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"Guatemala at a Crossroads"

**HOUSE COMMITTEE ON FOREIGN AFFAIRES,
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The present Situation in Guatemala

Guatemala is undergoing again a very serious political crisis with a complex mixture of old and new problems which mainly stem out from its own history of conflict, inequality and exclusion, institutional weakness, corruption and impunity, all of which have been slow to curb down after ending, just 13 years ago, an internal armed conflict which lasted 36 years and took a heavy toll in human lives and overall development. In spite of democratic progress nurtured by the Peace Accords and recent economic growth, the above difficulties have been further complicated by the spread of citizen insecurity and violence -not of a political kind-, as well as organized crime which has deeply penetrated private and public institutions.

The recent economic downturn, although slow to hit the Guatemalan economy if compared to other Latin American countries, has already made an impact in employment, family income, prices in basic products and services, and is increasing the percentage of population falling below the levels of poverty and extreme poverty.¹ In a country with a low tax burden to start with, government's income through taxes has fallen dramatically (According to central bank figures, in this tendency, the Government will not be able to meet the payroll by October). All of which threatens to evaporate recent gains in reduction of poverty and multiplication of opportunities, and worsen significantly the political stability of the country.

The most recent political earthquake caused by the video accusations of the assassinated lawyer blaming top level administration officials of his death as well as two other previous killings, with the knowledge and acquiescence of the President and the first Lady, must be placed in the context of the aforementioned ingredients, mainly the increasing ineffectiveness of the justice system. The most salient shortcomings of the criminal investigation and prosecution capacities of the country

¹ The 5% reduction of poverty in Guatemala, economic growth of 5.4% of GDP, and single digit inflation acknowledged by the World Bank in 2007, was all but lost in 2008. According to UNDP predictions, another 5.3 of the population will descend below the poverty line in 2009.

have been dramatically exposed by the work of the International Commission against Impunity, CICIG, through less than two years' work on a few emblematic cases.²

Some crucial elements of the Crisis

We are facing a combination of economic, social and political crises in which has been labeled by some as a governance crisis. Most institutions of the state are being questioned because there have been constant signs that personal, group or partisan interests do not allow for the proper functioning of government. Evidence of corruption and impunity, denounced by individuals, by organized sectors of society and by the news media, vary rarely result in complete criminal investigations and court convictions. Corruption reaches everywhere, not only public institutions. Some social and political scientists have even gone so far as to conclude that the very architecture of the Guatemalan State has been thought out and designed precisely for that purpose: so that power structures can milk the state institutions and take advantage of state resources.

In any case, our weak institutions do not allow us to deal effectively with the major challenges of corruption and violence. On the one hand, we have been experiencing a widespread increase of youth gangs called "maras" (together with Mexico, Honduras and El Salvador). On the other, organized crime has increased in local and regional capacities and has come to virtually control territories, with the help of local communities, with enormous wealth and corruptive abilities as well as immediate reach of communications and transport technologies as well as firepower.

The combined capacities of youth gangs and organized crime have yielded a formidable combination resulting in increased vulnerability of ordinary citizens and institutions alike. In many cases, however (and in many countries to varying degrees), it is not only a law enforcement problem, but a complex web of difficulties, with diverse probable causes, and vast terrible outcomes, that are already having economic and political consequences. Citizen insecurity not only limits individual and collective freedom, threatens their personal integrity and patrimony, but has become a public safety and community problem that in several countries challenges the legitimate authority of the state.

We have reached a Critical Point

We have reached a Critical Point in unveiling the weaknesses of our institutional scaffolding within the criminal justice system, as well as the barriers of impunity that have been brewing for years since the internal armed conflict, and which have grown to intolerable proportions in recent years, due to the deep penetration of our public and private institutions by power structures which compromise not only the most basic public services to Guatemalan society, but which truly menace to impede the very existence and functioning of a democratic state. The tightening of the overall fight against and eradication of the narcotic related criminal organizations in

² In an independent study with Swedish funding, requested by the previous Administration, on the handling of homicides by the Guatemalan criminal investigation institutions and the justice system, only 2% were brought to trial.

Colombia and Mexico, have triggered a dangerous migration of the drug cartels into Central American countries which have resulted in portions of our territory under their control. The country is in an immediate risk of being overtaken by the cartels.

The commotion created in Guatemala by CICIG in recent months, is a natural consequence of its mandate, a natural evolution of its investigative work and the result of the very obstacles found in some people within the very institutions responsible for providing an equitable and efficient criminal justice system. The extreme weakness and the penetration of our institutions have become evident. But this commotion has helped to clarify the picture and sift through the complex national and regional agenda to pinpoint the most urgent and transcendental objectives to pursue in the next few months and years: that is in *strengthening our justice system*, and through this route, to demand our justice system to redeem the Guatemalan State with the involvement of all other branches of government and organized sectors of society. The Executive branch alone cannot do that.

A call for Support

As a Guatemalan citizen and as a former government official who has been distinguished with the invitation to appear before you, -and under whose administration the CICIG was promoted and created-, I make a plea to the U.S. Congress and through you to the U.S. Government, to keep up the support of the revamping of our institutions and the support of CICIG. The new U.S. Administration and the new U.S. Congress have to renew their commitment to help strengthen our democratic institutions and help CICIG in its second term of its extended mandate. We cannot expect to get different results by doing the same things we have been doing. There might be a need to touch up the Mérida Plan in this regard, widen and diversify the strategic vision, refocus the scope in the case of the so called "northern triangle" (Honduras, El Salvador and Guatemala), and maybe beef up the institutional strengthening elements of the Plan. We will need the participation of U.S. Institutions that have the experience, the dexterities and the know how of criminal investigation and prosecution. We need the Participation of the Department of Justice.

We have heard rumors that some instances would like to tame down CICIG to a lower profile and reduce its scope and agenda to mere technical training activities for judges, prosecutors and police investigators and detectives. We have had that for years without any substantial changes. The true innovation of CICIG is that they can implement criminal investigations to support the General Attorney's Office and our District Attorneys ("Ministerio Público"), and can become an associate part of the prosecution throughout the full length of a trial. That they can help our state authorities in deciphering, spelling out and dismantling the cists of impunity embedded in our public institutions. That is what we requested from the UN. That is what we agreed upon. That is the mandate we have extended. To back away from that would be to betray and violate the mandate.

This is no time for doubting and weakness. This is the time when the weaknesses of our system are exposed and when we need to act together to overcome the

obstacles, remedy the shortcomings, strengthen our justice system and fortify our democratic State. This is the time to acknowledge what has been accomplished and to renew and invigorate the commitment. This is the time when the U.S. and the international community, both bilaterally as well as through the OAS and the UN, can help us constructively to eradicate impunity and put up a fight which is truly transnational.