

Conclusions

A number of lessons can be learned from the situation of Guatemala.

Perhaps the first point that should be underlined is that organized crime is not static and does not remain localized. It is a problem of gargantuan proportions that spreads and takes over countries and systems.

Secondly, the most basic human and constitutional rights of the citizens of any country with the level of impunity we have in Guatemala, where organized crime has multiplied exponentially, those of the right to life, security and property, are severely restricted.

Thirdly, continued support from the international community in its struggle against impunity through CICIG is vital to Guatemala but also to its neighboring countries. The problem of Guatemala is beyond the capacity of action of Guatemalan citizens. Without the full support and intervention of the International Community there is not a shred of hope of a solution. CICIG is the first step that has been taken with palpable effects both as far as the Guatemalan citizenry and the International Community are concerned. CICIG requires continued and increased international support and resources and the assurance that its investigative powers will remain intact. Such support, resources and assurances will help CICIG and Guatemala to put an end to impunity and corruption, and therefore, in the long run, they assist the International Community as well.