



# Saving Guatemala's Fight Against Crime and Impunity

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# Principal Findings

**What's new?** Research by International Crisis Group has for the first time quantified the positive impact of the UN's Commission against Impunity in Guatemala (CICIG). This report shows how CICIG's justice reform activities since 2007 helped contribute to a 5 per cent average annual decrease in murder rates in the country. This compares with a 1 per cent average annual rise among regional peers.

**Why does it matter?** Guatemalan President Jimmy Morales has announced that he will end CICIG's mandate in 2019. But the commission has won widespread public support in Guatemala for its prosecution of previously untouchable elites. It is a rare example of a successful international effort to strengthen a country's judicial system and policing.

**What should be done?** With U.S. support for the CICIG under seeming strain, the commission's other supporters should propose a new deal between the Guatemalan government and the UN based on a revised strategy of case selection and continuing support for political and judicial reforms. The U.S. should wholeheartedly back such a reformulated CICIG.

## *Executive Summary*

On 31 August, President Jimmy Morales declared that, as of September 2019, the UN-backed International Commission against Impunity in Guatemala (CICIG) will no longer be welcome in the Central American country. Morales' decision to scrap this international investigative body, established in 2007 and responsible for several historic indictments of former presidents, pits critics of high-level abuses of power in Guatemala against those who claim the commission tramples on the nation's sovereign rights. Despite its huge popularity in Guatemala, it will be hard to preserve the CICIG without compromise, given the government's hostility. The UN and donor countries should reject Morales' more tempestuous demands, such as replacing the commission chief, but they should press the CICIG to sharpen its focus in order to protect its key legacies. To wit, the CICIG should help prosecute the country's most harmful and pervasive criminal groups, support legal reforms to ensure a more transparent political system, and strengthen the police, prosecution service and judiciary in their efforts to reduce violent crime.

For now, there seems to be no escaping deadlock on the CICIG's future. European donors to the commission, as well as Guatemalan civil society and Latin American anti-corruption activists, denounce Morales' moves as efforts to protect political and economic elites against judicial intrusion. Morales and his allies celebrate the restoration of national control over the judiciary amid vague and unfounded accusations of left-wing political bias in the CICIG.

Yet in addition to placing political and business leaders in the dock, the CICIG has also effected a series of legal and institutional reforms, the future of which is now in doubt. During the commission's operation since 2007, Guatemala has been one of very few Latin American countries to achieve a sustained reduction in its murder rate. At a time when crime and gang violence across the Northern Triangle of Central America – composed of Guatemala, Honduras and El Salvador – account for a rising tide of forced displacement and flight northward to Mexico and the U.S., the decision to remove a bulwark of judicial and police reform in the region is a strategic misstep in the campaign to quell insecurity and deter migration. Quantitative analysis and close examination of the steps taken to bolster Guatemala's policing and prosecution service in the wake of the CICIG's creation strongly suggest that the commission has played a key part in improving security in the country. After the commission was established in 2007, a period in which the country's regional peers experienced a 1 per cent annual rise in their homicide rates, new Crisis Group research in this report shows that Guatemala saw an average 5 per cent annual decline in the murder rate. Overall, the CICIG is estimated to have contributed a net reduction of more than 4,500 homicides during 2007-2017.

Although prospects for the commission's survival appear bleak, its fate is not yet sealed. The need to preserve its successes makes it important that the Guatemalan government and foreign donors consider modifications to its format so as to both satisfy President Morales' requirement that it respect national sovereignty and retain the investigative rigour that donors and civil society demand. At the heart of the modifications should be an agreed-upon strategy of case selection in which the CICIG's

resources are directed to prosecuting the most dangerous criminal networks, as well as supporting legal reforms to underpin the transparency of the political system and continuing efforts to entrench judicial independence and professional policing.

The positions of the commission and the Guatemalan state seem irreconcilable. Yet they need not be if the two sides, with UN, U.S. and European Union (EU) support, reconsider their relations and establish clearer methods for selecting cases for the commission's attention. But the parties can bridge the gap only so long as the Guatemalan government and its allies recognise that reducing criminal violence is a shared goal far more important than protecting officials inside or close to the current government.

**Bogotá/New York/Brussels, 24 October 2018**

# Saving Guatemala's Fight Against Crime and Impunity

## I. Introduction

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Central America's murder rates are among the highest in the world. Among the causes of the homicide epidemic, three stand out: the recent history of civil war, the spread of organised crime, and the chronic weakness and corruption of police and judicial institutions. Across the Northern Triangle of Central America (Honduras, El Salvador and Guatemala), more than 120,000 people have been killed over the past decade. To curb the violence and allay public anxiety, Northern Triangle governments have generally favoured harsh crackdowns on gangs and street criminals. For the most part, these campaigns have failed and violence levels have continued to spiral. Hundreds of thousands flee their homelands each year, with insecurity cited as the second most important cause for the exodus; economic motivations still represent the first. The result has been a refugee and migration emergency.<sup>1</sup>

One country has bucked the trend toward worsening violence and rising homicide. Since 2009, Guatemala's murder rate has declined consistently, even as those of other countries have continued rising. The UN-backed International Commission against Impunity in Guatemala (CICIG) has almost certainly played an important role in catalysing that decline. Since this commission was established in 2007, the country has seen an average 5 per cent annual decline in the murder rate, as compared to a 1 per cent annual increase in the composite average homicide rate of a comparable group of neighbouring countries. Before the CICIG was established, murders had almost doubled from a low of 24 per 100,000 inhabitants in 1999 to 43.6 per 100,000 in 2006.<sup>2</sup> After the CICIG began its work, the share of homicides that are solved increased four-fold, from just 7 per cent in 2006 to 28 per cent in 2013.<sup>3</sup> Guatemala

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<sup>1</sup> In a survey conducted in late 2016 of 466 migrants transiting through Mexico, 97 per cent of whom were Central American, almost 39.2 per cent mentioned direct attacks or threats to themselves or their families, extortion or forced recruitment into gangs as the main reason for fleeing their countries of origin. Another 43 per cent cited reasons unrelated to violence for leaving. The survey results appear in "Forced to Flee Central America's Northern Triangle: A Neglected Humanitarian Crisis", Médecins Sans Frontières, 11 May 2017. See also Crisis Group Latin America Commentary, "Undocumented Migration from the Northern Triangle of Central America", 25 October 2017; Crisis Group Latin America Report N°66, *Mexico's Southern Border: Security, Violence and Migration in the Trump Era*, 9 May 2018; Crisis Group Latin America Report N°57, *Easy Prey: Criminal Violence and Central American Migration*, 28 July 2016.

<sup>2</sup> For intentional homicide rates, see the World Bank's website (<https://data.worldbank.org/indicator/VC.IHR.PSRC.P5?end=2006&locations=GT&start=1995>).

<sup>3</sup> In law enforcement parlance, a cleared crime is one where the state files charges but does not necessarily obtain a conviction. For the purposes of this briefing, we use the term "cleared" and "solved" interchangeably. For more information about measuring impunity in Guatemala, see also "Sistema de medición de la impunidad en Guatemala", The International Commission against Impunity in Guatemala, July 2015. For 2006 figures, see "Civil and Political Rights, Including the Questions of Disappearances and Summary Executions, Report of the Special Rapporteur on Extrajudicial,

has renewed the commission's mandate on four occasions, reflecting these successes and the broad public support it enjoys.<sup>4</sup>

But despite the apparent gains, President Morales announced on 31 August that he would not renew the CICIG's mandate a fifth time after it ends in September 2019. Surrounded by dozens of military officers and five civilian ministers, Morales said he would not accept "illegal orders", an indirect reference to a 2017 Constitutional Court ruling that halted his efforts to expel the commission's chief, Colombian judge Iván Velásquez. As he spoke, the military dispatched armoured jeeps donated by the U.S. to drive by CICIG offices and the U.S. embassy. A few days later the authorities denied Velásquez re-entry into the country; the Constitutional Court has since quashed that decision in a ruling that also called on the Guatemalan government and UN to resolve their differences via negotiation.<sup>5</sup>

The president's moves were not unexpected: they followed several years of intensifying political opposition to the CICIG as its dogged focus on corruption investigations aroused the ire of Guatemala's political and economic elites. Speaking to the UN General Assembly on 25 September, President Morales denounced the CICIG as "a threat to peace in Guatemala" that has created a "system of terror ... whereby those who think differently are persecuted".<sup>6</sup> Analysts, officials and the public interpreted the president's rhetoric and gestures as a show of his readiness to use force and snub democratic processes if necessary to carry out his intentions.<sup>7</sup>

At the same time, there is concern among Guatemalan reformers that historically bipartisan support in the U.S. for the CICIG has at least temporarily eroded as Republicans push a narrow agenda in Central America oriented around using local security forces to stem undocumented migration and curbing drug trafficking. Moreover, Morales has curried political favour with the U.S. administration by following its lead and becoming the second country to open an embassy to Israel in Jerusalem.

In May, some Republican members of Congress sought to withhold promised funds of \$6 million from the CICIG, citing purported collusion between it and the Russian government to persecute the Bitkovs, a Russian family alleged to have entered Guatemala illegally. The Bitkovs allegedly fled retaliation from the Russian government after they refused to pay for protection, join President Vladimir Putin's party

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Summary or Arbitrary Executions, Philip Alston", Human Rights Council, 19 February 2007. For 2009-2013 figures, see "Sixth Report of Activities of the International Commission against Impunity in Guatemala (CICIG) (September 2012-August 2013), The International Commission against Impunity in Guatemala, August 2013.

<sup>4</sup> The homicide rate fell a further 13.2 per cent in 2018 through July, although recorded murders did rise again toward the end of that period. See "Reporte Estadístico Julio 2018", Technical Secretariat of the Guatemalan National Security Council, pp. 2 and 8. See also "Violencia a corto plazo presenta incremento por segunda ocasión en 2018", *Diario La Hora*, 4 August 2018. "Cuadros comparativos de homicidios por MINGOB", Interior Ministry, 3 August 2018. "Datos históricos reflejan disminución en los homicidios", Ministerio de Gobernación, 16 August 2018.

<sup>5</sup> Sandra Cuffe, "Alarm as Guatemala bans head of UN anti-corruption body from country", *The Guardian*, 5 September 2018. On the Constitutional Court ruling, see "CC ordena el Ejecutivo permitir el ingreso de Iván Velásquez", *Prensa Libre*, 16 September 2018.

<sup>6</sup> See "Jimmy Morales ante la ONU: La Cig ha llegado a ser una amenaza para la paz en Guatemala", CNN en Español, 25 September 2018.

<sup>7</sup> Alberto Pradilla, "Morales cierra la puerta a la CICIG y amaga con autogolpe de Estado, con música de mariachis de fondo", *Plaza Pública*, 1 September 2018.

or allow state agents to buy part of their timber company.<sup>8</sup> The State Department later dismissed the accusation that CICIG was an accomplice of the Russian government.<sup>9</sup> But after Morales said he would end the commission's mandate, U.S. Secretary of State Mike Pompeo called him on 6 September to express "support for Guatemalan sovereignty" and a "reformed CICIG".<sup>10</sup> It appears that U.S. support for the CICIG is entering a new phase, in which public messages of support will be more muted, creating the risk that Morales will perceive more latitude than in the past in his dealings with the commission.<sup>11</sup>

The commission, however, retains high-level support in Washington. U.S. financial support to Guatemala is still tied to a series of conditions including cooperation with the commission.<sup>12</sup> Following the lifting of congressional holds and a bipartisan letter from the chairs and ranking members of the State Department's oversight committees showing support for the CICIG, the State Department has reportedly briefed congressional interlocutors that it intends to release the \$6 million in question.<sup>13</sup> Most importantly for the current U.S. administration, nixing the CICIG could undo hard-won progress in public safety that has reduced the impetus for forced emigration.<sup>14</sup>

This report reviews the debate about the CICIG in Guatemala and assesses the commission's contributions to crime reduction in Guatemala. Its main finding – that the CICIG has indeed helped cut the country's murder rate – is based on original statistical analysis of crime data in Guatemala and similar Latin American countries that have suffered crime waves in the 21st century.<sup>15</sup> Appendix B details the statisti-

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<sup>8</sup> The Bitkov family's allegations against Russian authorities, which include the kidnapping and rape of their daughter in 2007, are described here: Jay Nordlinger, "Why are they doing this to the Bitkovs?", *National Review*, 25 April 2018.

<sup>9</sup> See Senator Marco Rubio's press release on the issue at [www.rubio.senate.gov/public/index.cfm/2018/5/citing-bitkov-family-s-mistreatment-rubio-places-hold-on-u-s-funds-to-international-commission-on-impunity-in-guatemala-cicig](http://www.rubio.senate.gov/public/index.cfm/2018/5/citing-bitkov-family-s-mistreatment-rubio-places-hold-on-u-s-funds-to-international-commission-on-impunity-in-guatemala-cicig); see also Daniel Wilkinson, "Web of intrigue as Guatemala president fends off corruption probe", *The Hill*, 29 May 2018.

<sup>10</sup> See the U.S. Department of State spokesperson's press release at [www.state.gov/r/pa/prs/ps/2018/09/285757.htm](http://www.state.gov/r/pa/prs/ps/2018/09/285757.htm). The reforms include the appointment of a deputy commissioner and increased reporting requirements to donors.

<sup>11</sup> Crisis Group interview, U.S. official, Washington, October 2018.

<sup>12</sup> These conditions are detailed in the 2016, 2017 and 2018 Consolidated Appropriations Acts of Congress. See One Hundred Fifteenth Congress of the United States of America, "Consolidated Appropriations Act, 2018", section 7045 (a) Central America, <https://bit.ly/2EFGb9J>; and Peter J. Meyer, "U.S. Strategy for Engagement in Central America: Policy Issues for Congress", Congressional Research Service, pp. 13-14, 8 June 2017, <https://fas.org/sgp/crs/row/R44812.pdf>.

<sup>13</sup> Crisis Group interview, U.S. official, Washington, October 2018.

<sup>14</sup> The 20 per cent of Guatemalan migrants who cited threats, assault, extortion or forced gang recruitment as reasons to migrate – though a high percentage – pales in comparison to the more than 70 per cent of Salvadorans and 50 per cent of Hondurans who say these dangers caused their flight. See "Forced to Flee Central America's Northern Triangle: A Neglected Humanitarian Crisis", Médecins Sans Frontières, op. cit., p. 11.

<sup>15</sup> This report was produced through a collaboration between Crisis Group's Latin America Program and its Economics of Conflict initiative, which integrates economic expertise, new data sources and quantitative analysis into Crisis Group's traditional fieldwork approach. The report's econometric analysis was conceived and prepared by a resident Economics of Conflict fellow and peer-reviewed by two scholars, an economist and a political scientist, based at top U.S. universities. For more information on this new initiative, see [www.crisisgroup.org/economics](http://www.crisisgroup.org/economics).



cal methods the report uses to reach this conclusion. The report also draws upon interviews with Guatemalan officials, police officers, academics and civil society figures, diplomats in both Guatemala City and New York, and U.S. policymakers, as well as CICIG officials themselves.

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## II. Against Impunity

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In the early 2000s, Guatemala, like its neighbours, experienced a steep rise in its homicide rate as a result of criminal violence that mainly affected civilians. Scholars and activists linked the increase to military and paramilitary groups that moved from counter-insurgency to crime after the 1996 accord that ended Guatemala's civil war. The great majority of homicides – in 2006, about 93 per cent – went unsolved. After intensive lobbying by civil society organisations and international partners, who were worried the counter-insurgents-cum-criminals were targeting human rights activists, the Guatemalan government asked the UN to establish the CICIG to help in their protection, curb alarming levels of impunity, strengthen the fight against organised crime and support broader reforms to the justice sector.<sup>16</sup>

Involved in extortion, corruption, money laundering and violence, the criminal groups formed after the civil war both penetrated and undermined the state.<sup>17</sup> The peace accords of 1996 created a civilian police force, among other institutional reforms, but a 1999 referendum rejected the constitutional amendments needed to complete the planned demilitarisation of the security and justice systems.<sup>18</sup> Conservatives at that time were successful at presenting the proposed reforms as international interference in Guatemalan affairs. This result, along with the brutal murder of Bishop Juan Gerardi in 1998, two days after he had presented the Catholic Church's report on war crimes, compelled activists to seek international backing for deeper reforms. The truth commission established in the wake of Guatemala's peace accords named in 1999 state forces as perpetrators of 93 per cent of the human rights violations during the conflict.<sup>19</sup>

As a result, civil society organisations proposed the creation of an international body to combat the illegal security forces and clandestine security organisations (known by their Spanish acronym, CIACs), which had already been identified in the preliminary peace accords of 1994 as a threat to human rights and were later highlighted in reports from the UN Verification Mission in Guatemala present in the country from 1994 to 2004.<sup>20</sup>

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<sup>16</sup> "Sixth Report of Activities of the International Commission against Impunity in Guatemala (September 2012-August 2013)", International Commission against Impunity in Guatemala (CICIG), August 2013.

<sup>17</sup> For in-depth description and analysis of the nature, transformation and impact of armed groups in Guatemala, see Adriana Beltran, "Hidden Powers in Post-Conflict Guatemala. Illegal Armed Groups in Post-Conflict Guatemala and the Forces Behind Them", Washington Office for Latin America, 4 September 2003; and Ivan Briscoe and Martín Rodríguez Pellecer, "A State under Siege: Elites, Criminal Networks and Institutional Reform in Guatemala", Netherlands Institute of International Relations Clingendael, 13 September 2010.

<sup>18</sup> "1999: Rechazo a reformas constitucionales", *Prensa Libre*, 15 May 2015.

<sup>19</sup> For figures on acts of state forces in Guatemala's civil war, see "Guatemala Memory of Silence, Report of the Commission for Historical Clarification Conclusions and Recommendations", Guatemala City, 1999, p. 33.

<sup>20</sup> UN General Assembly, "United Nations Verification Mission in Guatemala, note by the Secretary General", fourteenth report on human rights of the UN Verification Mission in Guatemala, A/58/566, paragraph 52, 10 November 2003.

The CIACs originated in wartime military intelligence agencies that penetrated other government bodies to divert state funds to counter-insurgency. After the official end to the conflict following the signing of the peace accords in 1996, these groups transformed into networks that continued looting the treasury but chiefly for their members' personal enrichment, and made use of their impunity for activities such as contraband, embezzlement, tax fraud and creating ghost jobs in state institutions.<sup>21</sup> The operation of these illicit powers extends to sponsoring trafficking in drugs and humans. The CIACs use violence when necessary to ensure they are not punished for their crimes, including intimidation and occasionally murder of witnesses, judges and investigators. A prominent analyst described the CIACs' deep penetration of government institutions this way: "crime didn't infiltrate the Guatemalan state. It is the state that organises crime in Guatemala".<sup>22</sup> The CIACs have helped consolidate corrupt practices in national and local Guatemalan politics.<sup>23</sup>

The Constitutional Court struck down the first proposal for combating these clandestine criminal groups on the grounds that it amounted to creating a parallel judicial system in the country. Afterward, civil society organisations prepared a reformulated version calling for the establishment of an international commission to investigate these groups and present cases for trial, but only as an auxiliary plaintiff. A special unit in the attorney general's office, composed of thoroughly vetted Guatemalan professionals, would serve as lead plaintiff. The conservative majority in Congress denounced the proposal as undue international interference in Guatemalan affairs. But the involvement of Guatemalan policemen in the February 2007 murder of three Salvadoran members of the Central American Parliament – an advisory body with representatives from six regional countries – in the outskirts of Guatemala City shamed the government. The killings compelled President Óscar Berger's government to push ahead with the creation of the CICIG. Congress ratified the initiative that August.<sup>24</sup>

Since its inception, the CICIG has drawn funding primarily from international donors.<sup>25</sup> Alongside the investigation of major criminal rackets, it has sought to

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<sup>21</sup> Crisis Group interview, CICIG political officer, Guatemala City, 30 June 2015.

<sup>22</sup> Crisis Group interview, Edgar Celada, political analyst, Center for the Study of National Problems, San Carlos University, Guatemala City, 5 February 2016.

<sup>23</sup> The first CICIG commissioner has recently published an explanation of the origin and development of the CIACs in Guatemala and his strategy in setting out to combat them. See Carlos Castresana, "Guatemala, Illegal Entities and the Clandestine Security Apparatus" in Michael J. Dziedzic (ed.), *Criminalized Power Structures: The Overlooked Enemies of Peace* (London, 2016); also see "CIACS", InSight Crime ([www.insightcrime.org/guatemala-organized-crime-news/ciacs/](http://www.insightcrime.org/guatemala-organized-crime-news/ciacs/)), 9 March 2017. The Washington Office on Latin America's report, "Hidden Powers", *op. cit.*, pp. 9-12, lists 39 attacks on civil society actors attributable to such bodies in 2002-2003.

<sup>24</sup> The agreement between the Guatemalan government and the UN to create the CICIG was actually signed in December 2006, but Congress did not approve it until the Berger government pushed it to do so. See Crisis Group Latin America Report N°36, *Learning to Walk Without a Crutch: An Assessment of the International Commission Against Impunity in Guatemala*, 31 May 2011, pp. 4-5. For more on the CICIG's work, see Crisis Group Latin America Report N°56, *Crutch to Catalyst? The International Commission Against Impunity in Guatemala*, 29 January 2016.

<sup>25</sup> A recent calculation sets at \$167 million the amount provided by donors during CICIG's eleven years of operation, with the U.S., Sweden and the European Commission as the main funders. See

strengthen the professional skills and ethics of the country's prosecution service and police. The commission has pressed for reforms such as a witness protection program, tighter gun controls and rules for court-ordered wiretaps.<sup>26</sup>

Soon after the appointment of Velásquez in 2013, however, the CICIG turned its focus toward the corruption networks that underlie impunity for organised crime. The CICIG's 2014 annual report spelled out the commission's new priorities: contraband, administrative corruption, illegal electoral financing, corruption in the judiciary, and narcotics trafficking and money laundering.<sup>27</sup> A report from the commission a year later on illegal financing of political campaigns revised the concept of CIACs by speaking of "illegal politico-economic networks", which are reported to manipulate political power to provide impunity for illegal activities carried out for the perpetrators' personal enrichment.<sup>28</sup> Corruption was understood to be the means of generating impunity, and thus part and parcel of the CICIG mandate.<sup>29</sup> "The CIACs have been entrenched in the state and one of their main sources of strength is corruption", said one prominent lawyer.<sup>30</sup>

By early 2015, tensions between the CICIG and the government were rising. The government set up a board to evaluate the CICIG, with the aim of deciding whether to request a further two-year extension of its mandate. An official who provided this board with technical support disclosed that they received orders to draft a report that would allow the government to present the CICIG as ineffective and thereby justify terminating its presence in Guatemala.<sup>31</sup>

Facing the CICIG's possible demise, Velásquez decided in April 2015 to publish results of its investigation of a customs racket, carried out with the Attorney General's Office and making use of phone taps sanctioned by the new laws the CICIG had promoted earlier in its mandate.<sup>32</sup> The man who was then president, Otto Pérez Molina, his former vice president, most of his cabinet, scores of politicians and many prominent businesspeople eventually faced trial in connection with the customs fraud and a barrage of ensuing cases. Velásquez himself was later circumspect about the

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Irving Escobar, "Países han aportado US\$167 millones en 11 años para funcionamiento de CICIG", *Prensa Libre*, 14 September 2018.

<sup>26</sup> See Crisis Group Report, *Learning to Walk Without a Crutch: An Assessment of the International Commission Against Impunity in Guatemala*, op. cit.; Crisis Group Report, *Crutch to Catalyst? The International Commission Against Impunity in Guatemala*, op. cit.

<sup>27</sup> See CICIG, "Informe de la Comisión Internacional contra la Impunidad en Guatemala con Ocasión de su Séptimo Año de Labores", pp. 11-14, 2014, <https://bit.ly/2NXqvrQ>.

<sup>28</sup> CICIG, "Informe: El Financiamiento de la Política en Guatemala", p. 19, Guatemala City, 16 July 2015, <https://bit.ly/1J2DXR8>.

<sup>29</sup> Recently the commission has opened new anti-corruption probes. For example, on 16 August 2018 it signed an agreement with the Supreme Electoral Tribunal to tighten controls over illicit financing of political organisations ahead of the 2019 general elections.

<sup>30</sup> Crisis Group interview, Mario Fuentes Destarac, former commissioner for transparency, Guatemala City, 27 July 2015.

<sup>31</sup> Crisis Group interview, mid-level officer, Guatemala City, November 2015.

<sup>32</sup> See Arturo Matute, "Young Blood, Old Vices", Crisis Group Commentary, 14 November 2016; and "Ending Corruption in Guatemala", Crisis Group Commentary, 30 April 2015.

transformative effects of this scandal, warning that “justice doesn’t change states on its own. It just contributes to identifying what ails them”.<sup>33</sup>

Widespread popular support for the CICIG has insulated the commission from political interference.<sup>34</sup> But the shift toward investigating pure corruption cases – albeit often linked to organised crime and associated armed groups – has prompted growing opposition from politicians. At the same time, “donor fatigue” and political shifts in the U.S. threaten to undermine the long-term prospects of this externally funded justice institution.<sup>35</sup> Meanwhile, a number of Guatemalans, although not the majority, have come to regard the CICIG’s independence and its prosecution of political corruption as a risk to the country’s institutions. One senior Latin American diplomat commented that “the CICIG is one of the worst things Guatemala and the UN have ever done. The commission has got so deep into politics that it has developed its own political interests”.<sup>36</sup>

It is not just the CICIG’s corruption probes that fan these fears, but also its promotion of constitutional reforms on electoral law, transparency regulations and civil service legislation. The agreement to create the CICIG, signed by Guatemala and the UN, does state in article 2.1.c that the commission can “recommend to the State the adoption of public policies for eradicating clandestine security organizations and illegal security groups and preventing their re-emergence, including the legal and institutional reforms necessary to achieve this goal”.<sup>37</sup> Nevertheless, critics say the CICIG is overstepping its bounds.

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<sup>33</sup> Crisis Group interview, Iván Velásquez, CICIG commissioner, September 2016. A former vice president, Roxana Baldetti, was sentenced on 9 October to fifteen years in jail on charges of fraud, illicit association and influence trafficking in the first of four corruption cases for which she is standing trial. She is also facing extradition to the U.S. on drug trafficking charges. Francella Solano, “Ciento ochenta y seis meses de prisión: la primera condena”, *Plaza Pública*, 9 October 2018.

<sup>34</sup> A survey conducted in 2017 by the Vanderbilt University as part of the Latin American Public Opinion Project registered 70.1 per cent support for the CICIG. See Dinorah Azpuru, Mariana Rodríguez and Elizabeth J. Zechmeister, “Cultura política de la democracia en Guatemala y las Américas”, Vanderbilt University, February 2018.

<sup>35</sup> For a more detailed analysis of the CICIG as an institution, see Crisis Group Report, *Crutch to Catalyst? The International Commission against Impunity in Guatemala*, op. cit.

<sup>36</sup> Crisis Group interview, high-level diplomat, New York, 3 October 2018.

<sup>37</sup> See “Agreement between the United Nations and the State of Guatemala on the establishment of an International Commission Against Impunity in Guatemala (“CICIG”)", downloadable at <https://bit.ly/2IuV69Z>.

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### **III. Guatemala vs. the Region: A Quantitative Analysis**

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As the CICIG now faces a date for obligatory withdrawal, the Guatemalan government and donors should consider the implications of terminating its mandate. A first step is to examine what effects the commission and the reforms it has fostered have had on crime and violence in Guatemala. Declining homicide rates in the country in recent years could reflect regionwide improvements or trends that predate the CICIG's formation. In Colombia, for example, homicide rates have declined consistently since 2002, while in Nicaragua they have fallen since 2009 and in Honduras have declined sharply from their peak in 2011.<sup>38</sup> Lower murder rates could also reflect improved living standards and access to social services as a result of economic growth and better governance in Guatemala's post-civil war era.

The following quantitative analysis seeks to answer this question by demonstrating how the trends in Guatemala's homicide rates compare to those in a group of neighbouring countries in the pre-CICIG era. Looking at murder rates before and after the CICIG's introduction can help establish whether the commission has had the kind of practical impact on citizen safety that was intended. If it has not, the political sniping the commission now faces in Guatemala, where it is accused of stepping away from its original mandate in order to prosecute high-level, largely white-collar corruption, would be more understandable.

A "synthetic control" helps show the effects of the CICIG and related judicial reforms on homicide trends in Guatemala.<sup>39</sup> This "control" is, in effect, a hypothetical post-2007 Guatemala in which the CICIG does not exist. To create it, this analysis identifies a set of Latin American countries that exhibit strong similarities to pre-2007 Guatemala. These affinities include the trends in homicide rate (per 100,000 population), GDP per capita (at purchasing power parity in 2011 prices), the infant mortality rate and household consumption. All of these data are drawn from the World Bank's World Development Indicators.

This analysis looks at the period 2000-2014 (seven years before and after the establishment of CICIG), for which there is good statistical information. It compares trends in Guatemala to a weighted average of nine neighbouring countries that together make up the synthetic control: Colombia, Costa Rica, the Dominican Republic, El Salvador, Honduras, Mexico, Nicaragua, Panama and Venezuela.<sup>40</sup> Additional

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<sup>38</sup> Eight Latin American countries have recently seen sustained reductions in their murder rates from highs of over 10 per 100,000 persons a year. Guatemala, Colombia and Honduras have all reduced their murder rates from highs of over 40 per 100,000 each year, although the Honduran murder rate still stood well above the Latin American average at 42.8 per 100,000 in 2017. Other countries that have reduced their murder rates from highs of between 10 and 40 per 100,000 are the Dominican Republic, Ecuador, Nicaragua, Panama and Paraguay. For intentional homicide rates in these and other countries, see the World Bank's website: <https://data.worldbank.org/indicator/VC.IHR.PSRC.P5?view=chart>.

<sup>39</sup> Alberto Abadie, Alexis Diamond and Jens Hainmueller, "Synthetic Control Methods for Comparative Case Studies: Estimating the Effect of California's Tobacco Control Program", *Journal of the American Statistical Association*, vol. 105, no. 490 (June 2010).

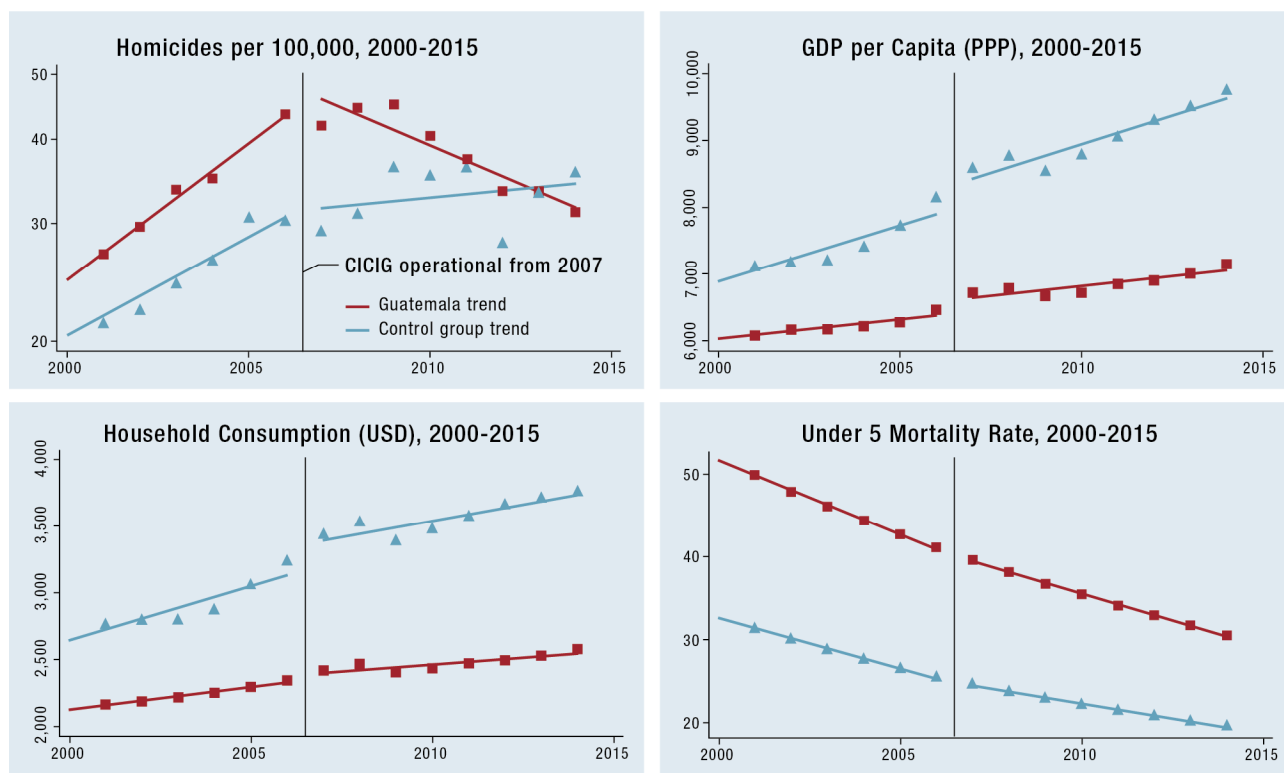
<sup>40</sup> The "entropy balancing" algorithm is used here to generate weights for each of the nine countries in order to create the synthetic control. This approach uses iterative reweighting to identify a set of control units that are most similar to the target units. Jens Hainmueller, "Entropy Balancing for

details about the procedure used to establish the control group, as well as the replication code, are available in Appendix B.

Before proceeding to a comparison of relative conditions before and after 2007, it is important to make sure that the trends in homicides, GDP per capita, household consumption and infant mortality are parallel in the 2000-2006 period for Guatemala and for the synthetic control. If they are parallel, then any effects observed after that period are indeed more likely to be due to the CICIG than to some other factor.<sup>41</sup>

The following charts illustrate the trends from the pre-CICIG period, showing that Guatemala and the control group are indeed very similar to one another. In both cases, homicides are seen to be increasing at a rapid rate, from around 25 per 100,000 in 2000 to about 40 per 100,000 in 2006. Similarly, trends in household consumption, GDP per capita and infant mortality are closely matched.

**Figure 1: Homicides and socio-economic indicators before and after the CICIG**



But after rising to an historical high in 2009, the homicide rate in Guatemala drops dramatically thereafter even as it continues to rise in the rest of the region, albeit more erratically than before. On average, the murder rate has declined by two deaths per 100,000 people each year in Guatemala during the CICIG era. In contrast, in the

Causal Effects: A Multivariate Reweighting Method to Produce Balanced Samples in Observational Studies”, *Political Analysis*, 1 February 2012.

<sup>41</sup> This approach is also known as a “differences in differences” strategy. Alberto Abadie, Alexis Diamond and Jens Hainmueller, “Synthetic Control Methods for Comparative Case Studies: Estimating the Effect of California’s Tobacco Control Program”, *Journal of the American Statistical Association*, vol. 105, no. 490 (June 2010). Joshua D. Angrist and Jörn-Steffen Pischke, *Mostly Harmless Econometrics: An Empiricist’s Companion* (Princeton, 2009), pp. 227-242.

synthetic control, it has risen by one per 100,000 in the comparison group.<sup>42</sup> In 2014, Guatemala's murder rate finally dropped to numbers below those that the synthetic control would experience, despite having suffered a higher homicide rate than the control for the previous fifteen years.

Overall, the CICIG is estimated to have been associated with a net prevention of approximately 3,279 homicides from 2007 to 2014. Extrapolating the effects through 2017, the number of avoided homicides rises to 4,658.<sup>43</sup>

There are other possible explanations for these contrasting trends in Guatemala during this period. For instance, it could be that economic or social conditions drove the reduction in violence. But the above three charts indicate that in terms of GDP per capita, infant mortality rates and household consumption, which are fundamental indicators of social and economic well-being, the trends in Guatemala and the control group are consistent and very similar before and after the CICIG was established. The similarity provides strong preliminary evidence that institutional reforms, rather than other political or economic transformations, helped push the homicide rate down. An alternative explanation for the drop in the number of murders would need to be timed exactly from the year of the CICIG's establishment in 2007, and yet have no detectable impact on the social and economic indicators shown earlier.<sup>44</sup> Meanwhile, the evidence from the past decade strongly suggests that the CICIG's reforms have indeed played a key part in the fall in criminal violence.

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<sup>42</sup> The difference-in-differences estimate from a regression analysis is -2.77 per 100,000 per year. That is, the CICIG is estimated to have avoided on average nearly three homicides per 100,000 from 2007 to 2014, taking into account the pre- and post-CICIG periods in Guatemala and the control group.

<sup>43</sup> This number is computed by multiplying the -2.77 per 100,000 average annual reduction by Guatemala's population in each year and then taking the sum. Additional details are in Appendix B.

<sup>44</sup> Although reliable statistics on undocumented immigration are sparse, the existing evidence do not indicate an increase in migration corresponding with the CICIG. See <https://data.worldbank.org/indicator/SM.POP.NETM?locations=GT>.



#### **IV. What Reduced the Murder Rate?**

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Before the CICIG came into being, the Guatemalan justice and security systems faced huge challenges deriving from penetration by organised crime, understaffing, poor funding and inadequate technical capacity.<sup>45</sup> Further complicating matters, the military frequently intervened in police work and the justice system from 1960 to 1996. The military's interference guaranteed impunity for those involved in the counter-insurgency operations' repression, which reached the extreme of "acts of genocide" according to the 1999 report of Guatemala's Commission for Historical Clarification.<sup>46</sup>

Under the auspices of the CICIG, the Guatemalan Congress approved legislation creating a witness protection program as well as authorising prosecutors to offer plea bargains in exchange for information. Congress sanctioned the use of wiretaps and other special methods of investigation in a new law against organised crime drafted with technical support from the CICIG. The commission was also instrumental in strengthening the capacity to gather and analyse forensic information, including DNA and ballistics tests. The government set up special 24-hour courts to allow highly vetted judges to oversee trials of powerful, well-connected criminals, reducing their ability to bribe or intimidate judicial officials.

Support from the CICIG was also integral to the selection of Claudia Paz y Paz, a human rights lawyer and former judge, as attorney general late in 2010. During her time in office, a new prosecutorial and case administration method crystallised, based on the use of crime analysis – searches for patterns and trends in criminal activity – to establish connections among cases and dismantle entire illicit networks. The Attorney General's Office set up new, specialised teams to investigate human trafficking, money laundering, corruption and extortion cases. The CICIG's international experts helped train the key personnel of the Attorney General's Office (known in Spanish as the Ministerio Público) by working alongside them in investigations and prosecutions. The Attorney General's Office began to monitor its staff's ethics more closely, through periodic lie detector tests, among other methods.

The modernisation of investigation methods promoted collaboration among public safety institutions. The police created "mirror" teams to improve coordination with the attorney general's dedicated units for investigations of homicides and street-gang crimes, fostering trust and allowing prosecutors to present stronger cases in court.<sup>47</sup>

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<sup>45</sup> Crisis Group Report, *Learning to Walk Without a Crutch: An Assessment of the International Commission Against Impunity in Guatemala*, op. cit. "Civil and Political Rights, Including the Questions of Disappearances and Summary Executions, Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, Philip Alston", Human Rights Council, 19 February 2007.

<sup>46</sup> "Guatemala, Memory of Silence", op. cit., 1999.

<sup>47</sup> "Dos años de labores: un compromiso con la justicia", CICIG, 1 September 2009, pp. 6, 19, 23. Sophie Beaudoin, "Guatemala opens a new court to hear cases related to grave crimes", International Justice Monitor, Open Society Justice Initiative, 4 November 2015.

Since the CICIG's establishment, police have dismantled an estimated 80 criminal groups that committed murder or contracted the services of those who did.<sup>48</sup> As mentioned above, impunity rates fell sharply. Even though general impunity levels remain high in Guatemala, there is now a judicial deterrent to organised crime's previously blithe elimination of adversaries. Overall, the safer streets since 2007 can be attributed – at least in part – to better methods of investigation, increased inter-institutional collaboration and the belief, which the CICIG's presence has fostered, that criminals can be found and convicted. One prosecutor interviewed by Crisis Group said, “now we feel we can really do our job”.<sup>49</sup>

Other factors unrelated to the CICIG's work have also helped improve security conditions. Violence prevention measures in municipalities, including better street lighting, the clean-up of vacant lots, police patrols on foot or bicycle and a protected public transport service in Guatemala City, have undoubtedly contributed to the drop in homicides. Similarly, improvements in emergency medical care have likely reduced the number of people who die in violent incidents. These factors do not vary widely before and after 2007, however.

All the evidence suggests that the CICIG has had a significant effect. It both helped Guatemala strengthen its judicial system and curbed organised crime's efforts to undermine those reforms by acquiring influence in the state. During the presidency of Álvaro Colom (2008-2012), for instance, the CICIG presented evidence that the newly appointed attorney general, Conrado Reyes, had criminal connections, which Reyes denied. As a result, the Constitutional Court annulled Reyes' appointment in June 2010, just a few days after he took office. Earlier this year, the Attorney General's Office and the CICIG filed charges against Colom and twelve members of his cabinet for embezzling \$35 million in a public procurement scandal. Colom's successor, Pérez Molina, is held on remand facing multiple charges of corruption related to the political crisis that forced him to resign in 2015.<sup>50</sup>

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<sup>48</sup> “Jefe de la FECCI señala dificultades para investigar actos de corrupción”, *El Periódico*, 5 July 2018.

<sup>49</sup> Crisis Group interview, prosecutorial official at the Attorney General's Office, Guatemala City, 12 November 2016.

<sup>50</sup> See Crisis Group Statement, “Political Turmoil in Guatemala: Opportunities and Risks”, 31 August 2015.

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## V. Can the CICIG Survive?

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Despite the progress made, the CICIG may be doomed to expire in a year.<sup>51</sup> The commission's high public profile and targeting of elite figures in a highly unequal society has created tensions with authorities inclined to protect the status quo and establishment interests. At the same time, international commitment to the institution's independence and continuity may be waning. While the U.S. appears, after a period of wavering, to have returned to a supportive posture, the position it ultimately adopts could hinge to some extent on who becomes the new ambassador to the UN following Nikki Haley's unexpected resignation. Haley was reportedly a leading critic of the CICIG in the executive branch.<sup>52</sup>

The Guatemalan government has raised steadily louder objections to the CICIG's work. In 2013, the foreign ministry expressed displeasure over a CICIG commissioner's statement denouncing political interference in the landmark genocide case against former dictator Efraín Ríos Montt. The UN opted to replace the commissioner. By 2015, the government was quietly building a case to end the CICIG's presence in the country once and for all, at the same time that the commission was conducting its probe of massive customs fraud that ended in President Pérez Molina's indictment.<sup>53</sup>

In 2017, President Morales attempted to expel CICIG Commissioner Velásquez when the commission's investigations led to the indictment of Morales' brother and son in a corruption case involving \$25,000 in false invoices, from which they did not personally benefit.<sup>54</sup> Diplomatic sources recall that before travelling to New York to meet UN Secretary-General António Guterres, Morales consulted members of his cabinet, some of whom advised against his requesting Velásquez's removal. The president reportedly heeded the request.<sup>55</sup> But right after the meeting, news reached the president that Velásquez and Attorney General Thelma Aldana had requested that his immunity be lifted so that he could be investigated on charges of receiving illicit financial support in his 2015 campaign.<sup>56</sup> Upon his return to Guatemala, the president decided to insist on the CICIG chief's expulsion, only for a Constitutional Court to stay the order and rule against Velásquez's banishment.

This acrimonious legal battle fuelled the president's determination to scrap the commission. In January 2018, Morales sacked the interior minister, Francisco Rivas,

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<sup>51</sup> Guatemala will hold elections in June 2019, and the new president will take office in January 2020. The CICIG issue will be central to the electoral campaign. Even if the next government is inclined to call for the CICIG's return, there is likely to be at least a six-month gap in operations between the expiration of the current commission's mandate in September 2019 and the establishment of a new commission.

<sup>52</sup> Crisis Group interview, U.S. foreign policy staffer, Washington, October 2018.

<sup>53</sup> On the initial CICIG investigation into the customs fraud, called La Línea (the line) and the government response, see Bill Barreto, "La Línea": una red de corrupción y una crisis política", *Plaza Pública*, 19 April 2015; Crisis Group interview, mid-level officer, Guatemala City, November 2015. Former President Pérez Molina is still being tried and remains in prison. He has protested his innocence and claimed the case against him is driven by political motives. "Otto Pérez Molina se dice inocente en caso de corrupción La Línea", *El Periódico*, 16 October 2017.

<sup>54</sup> "MP acusa al hijo y hermano de Jimmy Morales", *Prensa Libre*, 15 May 2017.

<sup>55</sup> Crisis Group interview, diplomatic source, Guatemala City, September 2018.

<sup>56</sup> *Ibid.*

and a month later the police chief, Nery Ramos, both diligent participants in the anti-corruption campaign. The new interior minister, Enrique Degenhart, a member of a former president's security entourage, reportedly withdrew numerous police agents assigned to protect the CICIG.<sup>57</sup> Degenhart has also eliminated an important technical training body in the National Civilian Police and fired many agents running the "mirror units" that are the backbone of enhanced cooperation between police, investigators and prosecutors.<sup>58</sup> Foreign Affairs Minister Sandra Jovel announced on 6 September that CICIG had become a parallel state institution and pointed to several unsubstantiated offenses.<sup>59</sup> Sources inside the CICIG say the commission has endured a boycott that goes far beyond the harassment known to the public.<sup>60</sup>

For the time being, the CICIG has a mandate through the beginning of September 2019 and retains allies in civil society and the Attorney General's Office. Public opinion continues to back the commission: as of 2017, the CICIG remains one of the most highly regarded institutions in Guatemala with more than 70 per cent of the public trusting it versus 18 per cent who do not (12 per cent are neutral). By contrast, the Morales government inspires confidence in just 33 per cent of respondents.

More than 80 per cent of Guatemalans, furthermore, say they are willing to protest in favour of the CICIG and the Attorney General's Office. Thousands have already come out in demonstrations against the government's decision to terminate the CICIG, though the gatherings are not on the scale of 2015, when public indignation at revelations of graft at the highest levels of government prompted huge protests.<sup>61</sup> One prominent analyst cast doubt on the sustainability of public protests, arguing that the Guatemalan people had in 2015 been "fascinated by the image of a president and vice president captured on charges of corruption, which vindicated their traditional aversion to paying taxes".<sup>62</sup>

Meanwhile, support for the CICIG from the U.S., previously bipartisan and unequivocal, has come under some strain. Though officials have issued recurrent expressions of support, including a February letter from the U.S. House Western Hemisphere Subcommittee and statements from Homeland Security Secretary Kirstjen Nielsen, cracks emerged over the course of the year.<sup>63</sup> CICIG detractors convinced U.S. Senator Marco Rubio, a Republican from Florida and a member of the Committees of Appropriations and of Foreign Relations, to put a hold on U.S. funding for the organisa-

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<sup>57</sup> "20 national civil police officers assigned to CICIG removed from their positions", International Commission against Impunity in Guatemala, 11 July 2018.

<sup>58</sup> For a summary and analysis of the offensive against reforms in the security sector, see "Situación de la Policía Nacional Civil en Guatemala", Foro de Organizaciones Sociales Especializadas en Temas de Seguridad, 27 August 2018.

<sup>59</sup> See Andrea Orozco, "La explicación de los casos por los cuales el Ejecutivo no renovará el mandato de CICIG", *Prensa Libre*, 7 September 2018.

<sup>60</sup> Crisis Group interview, CICIG spokesperson, Guatemala City, 10 September 2018.

<sup>61</sup> For all the figures in this and the preceding paragraph, see "Encuesta: Pro MP-CICIG y democracia, y no Cacif, gobierno y ejército", *Nómada*, 27 March 2017. Azpuru, Rodríguez and Zechmeister, op. cit.

<sup>62</sup> Crisis Group interview, Ricardo Barrientos, senior economist, Central American Institute of Fiscal Studies, Guatemala City, 17 December 2015.

<sup>63</sup> See letter by the Congress of the United States, Washington, 14 February 2018.

tion.<sup>64</sup> Arguing (without presenting evidence) that Russia was interfering with the CICIG, Rubio blocked up to half of its annual funding, a major victory for Morales and the forces arrayed against the commission.<sup>65</sup>

The freeze finally came to an end in late August after Kenneth Merten, acting deputy assistant secretary in the Bureau of Western Hemisphere Affairs, assured Representative Christopher Smith, a Republican from New Jersey, that the U.S. embassy in Guatemala and the State Department had found no evidence of collusion between the CICIG and the Russian government.<sup>66</sup> But while Washington unfroze the funds, its public messaging in support of the CICIG is more muted than in the past. That in itself could send an unhelpful signal to Morales.

For his part, President Morales appears highly attuned to the White House's priorities regarding migration, drug trafficking and foreign affairs.<sup>67</sup> At a February 2018 meeting, the Trump administration thanked Morales for moving Guatemala's embassy in Israel to Jerusalem and discussed stopping illegal migration.<sup>68</sup> According to one senior U.S. diplomat, Washington's toleration of Morales' campaign against the CICIG shows that "Guatemala got a lot out of moving an embassy".<sup>69</sup>

Though its survival prospects appear dim, donor and public pressure could still help ensure some form of continuity for the commission. Some political figures, including former President Alejandro Maldonado, are calling for a public referendum on the CICIG's future.<sup>70</sup> Reform proposals on the table include limits on what has been seen as political interference, clarification of reporting lines and appointment of a deputy commissioner, who Guatemalan institutions would help select.<sup>71</sup> Representatives of sectors that have been directly affected by the CICIG's investigations have called for fast and fair trial procedures where those accused know how

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<sup>64</sup> "Guatemala corruption panel has new foe: U.S. Senator Marco Rubio", *The New York Times*, 6 May 2018.

<sup>65</sup> Ibid.

<sup>66</sup> See "Hearing before the Committee on Foreign Affairs House of Representatives, second session", 11 July 2018, <https://bit.ly/2p737Jo>. Representative Smith presented allegations of CICIG collusion with Moscow in the alleged persecution of the Bitkov family for irregularities in their acquisition of Guatemalan passports. The case against the CICIG drew support from Bill Browder, the financier whose Russian tax accountant, Sergei Magnitsky, died after eleven months in police custody and inspired the Global Magnitsky Human Rights Accountability Act of 2016 that allows the U.S. government to sanction human rights offenders, freeze their assets and ban them from entering the U.S.

<sup>67</sup> Speaking to high-level figures from the U.S., Mexico and Central America in the second Conference on Prosperity and Security in Central America, which took place in Washington on 11-12 October, Morales emphasised his government's security achievements, including record drug seizures, captures of gang members and alleged arrests of around 100 ISIS terrorists. "Jimmy Morales ataca en Washington a cortes guatemaltecas, MP y CICIG", *El Periódico*, 16 October 2018.

<sup>68</sup> "Readout of President Donald J. Trump's meeting with President Morales of Guatemala", Statements and Releases, White House, 8 February 2018.

<sup>69</sup> Crisis Group interview, senior U.S. diplomat, 9 October 2018.

<sup>70</sup> "La renovación de la CICIG, ¿habría que consultar a los guatemaltecos?", CNN en Español, 10 September 2018.

<sup>71</sup> See Jerson Ramos, "La CICIG reformada incluye una rendición de cuentas y un comisionado adjunto", *Publinews*, 7 September 2018; "Trump works to thank Guatemala for moving embassy by weakening anti-corruption panel", McClatchy, 10 July 2018.

long it will take, reflecting concerns over Guatemala's excessively long periods of pre-trial detention.<sup>72</sup>

Finding a compromise with the political authorities that does not defang the institution will be vital for the CICIG and justice reform to continue in Guatemala. For an agreement of this kind to take shape, however, the CICIG will first have to acknowledge and rectify its mistakes. Its objective of dismantling sophisticated criminal networks working within state institutions was not best served by investing resources and political capital in indicting the president's brother and son for a corruption case that had no evident connection to violent criminal networks.

The CICIG should by no means turn its back on investigating top-level politicians, but should only do so on the basis of clearly established criteria that take into account the magnitude of the crimes and the real or potential link to impunity for violent offenders. The commission cannot cleanse Guatemala of all corrupt networks. It can, however, both help in the pursuit of egregious crimes by politicians and state officials, and strengthen judicial independence so that Guatemala is equipped to continue these efforts once the commission eventually departs. Former Attorney General Thelma Aldana stated that the CICIG's main function is to ensure that the prosecution service is free from undue influences and that "the institution is independent from the person at the helm".<sup>73</sup>

In addition, the commission mismanaged its responses to the alleged beating of a young man during a football match by CICIG personnel and downplayed accusations of left-wing bias in the selection of its targets for investigation. In the first instance, it admitted that its personnel had become involved in a fight but stated that local judicial authorities would be at liberty to investigate whether any crime had been committed; as for the second, Velásquez has dismissed the claims and accused criminals of using every means at their disposal to defend their interests, including "ideological banners".<sup>74</sup>

These high-handed responses have supplied the anti-CICIG smear campaign with ammunition. The effort to defame the commission has gathered strength from different fronts, including from many of those held on remand awaiting trial in anti-corruption cases, former and active members of the military seeking impunity for crimes committed during the civil war, and conservative sectors of Guatemalan society

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<sup>72</sup> Crisis Group interview, head of a business chamber, Guatemala City, 7 August 2017. Suspects are not always kept in pre-trial custody, but courts often deny petitions for release from prison before trial in high-level corruption cases, due to the risk that the accused will flee the country.

<sup>73</sup> She added that she would have liked the CICIG to stay for "another twenty years". Crisis Group interview, Guatemala City, 11 December 2017.

<sup>74</sup> On the mismanaged case of Alfredo Zimeri, the young man who alleges that he was badly hurt by CICIG personnel during a football match, see "Una pelea por fútbol, la CICIG y una denuncia ante la ONU", *Soy502*, 1 September 2017, and the CICIG's short statement two months after the incident, "Sobre incidente futbolístico", CICIG comunicados, 31 August 2017. On complaints of left-wing bias, which include accusations that the CICIG is an agent of international socialism, see Mary Anastasia O'Grady, "Guatemala's president defends democracy against the U.N.", *The Wall Street Journal*, 4 September 2018; and Steven Hecht, "Guatemala versus an unholy alliance: will Trump, Pompeo take charge of US policy?", *Impunity Observer*, 10 September 2018. For Velásquez's reply, see "CICIG parte de una hipótesis: hay una captura total del Estado", *Factum*, 1 February 2018.

that distrust international actors and their supposed meddling.<sup>75</sup> Amid the vitriol, dialogue between the government, on one side, and the CICIG and the UN, on the other, has withered.

The CICIG should approach potential future negotiations over its mandate by recognising the compromises needed to continue operating in a hostile political environment – a democracy where public trust in authority has eroded, in part because of the investigations the commission is leading. Clearer and stronger criteria for case selection, based on the harm caused by the crime in question, should lay the basis for a revised agreement between the CICIG, UN and Guatemalan government, allowing for the commission's mandate to be renewed while curbing the hostility it has generated within Guatemala's political class. Acts of administrative corruption should remain under the jurisdiction of Guatemala's own reformed oversight institutions. Furthermore, the CICIG should continue to direct its resources toward legal reforms to increase the transparency of the political system and toward continuing efforts to entrench judicial independence and professional policing.

Reforms to the CICIG will also have to address some of the fundamental criticisms of its structure and operations as a semi-autonomous UN body based on a *sui generis* agreement with the Guatemalan state. The commission and its backers will need to respond to the Guatemalan government's arguments regarding sovereignty, even if it rightly regards them as a smokescreen for other interests, potentially through the appointment of a deputy commissioner approved by the Guatemalan government as well as more regular briefings on ongoing activities. Such collaboration should not, however, incur an obligation to share information about sensitive ongoing investigations.

A renewed CICIG might also find ways to impress upon Washington that its work serves U.S. goals in Latin America. The commission's pivotal contribution to improving public security in Guatemala suggests that it contributes to regional stability. The new National Defense Authorisation Act suggests other ways in which U.S. interests and the CICIG's mandate are aligned. Signed into law by President Donald Trump on 14 August, this act requires Secretary of State Pompeo to provide Congress with a list of individuals, including government officials, who have committed serious acts of corruption, drug trafficking and illicit campaign finance in Guatemala, Honduras and El Salvador. The CICIG's investigations would provide a major resource for establishing such a list for Guatemala and thereby support U.S. national security priorities.

Meanwhile, the Guatemalan government would also be well advised to show some willingness to compromise. President Morales' show of force in terminating the commission's mandate, along with his appeals to sovereignty and use of diplomatic transactions with the U.S., put him in the driver's seat at the moment. His actions are also indices of his unease, however. Confrontation with the CICIG has already led to charges being filed against him for illegal financing of his political campaign,

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<sup>75</sup> Commissioner Velásquez expressed his regret over “resistance [to the fight against corruption and impunity] from affected sectors” during a trip to Europe in July, see “CICIG pide continuar en Guatemala ante el ‘descomunal’ reto que afronta”, EFE, 3 July 2018. For a description of the convoluted network of adversaries and their sophisticated use of social media in the anti-CICIG smear campaign, see Cora Currier and Danielle Mackey, “The rise of the net center: how an army of trolls protects Guatemala's corrupt elite”, *The Intercept*, 7 April 2018.

though a majority of deputies in Congress voted on 16 October not to lift his immunity from prosecution.<sup>76</sup> Most importantly, Morales' ability to dictate the terms or severance of the relationship with the CICIG will only last until the end of his mandate, a mere fifteen months away. A criminal investigation of the president is probable in the mid-term, and any illegal actions taken by Morales in pursuit of the CICIG's termination and the commissioner Velásquez's expulsion could provide national prosecutors with grounds for future probes.

As a result, the government should respect the agreement that governs the CICIG's operations, step back from its confrontational stance and agree to the negotiation of a renewed mandate. Above all, it should refrain from further threats of force against Guatemalan citizens. It should not follow in the footsteps of the Honduran state, with its post-electoral police crackdown at the end of 2017, or the Nicaraguan state, with its more violent campaign against protesters since April.

Should the Guatemalan government attempt similar repression, it will likely face great resistance from university students and rural organisations that have previously shown their determination to back the CICIG. High-level business organisations have also evinced a desire to support reforms that would improve Guatemala's poor governance and strengthen its weak rule of law. The main private-sector umbrella organisation, CACIF, supported the CICIG's actions that eventually led to the president's resignation in 2015, but has limited itself to supporting the rule of law during the current crisis. While the Guatemalan public's will to stage large protests may have waned, President Morales should not ignore the likelihood that higher levels of discontent would fuel new political movements and candidates who could establish a foothold in Congress and local government in 2019, as well as shape the election of his successor.

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<sup>76</sup> Congress voted 82 to 39 against stripping Morales' immunity. "Congreso protege inmunidad del presidente Jimmy Morales", *Prensa Libre*, 16 October 2018. Willian Cumes, "Pedimos disculpas a Guatemala, dicen empresarios que financiaron a FCN-Nación", *Prensa Libre*, 19 April 2018.



## **VI. Conclusion**

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At this precarious moment for the CICIG, it is critical to emphasise its police and justice reform successes over the last decade. The CICIG has shown that it can help Guatemalan judicial institutions prosecute the powerful and help protect those institutions' independence. It appears to have been fundamental to reducing violent crime in Guatemala. Murder rates remain troublingly high across the country. Yet Guatemala is one of only three Latin American countries to have recently achieved a sustained reduction in homicides from appalling peaks, although several other countries have managed to reduce their murder rates from lesser highs in recent years.<sup>77</sup> For these reasons, proponents frequently hold up the commission as a rare example of successful international support for a nation's judicial system.

The political debate over the CICIG revolves around the merits of an international body's investigations into a sovereign country's high-level corruption. Yet a substantial part of the commission's success is less visible among elites or abroad but more significant to most Guatemalans: it comes from the extraordinary feat of improved public safety, rooted in basic reforms of day-to-day policing, as well as criminal investigation and prosecution.

Given that many of the thousands of Central Americans who head north do so to flee violence, the U.S. would be unwise to allow the CICIG to perish and believe that border control alone can deter migration. Instead, Washington should once again put its full weight behind the commission and its reforms, following revisions of its understanding with the Guatemalan state and its relations to the UN along with changes to its strategy of case selection. For their part, the CICIG's civil society and European allies should push for those revisions. The commission will not be a permanent fixture in country, but a reinvigorated CICIG with a renewed mandate is the best way to ensure that Guatemala produces fewer migrants and, more to the point, becomes a safer land for its people.

**Bogotá/New York/Brussels, 24 October 2018**

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<sup>77</sup> See footnote 38; World Bank website, <https://data.worldbank.org/indicator/VC.IHR.PSRC.P5?view=chart>; Robert Muggah and Katherine Aguirre, "Citizen Security in Latin America: Facts and Figures", Igarapé Institute Strategic Paper 33, April 2018, pp. 3 and 4.

Appendix A: Map of Guatemala



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## Appendix B: Synthetic Control Methodology

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The quantitative analysis carried out in this briefing uses open-source data collected from the World Bank's World Development Indicators archive, available at: <http://databank.worldbank.org/data/reports.aspx?source=world-development-indicators>.

In order to carry out a difference-in-differences approach, a few assumptions need to be validated. The first step is to construct a synthetic control case for Guatemala using the country's neighbours during the pre-2007 period. The pre-CICIG weights are produced with Jens Hainmueller's entropy balancing algorithm, implemented in Stata using the "ebalance" package. The goal is a hypothetical control case where the pre-treatment trends are in parallel – a critical assumption of the difference-in-differences strategy. Secondly, there is the exchangeability assumption of the difference-in-differences approach. The argument is that an institution like the CICIG could have been established in any number of Latin American countries, eg, El Salvador, Colombia, Nicaragua or Mexico, that have experienced intra-state conflict, paramilitary activity, high homicide rates and poor prosecutorial performance. It was largely chance that a body like the CICIG was formed in Guatemala rather than elsewhere.

The table below shows the countries and their relative weight in the synthetic control. Based on the data, pre-2007 Guatemala is approximately equivalent (in terms of trends in homicide, economic well-being and infant health) to a hypothetical country that is composed of 38 per cent El Salvador, 18 per cent Dominican Republic, 13 per cent Nicaragua, 8 per cent Costa Rica, 8 per cent Honduras, 5 per cent Panama, 4 per cent Venezuela, 3 per cent Colombia and 2 per cent Mexico (the percentages do not add up to 100 due to rounding).

Country	Weight
El Salvador	0.38
Dominican Republic	0.18
Nicaragua	0.13
Costa Rica	0.08
Honduras	0.08
Panama	0.05
Venezuela	0.04
Colombia	0.03
Mexico	0.02

The following five charts illustrate the pre-2007 trends in homicides, household consumption, GDP per capita and under-five mortality rates in detail, as well as homicide rates broken down by country.

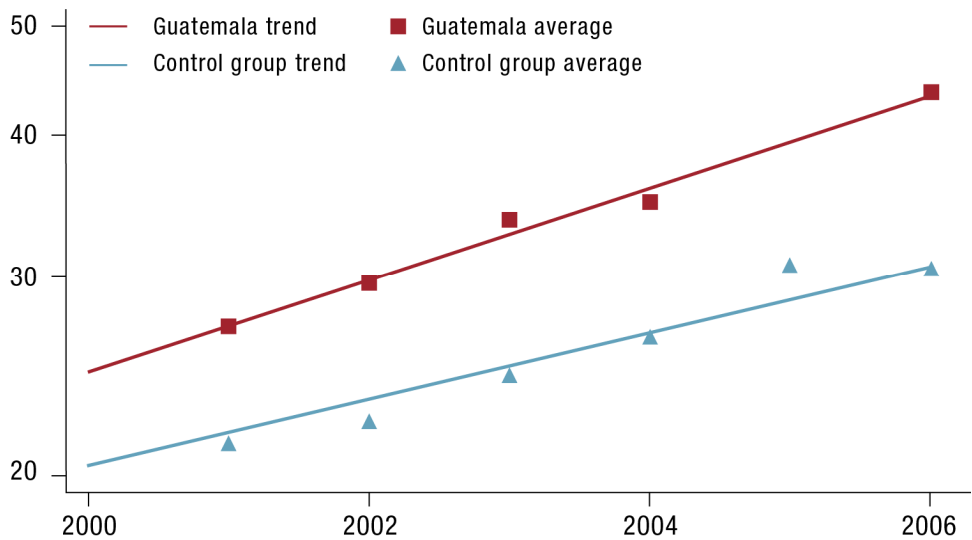
In order to compute the net effects of the CICIG on homicide, the standard difference-in-differences approach is used, operationalised in Stata using a two-way fixed-effects estimator on the weighted data. This process yields an average treatment effect of -2.77 homicides per 100,000 per year. That means that during the post-CICIG period, Guatemala had, on average, 2.77 fewer homicides per 100,000 per year than it would have been expected to.

Multiplying this average effect by the population of Guatemala in each year that the CICIG has been operational can approximate the number of avoided homicides. During the period 2007-2014, Guatemala's growing population averaged 14.8 million people. The multiplication yields an estimate of 3,279 avoided homicides over

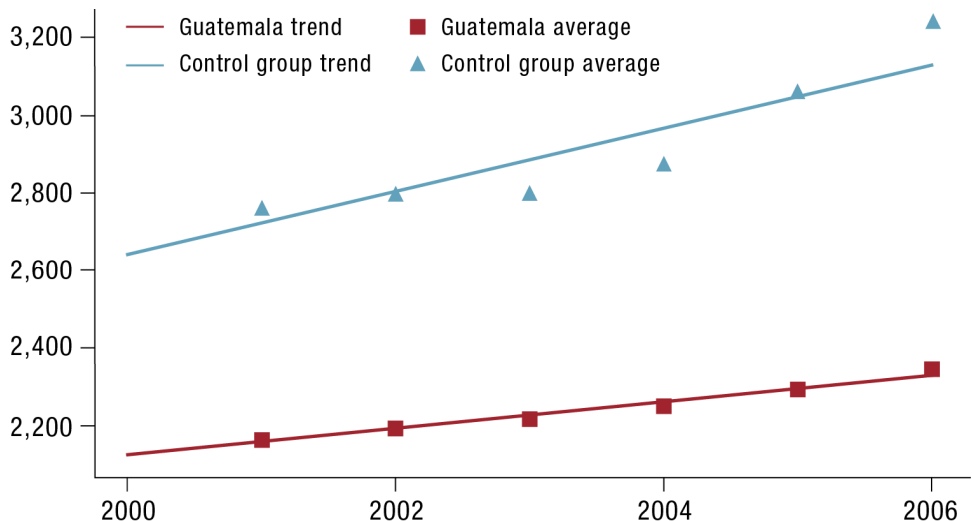
eight years. Extrapolating these effects through 2017, the approximate number of avoided homicides is 4,658 (during the period 2007-2017, Guatemala's population averaged 15.3 million).

The replication files for this analysis are hosted by Princeton's Empirical Studies of Conflict program, a co-sponsor of the Economics of Conflict program. Replication files are available at: <https://esoc.princeton.edu/subfiles/replication-material-guatemala-briefing>.

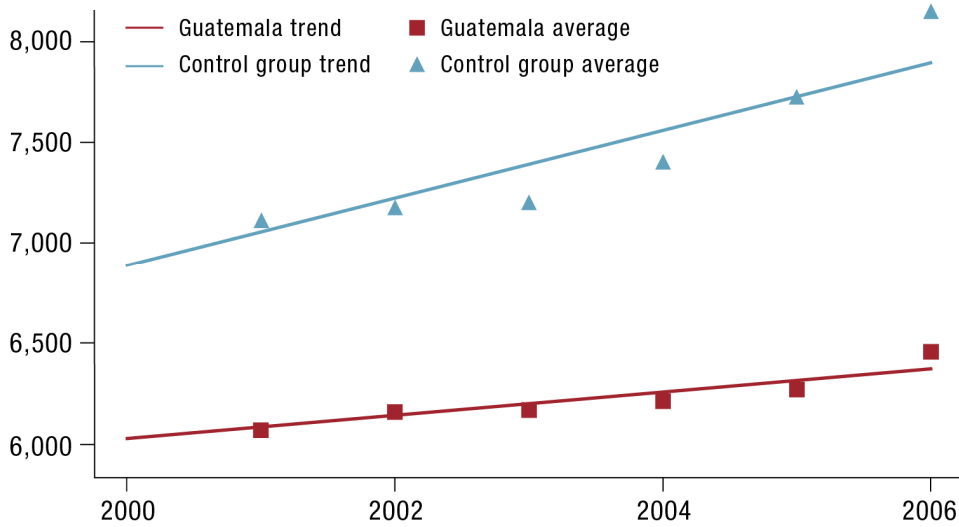
**Figure 2: Homicides per 100,000, 2000-2006**



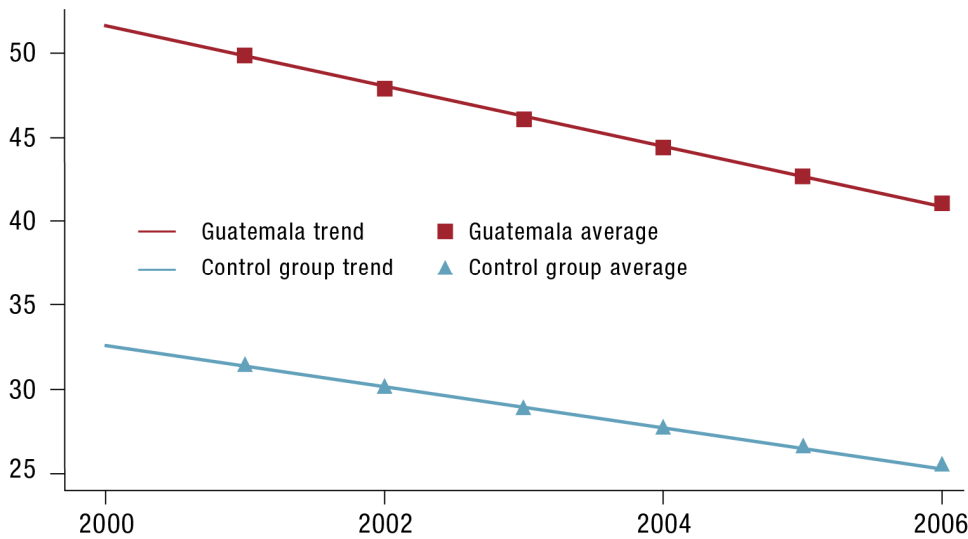
**Figure 3: Household Consumption (USD PPP), 2000-2006**



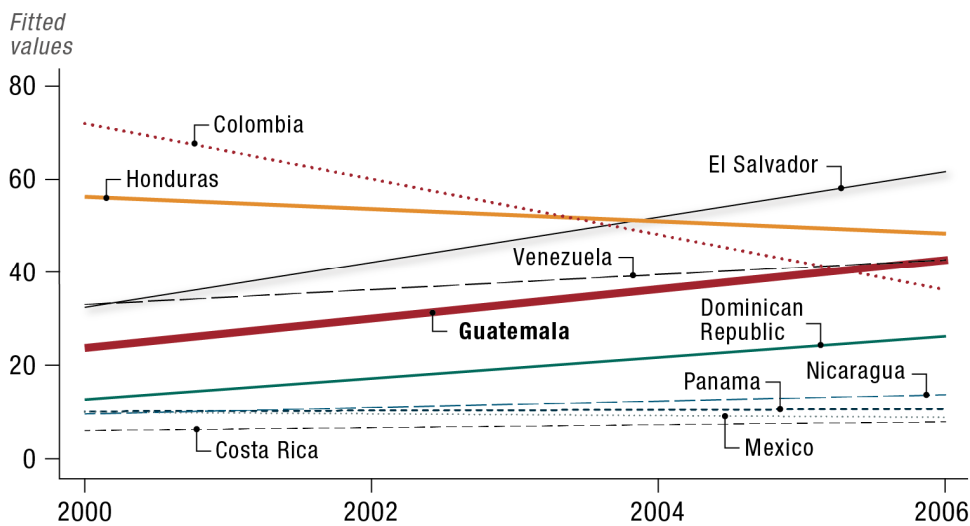
**Figure 4: GDP per Capita (PPP), 2000-2006**



**Figure 5: Under 5 Mortality Rate, 2000-2006**



**Figure 6: Homicide Rate, by Country, 2000-2006**



## Appendix C: About the International Crisis Group

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The International Crisis Group (Crisis Group) is an independent, non-profit, non-governmental organisation, with some 120 staff members on five continents, working through field-based analysis and high-level advocacy to prevent and resolve deadly conflict.

Crisis Group's approach is grounded in field research. Teams of political analysts are located within or close by countries or regions at risk of outbreak, escalation or recurrence of violent conflict. Based on information and assessments from the field, it produces analytical reports containing practical recommendations targeted at key international, regional and national decision-takers. Crisis Group also publishes *CrisisWatch*, a monthly early-warning bulletin, providing a succinct regular update on the state of play in up to 70 situations of conflict or potential conflict around the world.

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

The Crisis Group Board of Trustees – which includes prominent figures from the fields of politics, diplomacy, business and the media – is directly involved in helping to bring the reports and recommendations to the attention of senior policymakers around the world. Crisis Group is chaired by former UN Deputy Secretary-General and Administrator of the United Nations Development Programme (UNDP), Lord (Mark) Malloch-Brown.

Crisis Group's President & CEO, Robert Malley, took up the post on 1 January 2018. Malley was formerly Crisis Group's Middle East and North Africa Program Director and most recently was a Special Assistant to former U.S. President Barack Obama as well as Senior Adviser to the President for the Counter-ISIL Campaign, and White House Coordinator for the Middle East, North Africa and the Gulf region. Previously, he served as President Bill Clinton's Special Assistant for Israeli-Palestinian Affairs.

Crisis Group's international headquarters is in Brussels, and the organisation has offices in seven other locations: Bogotá, Dakar, Istanbul, Nairobi, London, New York, and Washington, DC. It has presences in the following locations: Abuja, Algiers, Bangkok, Beirut, Caracas, Gaza City, Guatemala City, Hong Kong, Jerusalem, Johannesburg, Juba, Mexico City, New Delhi, Rabat, Tbilisi, Toronto, Tripoli, Tunis, and Yangon.

Crisis Group receives financial support from a wide range of governments, foundations, and private sources. Currently Crisis Group holds relationships with the following governmental departments and agencies: Australian Department of Foreign Affairs and Trade, Austrian Development Agency, Global Affairs Canada, Danish Ministry of Foreign Affairs, European Union Instrument contributing to Stability and Peace, Finnish Ministry for Foreign Affairs, French Development Agency, French Ministry of Europe and Foreign Affairs, Icelandic Ministry for Foreign Affairs, Irish Aid, Japanese International Cooperation Agency, Liechtenstein Ministry of Foreign Affairs, Luxembourg Ministry of Foreign Affairs, New Zealand Ministry of Foreign Affairs and Trade, Norwegian Ministry of Foreign Affairs, Qatari Ministry of Foreign Affairs, Swedish Ministry of Foreign Affairs, Swiss Federal Department of Foreign Affairs and the Emirati Ministry of Foreign Affairs.

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**October 2018**

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## Appendix D: Reports and Briefings on Latin America since 2015

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### Special Reports

*Exploiting Disorder: al-Qaeda and the Islamic State*, Special Report N°1, 14 March 2016 (also available in Arabic and French).

*Seizing the Moment: From Early Warning to Early Action*, Special Report N°2, 22 June 2016.

*Counter-terrorism Pitfalls: What the U.S. Fight against ISIS and al-Qaeda Should Avoid*, Special Report N°3, 22 March 2017.

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*Back from the Brink: Saving Ciudad Juárez*, Latin America Report N°54, 25 February 2015 (also available in Spanish).

*On Thinner Ice: The Final Phase of Colombia's Peace Talks*, Latin America Briefing N°32, 2 July 2015 (also available in Spanish).

*Venezuela: Unnatural Disaster*, Latin America Briefing N°33, 30 July 2015 (also available in Spanish).

*Disappeared: Justice Denied in Mexico's Guerrero State*, Latin America Report N°55, 23 October 2015 (also available in Spanish).

*The End of Hegemony: What Next for Venezuela?*, Latin America Briefing N°34, 21 December 2015 (also available in Spanish).

*Crutch to Catalyst? The International Commission Against Impunity in Guatemala*, Latin America Report N°56, 29 January 2016 (also available in Spanish).

*Venezuela: Edge of the Precipice*, Latin America Briefing N°35, 23 June 2016 (also available in Spanish).

*Easy Prey: Criminal Violence and Central American Migration*, Latin America Report N°57, 28 July 2016 (also available in Spanish).

*Colombia's Final Steps to the End of War*, Latin America Report N°58, 7 September 2016 (also available in Spanish).

*Venezuela: Tough Talking*, Latin America Report N°59, 16 December 2016 (also available in Spanish).

*In the Shadow of "No": Peace after Colombia's Plebiscite*, Latin America Report N°60, 31 January 2017 (also available in Spanish).

*Veracruz: Fixing Mexico's State of Terror*, Latin America Report N°61, 28 February 2017 (also available in Spanish).

*Mafia of the Poor: Gang Violence and Extortion in Central America*, Latin America Report N°62, 6 April 2017 (also available in Spanish).

*Power without the People: Averting Venezuela's Breakdown*, Latin America Briefing N°36, 19 June 2017 (also available in Spanish).

*Colombia's Armed Groups Battle for the Spoils of Peace*, Latin America Report N°63, 19 October 2017 (also available in Spanish).

*Venezuela: Hunger by Default*, Latin America Briefing N°37, 23 November 2017 (also available in Spanish).

*El Salvador's Politics of Perpetual Violence*, Latin America Report N°64, 19 December 2017 (also available in Spanish).

*Containing the Shock Waves from Venezuela*, Latin America Report N°65, 21 March 2018 (also available in Spanish).

*Mexico's Southern Border: Security, Violence and Migration in the Trump Era*, Latin America Report N°66, 9 May 2018 (also available in Spanish).

*Risky Business: The Duque Government's Approach to Peace in Colombia*, Latin America Report N°67, 21 June 2018 (also available in Spanish).

*The Missing Peace: Colombia's New Government and Last Guerrillas*, Latin America Report N°68, 12 July 2018 (also available in Spanish).

*Building Peace in Mexico: Dilemmas Facing the López Obrador Government*, Latin America Report N°69, 11 October 2018 (also available in Spanish).

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