Guatemala's president tried to expel the U.N. commissioner who announced he was under investigation

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By Rachel Schwartz

Indigenous leaders stand in support of U.N. International Commission Against Impunity commissioner Iván Velásquez, outside the U.N. office in Guatemala City in August. (AP)

On Aug. 27, Guatemalan President Jimmy Morales ordered the immediate expulsion of the head of the U.N. Commission against Impunity in Guatemala, Iván Velásquez. Within hours, the country's Constitutional Court had blocked the move.

Morales's sudden announcement sent shock waves throughout Guatemala and the international community. Representative Eliot L. Engel, ranking Democrat on the House Committee on Foreign Affairs, issued a statement calling for closer scrutiny of Guatemala's commitments vis-à-vis U.S. assistance.

What's the story here? And what does it mean for Guatemala's fight against impunity?

The CICIG, a unique international body authorized to collaborate on national investigations, offers Guatemalans the hope that members of government and the elite who commit crimes will no longer be immune from punishment. Since 2007 the group has worked hand-in-hand with the public prosecutor's office to take on numerous landmark cases.

[There's more to measuring corruption than Transparency International's annual index, just released]

Within the broader landscape of Latin America's struggle against corruption, the CICIG has made Guatemala one of the more successful countries in prosecuting corrupt officials. A recent Americas Barometer survey found that 70 percent of respondents expressed trust in the CICIG.

Is this a battle of personalities?

Yes, in part — Morales recently found himself under investigation. Just 36 hours before the expulsion order, Velásquez and Attorney General Thelma Aldana made public an initial investigation of Morales for illicit campaign finance, and recommended he lose his legal immunity. News of the investigation led to broad civil society calls for Morales, who ran on an anti-corruption platform, to resign. Earlier in 2017, prosecutors charged the president's brother and son with fraud.

The decision to expel the CICIG commissioner could be as simple as an executive looking to oust the official investigating him for illegal campaign activities — much like the criticism of President Trump's firing of FBI Director James B. Comey in May.

Since arriving in 2014, Velásquez has made it clear that justice is "nonnegotiable," even if it means pursuing authorities at the highest levels. Velásquez, a Colombian magistrate, earned his stripes going after members of congress in his home country for paramilitary links.

In 2015 and 2016, Velásquez and Aldana uncovered a number of criminal networks and fraudulent activities headed up by Vice President Roxana Baldetti and President Otto Pérez Molina. Forced to resign, Baldetti and Pérez now

await trial alongside dozens of officials implicated in these crimes.

There's a deeper explanation

But chalking up the current conflict to the president's last-ditch effort to save himself misses the deeper dynamics at play. My research on postwar institutional change suggests the current crisis is a watershed moment in the dismantling of the corrupt, informal practices lying beneath the veneer of Guatemala's democratic institutions.

[Guatemala's civil war ended 20 years ago today. Here are 4 things to know about its path to democracy.]

These informal practices remain deeply embedded in the workings of the Guatemalan state since the 1986 return to democracy and 1996 end of the country's 36-year civil war. They include criminal schemes to divert customs revenue from state coffers and to negotiate fraudulent deals for faulty medical supplies, which have claimed lives within the public health system. And there are long-standing unofficial practices of reimbursing donors for campaign contributions, via multimillion-dollar state contracts.

In this light, there appears to be a broader effort by a coalition that has long benefited from these alternative rules of the game. This coalition includes the founders of the National Convergence Front (FCN), Morales's political party: a group of retired military officers accused of wartime human rights abuses and corruption. It also includes some business elites, particularly in the media and construction industries, who depend on state contracts.

Guatemala's congress also has a stake to protect

Guatemala's political class, including members of congress, have reason to protect these informal systems. Congressional deputies routinely jump between political parties to maintain the under-the-table personal benefits that come with office — including bureaucratic posts for friends and family members, along with public works funds that can provide kickbacks.

Members of congress are also finding themselves in the judicial crosshairs — in June, the public prosecutor's office opened investigations into 15 current and 19 former members.

Though the pro-impunity camp, which includes the president and his ex-military backers along with some political and economic elites, has maintained a tight grip on power, it is losing ground to a growing coalition that has coalesced around the CICIG. Morales may be losing support for impunity — Guatemala's minister of health stepped down following the expulsion order and denounced undue congressional influence in hiring decisions. The head of the tax administration, meanwhile, began targeting businesses that had long engaged in tax evasion.

[It's not just Venezuela. Elected governments don't necessarily defend democracy or protect human rights.]

Among civil society groups, there is also a growing pool of allies. In addition to the human rights community, which was instrumental in lobbying for the CICIG's creation, student groups have been organizing and recently reclaimed the long-coopted leadership body at Guatemala's main university.

Indigenous Mayan groups added the struggle against impunity to their social, economic and cultural rights goals. Newer independent media groups in Guatemala publish in-depth investigations to expose corruption. And a growing segment of the economic elite has signed on to the anti-corruption fight, seeing it as imperative to improving Guatemala's investment climate.

The European Union, the United States and Canada have been critical partners in the effort to fight corruption and impunity in Guatemala. Combined, they have contributed some $90 million in CICIG support since 2011, with U.S. funds counting for roughly one-third.

In the U.S. view, the adverse effects of corruption contribute to illegal immigration and organized crime, making the CICIG an important component of national security strategy in Central America. The strong international support has

encouraged Guatemala to attack systemic corruption, despite the reaction of its traditional stakeholders.

What's next?

For the moment, this particular battle is at a stalemate. Velásquez confirmed he will continue as CICIG commissioner following the Constitutional Court decision to block his expulsion.

It is hard to imagine the case against Morales getting much further, however. This week the Supreme Court took the next step in lifting his immunity, but the ultimate decision falls to Guatemala's congress. With a significant congressional contingent also under investigation, the deck is heavily stacked in Morales's favor.

But the broader struggle between the pro- and anti-impunity camps is unlikely to wind down anytime soon. As long as the coalition to combat corruption continues to attract state and civil society allies, those benefiting from the status quo will fight for impunity, and seek to protect the informal political benefits they have long enjoyed. There will no doubt be continued clashes, and these moments may well become more numerous and destabilizing. But they also tell us that Guatemala's fight against corruption is working.

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