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CICIG in Guatemala: The Institutionalization of an Anti-Corruption Body

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CICIG in Guatemala:
The Institutionalization of an Anti-Corruption Body

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Senior Honors Thesis

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Abstract. When is the institutionalization of anti-corruption bodies possible in Latin America? Central America's Cold War era internal conflicts destabilized the Northern Triangle's governments and greatly weakened judicial institutions. The legacy of these conflicts led to the creation of parallel corrupt networks that infiltrated state institutions and perpetuated impunity and violence. However, in Guatemala, the institutionalization of the International Commission Against Impunity in Guatemala (*Comisión Internacional Contra la Impunidad en Guatemala*, CICIG) has improved the country's ability to prosecute high-level corruption against the threat of powerful and corrupt state actors. A comparative analysis of the tenures of CICIG's three commissioners reveals that a high level of institutionalization in anti-corruption bodies is possible when the institutions' leaders activate four "design principles". CICIG's Commissioners developed effective investigative practices within the organization, infused it with the value needed to build working relationships with in-country judicial institutions, and adapted the institution to protect its autonomy and legitimacy from external threats.

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CHAPTER ONE: INTRODUCTION

What determines if an anti-corruption institution can extend beyond its mandate through a robust process of institutionalization?¹ Cold War era internal conflicts led to weakened judicial systems and corrupt networks that infiltrated state institutions in the Northern Triangle – El Salvador, Honduras, and Guatemala (Ruhl 2011, 33).² While many scholars thought that the turn to electoral democracy in the 1980s and 1990s would pressure politicians to act in a more transparent manner, the shift from authoritarianism did not significantly decrease the level of corruption (Rehren 2009, 47).³ In response, Central American nations are seeking solutions to corruption. Following an agreement between the Guatemalan state and the United Nations, the International Commission Against Impunity in Guatemala (*La Comisión Internacional contra la Impunidad en Guatemala*, CICIG) started its work on September 4, 2007. The successful establishment of CICIG as a highly-institutionalized anti-corruption body that has proven itself capable of dismantling corrupt networks in Guatemala paved the way for additional anti-corruption institutions in the region. On September 14, 2015, Honduran President Juan Orlando Hernández petitioned the OAS Secretary General for the creation of an international anti-

¹ I further explain institutionalization on page seventeen. When using the term “institutionalization”, I refer the mixture of two separate processes: behavioral routinization and value infusion. Behavioral routinization as part of institutionalization is the process by which institutional rules, patterns, and practices become entrenched norms within the institution (O’Donnell 1994, 1996). Institutionalization through value infusion is the process by which organizations and procedures acquire value and stability (Selznick 1957; Huntington 1968).

² Scholars propose many factors that influence the level of corruption in a country. While this thesis does not seek to explain the origins of corruption in the region, scholars often describe the causes of corruption as falling into three broad categories: institutions, incentives, and personal ethics (Rose-Ackerman and Palifka 2016, 523). For literature on the origins of grand corruption in Latin America see Morris 2008. Montinola and Jackman 2002; Triesman 2007; and Johnson 2004 all argue that economic development is linked to the level of corruption. Quah 2006; Gillespie 2006; and Johnson 2004 argue that corruption is lower in countries where law enforcement institutions pose a credible threat to corrupt political actors. Some scholars (de Sardan 1999; Gillespie 2006) even argue that cultural tolerance for corruption is associated with the level of corruption. These are all valid areas of study, but these explanatory factors for the causes of corruption are not within the scope of this thesis.

³ Per Transparency International’s Corruption Perceptions Index, post-democracy perceptions of corruption in Guatemala in 1998 were 3.1/10 with a ranking of 59 of 85 countries studied. El Salvador in the same year was 51 out of 85, and Honduras was 83 out of 85 (Corruption Perceptions Index 1998).

corruption body. The Support Mission Against Corruption and Impunity in Honduras (*Misión de Apoyo contra la Corrupción y la Impunidad en Honduras*, MACCIH) commenced on April 19, 2016.

Proponents of anti-corruption institutions argue that in some cases they can dismantle illicit networks that weaken the rule of law and degrade the democratic process (Blake and Morris 2009, 202-203). However, once an anti-corruption institution receives its mandate, there is an arduous process that occurs before it achieves the legitimacy and autonomy necessary to prosecute powerful corrupt state actors. For example, while CICIG started its work in late 2007, its major successes did not come until 2015 and 2016. During an eight-year period between 2007 and 2015, CICIG faced moments when the public prosecutor's office (*Ministerio Público*, MP) was unwilling to cooperate on cases, threats from numerous presidents to terminate its mandate, and obscure defamation campaigns from an elite-financed media. Despite these substantial obstructions to CICIG's institution building process, it developed into a powerful anti-corruption body that has penetrated and dismantled numerous corrupt networks in Guatemala. The goal of this thesis is to explain *how* and *why* CICIG achieved the institutional authority necessary to dismantle these entrenched and well-connected networks of corruption in Guatemala.

CICIG's recent institutionalization and numerous instances of successful prosecution raises important questions about anti-corruption institution building in Central America. First, *how* did CICIG move beyond its institutional design and start establishing its autonomy and legitimacy in a robust process of institutionalization? In particular, what effective practices did CICIG develop that helped the institution achieve its goals? As a new anti-corruption organization, *why* did CICIG not succumb to multiple threats against its legitimacy? *How* did

CICIG's commissioners leverage their resources to defend the institution from external threats? Finally, after an eight-year process of institutionalization, *how* did CICIG utilize its position as a legitimate anti-corruption institution to assist the MP in prosecuting complex cases of corruption? In sum, *how* and *why* did CICIG exceed expectations in its institutional development and in prosecuting corruption and impunity?

I explore these questions through a comparative analysis of CICIG's institutional design, its three Commissioners' use of administrative tools and organizational tactics to strengthen the institution, and its eventual assistance to the MP in prosecuting the customs fraud case of *La Línea* in 2015. In providing an explanation of *how* and *why* CICIG's leaders were able to build the organization into a strong anti-corruption body, this study addresses the circumstances under which other anti-corruption institutions such as MACCIH can successfully establish themselves and achieve their goals in Central America.

RESEARCH PUZZLE

The successful institutionalization of CICIG is most evident in its investigation and prosecution of the two largest and inter-connected corruption cases in Guatemalan history: the customs fraud case of *La Línea* and the illicit campaign finance case of the *Cooptación del Estado*. On April 16, 2015, CICIG and the MP revealed that they had discovered a corrupt network within Guatemala's tax collection agency (*Superintendencia de Administración Tributaria*, SAT). The network called "The Line" (*La Línea*), defrauded the Guatemalan government of \$120 million (940 million Quetzales). In two investigative phases, CICIG linked *La Línea* to then Vice-President Roxana Baldetti (CICIG 2015, 36-39). Responding to CICIG's case announcement, 15,000 Guatemalans occupied the Constitutional Plaza on April 25, 2015,

and as the protests grew they pressured Baldetti to resign on May 8, 2015 (Manifestan contra la corrupción en Plaza de la Constitución).

As the *La Línea* investigation continued, on June 2, 2016, CICIG and the MP revealed that they had discovered a more extensive network of corruption which encompassed former President Pérez Molina, Baldetti, and their entire political party, the Patriotic Party (*Partido Patriota*, PP). The corrupt network in this case, called the *Cooptación del Estado*, started in 2007 when Pérez Molina, Baldetti, and the PP designed a system of corrupt campaign finance that funded the party in the 2011 election and beyond (CICIG 2015, 39-42). Currently, CICIG reports that over 53 people are implicated in the network that produced at least 450 illicit contracts, of which the total amount of money diverted is still unknown (Comunicado de Prensa 047). On July 27, 2016 – just seven weeks after CICIG and the MP’s *Cooptación del Estado* case announcement – Judge Miguel Ángel Gálvez decided to bring Pérez Molina and Baldetti to trial and keep them in preventative prison for their roles in both corruption scandals (Roxana Baldetti y Otto Pérez Molina, procesados por lavado de dinero y cohecho pasivo). Both illicit networks severely degraded institutions such as the SAT and the executive branch between 2007 and 2016. CICIG’s success in penetrating and dismantling these complex illicit networks demands an interdisciplinary study of the factors that allowed the anti-corruption body to achieve the legitimacy and autonomy needed to prosecute powerful actors such as former President Pérez Molina and former Vice-President Baldetti.

It is important to study the institutionalization of CICIG because of its role in ameliorating some of the effects that corruption can have on society. Corruption begets institutional inefficiency and political and socioeconomic inequity. Corruption also erodes political legitimacy and the protection of citizenship rights. Finally, corrupt networks in state

institutions can perpetuate violence against the citizenry (Rose-Ackerman and Palifka 2016, 523). As Ackerman and Palifka argue in their study about the causes of corruption and reform processes, there is no one model for combatting corruption. Any reform process or institutional design must consider the historical, political, and social realities of the country in which corruption is degrading the rule of law.

By dismantling specific corrupt networks such as those implicated in the *La Línea* and *Cooptación del Estado* cases, CICIG improved the efficiency of Guatemalan institutions and removed two executive officials who were eroding political legitimacy and citizenship rights. While CICIG cannot hope to mitigate all the effects of corruption, it has achieved notable successes in dismantling specific corrupt networks.⁴ Although the illicit networks in the *La Línea* and *Cooptación del Estado* cases infiltrated state institutions and weakened the rule of law, they largely involved embezzlement and influence peddling by and for elite Guatemalans. By contrast, many Guatemalan citizens experience corruption in ways that directly impact their daily lives. The United Nations argues that entrenched corruption functions through “close ties between criminal enterprises and criminal elites” that “hinder establishing effective state institutions” (Report of the High-level Panel on Threats, Challenges, and Change, 53). For

⁴ One concrete example of the limits of CICIG as an institution in terms of stopping the effects of corruption has been in preventing violence against human rights defenders. Julio Bacio-Terracino argues that corruption can act as a necessary condition for human rights violations (2010, 243). In a Washington Office on Latin America (WOLA) report in 2003, Susan Peacock and Adriana Beltrán demonstrated that armed clandestine groups “act at the behest of an inter-connected set of Guatemalans”. Between January 2000 and July 2001, these clandestine groups committed at least 150 acts of violence against human rights groups (Peacock and Beltrán 2003, 1-3). Despite landmark prosecutions in the *La Línea* and *Cooptación del Estado* cases in 2015 and 2016, in its 2016/17 annual report, Amnesty International reported that an elite group of Guatemalans continue to use smear campaigns and the criminal justice system to threaten human rights advocates. In the report, Amnesty cites Guatemalan NGO, Protection Unit of Guatemalan Human Rights Defenders’ (*Unidad de Protección a Defensoras y Defensores de Derechos Humanos de Guatemala*, UDEFEGUA) statistic that 14 human rights defenders were killed in 2016. Furthermore, in 2016, prominent human rights defender Daniel Pascual continued to be prosecuted on charges of slander and defamation (Amnesty International Report 2016/2017: The State of the World’s Human Rights, 173-174). Therefore, while CICIG has prosecuted emblematic cases of corruption, its prosecutorial successes have in no way improved all the ways in which corruption influences Guatemalan society.

example, CICIG and the MP's prosecution of the IGGS-PISA case embodies how corruption inhibits the establishment of effective state institutions. In 2014, the Guatemalan social security institute (*Instituto Guatemalteco de Seguridad Social*, IGSS) had awarded a fraudulent \$15 million contract for dialysis treatment services to the drug company PISA of Guatemala. Otto Fernando Molina Stalling, a former IGGS advisor, charged PISA between 15 and 16 percent commission (Q116 million) for accepting the contract, which amounted to \$2.27 million in fraudulent funds. As a direct result of the illegal contract, PISA did not provide appropriate dialysis services and thirteen people lost their lives (Lohmuller 2015 (3)). By arresting IGGS director Juan de Dios Rodríguez and fifteen other employees during the summer of 2015, CICIG dismantled an illicit network that was prohibiting diabetic Guatemalans from receiving quality treatment.⁵

It is also critical to examine CICIG's institutional development because one would not expect an anti-corruption institution to be able to successfully establish itself as a meaningful power in the Guatemalan context. A snapshot of the health of Guatemalan judicial institutions demonstrates why CICIG's institutionalization is surprising. Between 2005 and 2014, 7,622 cases of extortion entered the judicial system. Only 1,838 of these cases resulted in a conviction, which amounts to a success rate of 24 percent (Cawley 2014). A Latinobarómetro public opinion survey found that in 2015, 73.7 percent of polled Guatemalans had either little or no trust in the judicial system (Informe Latinobarómetro Guatemala: La Democracia 2015). In 2016, Transparency International's Corruption Perceptions Index also found that Guatemalans

⁵ CICIG's dismantling of the IGGS-PISA corrupt network has slightly improved IGGS' effectiveness as an institution. However, IGGS requires significant institutional reform to improve its services and stamp out corruption at the lowest levels of the institution. For example, due to inefficiency and a lack of funds, IGGS and the Ministry of Health were not able to give the vaccines that they had hoped to deliver in 2015 and 2016. In late July of 2016, President Jimmy Morales named Lucrecia Hernández Mack as the new Minister of Health, who wants to promote citizen participation and health councils as part of her institutional reform process (Contreras 2016).

experience a high level of corruption in the country; Guatemala ranked 136th out of 177 countries polled in the CPI, in which a lower ranking correlates to a higher perception of corruption (Corruption Perceptions Index 2016). The World Economic Forum ranked Guatemala's judicial independence as 105th of 144 countries in 2015 (Judicial Independence Competitiveness Rankings 2014-2015). Also in 2015, the World Justice Project's Rule of Law Index published that Guatemala had a rule of law score of .44, placing it 15th out of 19th in Latin America (Rule of Law Index 2015). Therefore, based on these measures that indicate a weak system of judicial institutions, one would not expect CICIG to be able to dismantle illicit networks and improve the rule of law in Guatemala to the extent that it has.

The formation of an anti-corruption institution in Guatemala that has high levels of legitimacy and autonomy is also surprising given the extent to which illicit networks have infiltrated state institutions.⁶ Corrupt politicians and bureaucrats within Guatemalan institutions have influence over the electoral system (as the illicit campaign finance and the PP's electoral victory in 2011 demonstrated in the *Cooptación del Estado* case). Members of the business elite also influence elections for judges through their connections in Guatemala's bar association (*Colegio de Abogados, CANG*), in judges' associations, or directly in Guatemalan Congress (*Procesos de elección de magistrados en Guatemala y Honduras*, 38).⁷ Organized crime in

⁶ I provide a more exhaustive analysis of the origins illicit networks within Guatemalan state institutions in chapter two.

⁷ Article 203 of Guatemala's 1985 Constitution recognizes judicial independence. However, in practice, the Guatemalan judiciary suffers from a lack of autonomy in part because of the way that Supreme and Appeals Court judges are nominated and confirmed. For example, in the Appeals Court judge selection process there is a "postulation committee" made up of 34 committee members. This committee sends a list of judges that they recommend to Congress for consideration. The Presidents of Guatemala's Law Universities have 11 seats on the committee, the Guatemalan bar association has 11, the Supreme Court magistrates have 11, and the Presidents of the rest of the country's universities have 1 seat (*Procesos de elección de magistrados en Guatemala y Honduras* 2015, 13). A 2014 analysis by InSight Crime's Steven Dudley shows that this system causes those who aspire to be appeals and supreme court judges to run entire political campaigns to receive the favor of committee members. Thus, those who make up the 34-member postulation committee essentially control who will be supreme and appellate court judges, and elites are willing to break the bank to influence who is on the committee (Dudley 2014).

Guatemala has also been linked to rigging the selection process of supreme and appellate court judges (Dudley 2014). These judges can rule favorably for elite Guatemalans and stop corruption cases from advancing. This is exactly what occurred in the Law Firm of Impunity (*Bufete de Impunidad*) case in 2015. As part of the *La Línea* case, on May 8, 2015 the MP arrested three lawyers for running a “Law Firm of Impunity” that connected clients to judges who were willing to rule in their favor. One of the judges implicated in giving lighter prison sentences in the *La Línea* case was Marta Josefina Sierra González de Stalling, sister-in-law of then President of the Criminal Chamber of the Supreme Court, Blanca Aída Stalling Dávila.⁸ Despite a previous ruling of preventative prison, the evidence against her, and a joint CICIG-MP appeal of the decision, González de Stalling only received a Q200,000 fine (roughly \$27,000) for her actions (CICIG 2015, 33-35). Therefore, even when CICIG and the MP demonstrate concrete evidence against a corrupt state actor, there is no guarantee that the judicial system will provide a ruling not influenced by corruption.

Another potential barrier to CICIG’s institutionalization was its own institutional design and mandate.⁹ Per CICIG’s mandate it has no formal prosecutorial power. The final agreement between Guatemala and the United Nations stipulates that CICIG makes proposals for legal reforms, works closely with selected staff from the MP and the national police (*Policía Nacional Civil*, PNC) to enhance expertise in criminal investigation and prosecution, and provides technical assistance to justice sector institutions (Mandato, Acuerdo de Creación de la CICIG).

⁸ CICIG continues to show its ability as a highly-institutionalized body to prosecute powerful state actors. During my field work in January of 2017, CICIG and the MP also filed charges of influence peddling against the President of the Criminal Chamber of the Supreme Court, Blanca Aída Stalling Dávila. On February 9, 2017 Judge Adrian Rodríguez sentenced Blanca Stalling to preventative prison for attempting to use her position on the Supreme Court to influence the decision of judge Carlos Giovanni Ruano Pineda of the Ninth Tribunal of Penal Sentencing (*Tribunal Noveno de Sentencia Penal*) during the *La Línea* case ruling against her son (Comunicado de Prensa 015).

⁹ I fully elaborate on CICIG’s institutional design, its mandate, and its formal functions alongside Guatemalan judicial institutions in chapter two.

Therefore, on paper, CICIG may investigate cases, but it must function within a corrupt judicial system and it must rely on the MP to prosecute cases that the anti-corruption body recommends. The limits of this design on institution building were most prevalent in 2007 and 2008 when CICIG first started its work. Commissioner Carlos Castresana Fernández not only faced a 99.75% impunity rate for crimes (CICIG 2010, 4), but he also clashed with Attorney General Juan Luis Florido Solís for blocking CICIG investigations and with Minister of Government Carlos Vielmann, who at the time was ordering extrajudicial executions within the ministry (*Ministerio de Gobernación*) (Author Interview with Rodríguez).¹⁰

In sum for numerous reasons, it is important to study the process by which CICIG became a highly-institutionalized anti-corruption body. CICIG has dismantled corrupt networks that were perpetuating socioeconomic inequality such as in the IGGS-PISA case. In addition to removing corrupt judges from positions of power, such as Marta Josefina Sierra González de Stalling, CICIG was also able to investigate and prosecute the most powerful and corrupt state actors in the country: former President Otto Pérez Molina and former Vice-President Roxana Baldetti. Furthermore, it is important to understand how CICIG was surprisingly able to overcome the numerous obstacles to becoming an influential in-country institution. Given Guatemala's weak judicial institutions, the extent to which well-connected and corrupt networks have infiltrated state institutions, and CICIG's institutional design, one would not have expected it to embark on a robust process of institutionalization, nor acquire the legitimacy, autonomy, and prosecutorial clout necessary challenge the pre-2007 norm of impunity for corruption. By dismantling the corrupt networks in the *La Línea* and *Cooptación del Estado* cases, CICIG

¹⁰ As evidence of Vielmann's lack of commitment to anti-impunity and anti-corruption, he is currently standing trial in Madrid, Spain and facing a sentence of 40 years for ordering the extrajudicial killing of 10 gang members in 2006 while Minister of Government (Pérez).

demonstrated that even when anti-corruption institutions face considerable obstacles, it is possible to prosecute powerful state actors. The rest of this thesis explores *how* and *why* CICIG was able to institutionalize and achieve these important prosecutorial successes.

OVERVIEW OF THE ARGUMENT

The goal of this thesis is to explain how CICIG's commissioners succeeded in institutionalizing the anti-corruption body. Within institution building there are three interconnected steps. First, policy experts establish an institutional design that confers authority onto the institution and establishes the rules by which the institution operates.¹¹ The second, and often the most difficult step, is when the institution's leaders build upon the original institutional design by creating and enforcing norms and practices in the areas that the institution is concerned with. Third, the institution is infused with value, meaning that employees within the institution develop a vested interest in its success and external state and civil society actors turn to the institution for solutions to complex legal and policy issues.

When anti-corruption institutions have gone through these three steps, they can be powerful enough to achieve their goals despite threats from corrupt state actors. However, when anti-corruption institutions go through a weak process of institutionalization and are unable to implement formal rules beyond the original institutional design, the institution is unlikely to achieve its goals. In the case of corruption, the institution would not have the legitimacy nor the autonomy necessary to confront powerful state actors whom the institution has accused of illicit

¹¹ While legal and corruption experts from around the globe designed CICIG, policy experts do not create all institutions. For example, the Catholic Church is an enduring institution with well-established practices, norms and beliefs. Despite this high-level of institutionalization, policy experts did not design the Church's institutional organization.

activity. What are the factors that determine if an anti-corruption body can overcome attacks against it and transform itself into a highly-institutionalized organization?

This thesis applies the theoretical framework of sociologists Arjen Boin and Tom Christensen in their work, “The Development of Public Institutions: Reconsidering the Role of Leadership” to the tenures of CICIG’s three commissioners between 2007 and the present.¹² Like Jameson Doig and Erwin Hargrove, I do not subscribe to the notion that in every powerful institution there is a “great man” whose heroics lead to its success (1990). Instead, while applying the framework of Boin and Christensen, I argue that leaders “play a limited but crucial role in the institutionalization process”. Effective leaders activate four “design principles” that help an organization navigate institutionalization. By applying these design principles (which I will explain in the next section) in crucial moments, leaders assist an organization by implementing its formal rules and by infusing the institution with value. In their work, Boin and Christensen argue that researchers can apply these “design principles” as a hypothesis to determine how an institution becomes highly-institutionalized. They recommend a “long-term research effort into the organizational histories of public institutions” to provide evidence for their design principles framework (Boin and Christensen 2008, 290). By applying their framework to the case of CICIG in Guatemala, I explain the process by which the body achieved a high level of institutionalization.¹³

¹² Boin and Christensen’s design principle framework is a subset of sociological research that focuses on the role of leadership in institutionalization. Scholars often credit Philip Selznick as the founder of studying leadership in institution building. For a baseline on the subject, see Selznick’s three most notable works, “TVA and the Grassroots: A Study in the Sociology of Formal Organization (1949), “Leadership in Administration: A Sociological Interpretation” (1957), and “The Moral Commonwealth: Social Theory and the Promise of Community” (1992). For other interpretations of the role of leadership in institutionalization see Kimberley (1980) and Wilson (1989).

¹³ I apply Boin and Christensen’s sociological framework of leadership and utilize a political sociology approach to explain CICIG’s effective practices and its status as a legitimate and highly-institutionalized anti-corruption body. As a discipline, political science does not offer the tools necessary to explain the important role of leadership in developing CICIG’s effective practices and norms. Therefore, by adopting an interdisciplinary political sociology approach, I can better analyze the role of leadership in CICIG’s complex institutionalization process.

I argue that in the case of CICIG, there is one main explanatory factor that influenced the level of institutionalization of the anti-corruption body. This factor is institutional leadership. Leaders' activation of four design principles can lead to the creation of a robust anti-corruption institution that is simultaneously capable of withstanding attacks against itself and of prosecuting corrupt state actors. While this activation is non-linear and the process can experience significant setbacks, per Boin and Christensen's design principles, practical leaders pursue effective practices, sanction emergent practices, embed accepted practices, and continuously adapt the institution to confront crises. Through this activation, leaders play a vital role in strengthening institutional norms, fighting for autonomy and legitimacy in moments of crisis, and in infusing the institution with value. Furthermore, leaders can also decide to leverage their access to resources such as human capital and engage in the tactic of political pressure to assist in each of the three inter-related steps of institutionalization. Conversely, leaders can fail to apply these design principles, which can lead to a process of deinstitutionalization in which the institution loses legitimacy and autonomy. Therefore, the factor that explains the establishment of CICIG as a highly-institutionalized anti-corruption body is institutional leadership, and the key mechanisms are the Commissioners' activation of the four separate design principles.

In the case of CICIG in Guatemala, I argue that the anti-corruption body's three Commissioners activate four design principles to first develop effective investigative and prosecutorial practices and achieve a high level of routinization. CICIG's Commissioners then activated the design principles to improve its working relationship with Guatemalan judicial institutions and civil society groups, which infused the institution with value and protected it from external threats. This combination of internal routinization and value infusion allowed

CICIG to achieve the level of institutionalization necessary to adapt in times of crisis and to dismantle complex networks of corruption within Guatemalan institutions.

The outcome of my argument is that CICIG is a highly-institutionalized anti-corruption body. While it is difficult to apply quantitative measures to these concepts, in this thesis a high-level of institutionalization means that the organization is both highly-routinized and is infused with value. The institution has therefore developed effective practices and accepted norms, internal actors have developed a vested interest in its survival, and external state and civil society actors turn to the institution for solutions to complex legal and policy issues. Despite not using quantitative measures to analyze the outcome, in chapters three through five I identify the specific ways in which CICIG is highly-institutionalized. Specifically, in these chapters I trace the process by which CICIG developed efficient practices and became infused with value. To further explain the outcome of CICIG being highly-institutionalized, the next section of this chapter will provide examples of the three inter-related steps of institutionalization. It will also demonstrate that in the case of CICIG, effective leadership was crucial to the development of the anti-corruption body as a highly-institutionalized organization.

WHAT IS INSTITUTIONALIZATION?

As stated in the previous section, there are three inter-related steps of institutionalization. First, a group of policy experts establish an institutional design. Second, institutional leaders build upon the design by creating and enforcing norms and practices in the areas that the institution is concerned with. Third, the institution is infused with value. Within these three steps it is extremely important to recognize that institutionalization is a non-linear process. A period of intense institutionalization may be followed by one of deinstitutionalization (Røvik, 1996). While these are the inter-related processes, what is institutionalization in and of itself?

This thesis defines institutionalization as a mixture of two separate processes: behavioral routinization and value infusion. Some scholars treat behavioral routinization and value infusion as the same process. However, as Levitsky argued in his 1998 study of the institutionalization of the *Partido Justicialista* (PJ) in Argentina, there are conceptual and analytical costs to treating value infusion and routinization as one concept. By conflating the two processes as the same concept, scholars risk conceptual and analytical errors. Value infusion and routinization are distinct organizational phenomena that can, but do not necessarily do occur together. For example, such as occurred with the institutionalization of the PJ, “an organization may be infused with value without being internally routinized” (Levitsky 1998, 82). Specifically, Levitsky demonstrates that the PJ, despite being one of the most influential political parties in Latin American history, has a high level of value infusion but is poorly routinized. The Argentine political party has a large organizational base that gives the PJ value, but it has weak and contested intra-party rules and procedures (Levitsky 1998, 82-83).

After the establishment of an institutional design, the second step in institutionalization is behavioral routinization. The unit of analysis in this process is the specific patterns of behavior within the organization (O’Donnell, 1996). Behavioral routinization as part of institutionalization is the process by which institutional rules, patterns, and practices become entrenched norms within the institution. When norms are entrenched in the institution, its employees regularly accept them and look to these practices to achieve the institution’s goals (O’Donnell 1994, 59). Therefore, behavioral routinization leads to institutionalization by providing stability to the institution. In this sense, routinization constrains institutional actors by narrowing their behavioral options due to an increased cost of breaking from the accepted practices and norms (Levitsky 1998, 80). Overall, as an institution develops accepted practices

and norms, it becomes more stable and its employees increasingly seek to use those tools to achieve institutional goals.

Two divergent examples of behavioral routinization are the Tennessee Valley Association (TVA) and the PJ.¹⁴ The TVA and the PJ's stark difference in their level of institutional routinization demonstrates the influence that behavioral routinization has on institutionalization. Philip Selznick's groundbreaking sociological study of the role of leadership in the establishment of the TVA demonstrates that each institution develops its own routinization in different ways. For example, in his description of one of the TVA's well-established bureaucratic practices, Selznick identifies that during the 1930s TVA administrators developed a complex system of constituent relations. This successful routinization of constituent relations gave the TVA stability and longevity because the system gave the agrarian institution key political support in the face of threats from other federal organizations (Selznick 1949, 262). The TVA's robust process of behavioral routinization is contrasted by the PJ's unstable intraparty norms and practices. Party members constantly circumvent or manipulate the PJ's charter to "suit the short-term political needs of the leadership" (Levitsky 1998, 83). While the TVA achieved stability because of its well-developed routinization, the PJ's lack of clear rules inhibits its ability to adapt to new crises and political realities. Thus, as the diverging levels of routinization in the TVA and PJ show, the establishment of effective practices is key to the level of institutionalization in an organization.

The third step in the institutionalization process is value infusion. In contrast to behavioral routinization, the unit of analysis is the institution itself. Selznick (1957) and

¹⁴ The United States Congress created the Tennessee Valley Association in 1933 in response to local complaints about the production and distribution of fertilizer and electric power. Initially designed as a federal institution to provide these functions, the TVA eventually evolved into a conservatory body. For a more complete description of the TVA see Selznick 1949, 4-5.

Huntington (1968) define institutionalization through value infusion as “the process by which organizations and procedures acquire value and stability” (1968, 12). Selznick postulates that “institutionalization occurs when an organization becomes infused with value beyond the technical requirement of the task at hand” or when actors’ goals shift from the pursuit of individualistic objectives to the goal of perpetuating the organization itself (1957, 17).

Huntington goes further to state that through value infusion, an organization becomes “valued for itself” and the institution’s members strengthen their commitment to the preservation of the organization. When this commitment occurs, the institution develops its own identity and becomes more flexible and adaptable to potential crises. As a result of value infusion, the organization is better able to survive in an ever changing and/or threatening environment (Huntington 1968, 15-16). Conversely, when organizations are poorly institutionalized and are not infused with value, the actors within them view the institution as an “expendable tool” and do not seek to perpetuate its existence nor to improve its strength (Selznick 1957, 5).

The importance of value infusion in the institutionalization process is also apparent when analyzing the process by which the TVA and the PJ acquired value. Both the TVA and the PJ have been infused with value, which has provided them with stability and given them considerable influence. In his study of the TVA, Selznick found that the agrarian institution had acquired a high level of value infusion. Specifically, Selznick argued that this value infusion was due to the TVA’s ability to derive crucial support and develop working relationships with grassroots local institutions (1949, 20). Selznick also argued that the successful indoctrination of TVA employees in agricultural and forest service practices meant that they began to value the institution and sought to perpetuate its existence (1949, 50-51). In a similar vein, Levitsky demonstrates that the PJ’s process of value infusion has considerably contributed to the party’s

institutionalization. For example, it was most clear that the PJ was “valued for itself” after the death of party founder Juan Domingo Perón in 1974, during political repression amidst Argentina’s dictatorships between 1976 and 1983, and when President Carlos Menem rejected the party’s traditional socio-economic project (Levitsky 1998, 82). Throughout these three political and societal crises, party members enhanced the party’s infusion with value process by remaining committed to perpetuating its survival. Therefore, in both the TVA and the PJ, value infusion enhanced the institutions’ processes of institutionalization.

CICIG is a highly-institutionalized anti-corruption body, meaning that it is both internally routinized and infused with value. Like the PJ and the TVA, CICIG has succeeded in achieving stability and adaptability through infusion with value. Also like the TVA, CICIG has undergone a robust process behavior routinization to develop effective practices that have assisted the anti-corruption body in investigating and prosecuting corruption. Chapters three through five will fully explain how CICIG became internally routinized and infused with value. However, to understand the outcome in this thesis of a high level of institutionalization, it is important to briefly mention specific practices that CICIG developed during the anti-corruption institutions’ routinization and value infusion processes.

CICIG’s most emblematic example of behavioral routinization and value infusion occurred during the tenure of Commissioner Carlos Castresana Fernández. In 2008, Castresana made the decision to use CICIG’s mandate to suggest reforms to judicial institutions.¹⁵ Castresana suggested reforming the Law Against Organized Crime (*Ley contra la Delincuencia Organizada*). As part of this reform, CICIG modified articles 92, 93, 94, 101, and 104 of the law to allow the MP to legally wiretap those it suspected of being implicated in cases of corruption

¹⁵ The part of CICIG’s institutional mandate that gave Castresana the authority to suggest this reform to the *Ley contra la Delincuencia Organizada* is Article 2 (1) (c) (Mandato, Acuerdo de Creación de la CICIG).

(Estado de las reformas promovidas por la CICIG en materia legislativa Guatemala). According to Dr. Alejandro Rodríguez Barillas (former Secretary of Criminal Politics of the MP), without the reforms to the organized crime law in 2008 and the development of wiretaps as an effective investigative practice, Commissioner Iván Velásquez and Attorney General Thelma Aldana would have not been able to successfully investigate the *La Línea* case between in 2013 and 2015 (Author Interview Rodríguez). During this period, the MP issued 88,920 wire taps that were crucial in providing evidence against Vice-President Baldetti and President Pérez Molina in the case (CICIG 2015, 38).

Beyond internally routinizing CICIG through the creation of the effective investigative practice of wiretaps, Castresana's suggested reform also further infused CICIG with value by improving its working relationship with the MP. Castresana assisted in the creation of a financial agreement between the European Union (EU) and the MP to fund wiretaps, which improved the relationship between the MP and CICIG. On November 24, 2008 Attorney General Velásquez Zárate signed the "Interinstitutional Agreement for the establishment and application of a system of wiretaps" (*Acuerdo Interinstitucional para el establecimiento y aplicación de un Sistema de escuchas telefónicas*). Per the agreement, the EU financed a wire-tapping team, its equipment, and a monitoring center to intercept calls that the MP had received warrants to tap (*Acuerdo Interinstitucional para el establecimiento y aplicación de un Sistema de escuchas telefónicas*). As evidence of the improved relationship between CICIG and the MP, currently Commissioner Velásquez and Attorney General Thelma Aldana show unity by hosting joint press conferences for every large case announcement (Author Interview with Staab). Furthermore, the MP turned to CICIG for legal expertise in reforming the *Ley contra la Delincuencia Organizada*, which further allowed the anti-corruption institution to become

“valued for itself”.

The Importance of Effective Leadership in Institutionalization

Some sociologists argue that there are too many internal and external constraints on the administrative capacity of leaders for leadership to be a meaningful explanatory factor in the process of institutionalization. These scholars argue that leadership is a necessary factor, but they believe that structural factors create more favorable conditions for building strong institutions (Rose-Ackerman and Palifka 2016; Kaufman 1981). While leadership may not be an explanatory factor in all institutionalization processes, there are specific cases in which effective leadership is fundamental to institution building. The CICIG experience demonstrates that leadership is crucial to establish legitimate and accepted practices and to infuse institutions with value. The realities of the Guatemalan judicial system and the power of illicit networks that I described in the research puzzle meant that the anti-corruption institution was likely to fail to institutionalize. However, CICIG Commissioners chose to apply administrative tools such as access to human capital to promote effective practices. Commissioners also engaged in public relations campaigns to improve the institution’s legitimacy and protect it from external threats. CICIG’s leaders also developed relationships with Guatemalan civil society groups to further protect and adapt the institution in times of crisis. Without these effective leadership decisions, it is unlikely that CICIG would have developed into a well-routinized and value-infused institution capable of dismantling entrenched corrupt networks within Guatemalan institutions.

In addition to Boin and Christensen, authors such as Selznick (1957), Lewis (1980), Kimberley (1980), Doig and Hargrove (1990), and, J.Q. Wilson (1989) argue that leaders play a much larger role in the process of institutionalization than scholars like Rose-Ackerman and Palifka (2016) and Kaufman (1981) admit. For Selznick, the TVA would not have become a

highly-institutionalized agrarian organization without its leaders' decisions to develop public relations campaigns and relationships with local grassroots institutions. Building on Selznick's analysis of the TVA, Doig and Hargrove (1990) argue that "rhetorical leaders" such as the TVA's David Lilienthal are adept in using institutional myths and symbols to infuse institutions with value. In agreement with these authors' assessments of the important role that effective leadership can have in the institutionalization process, I argue that CICIG's leaders were instrumental in its historic process of institution building. Through their activation of Boin and Christensen's four design principles, CICIG's Commissioners gave value to the institution and developed effective practices to investigate and prosecute corruption. The next section will describe Boin and Christensen's four design principles and how they relate to CICIG's institutionalization process. Then, the section will link the design principles to specific decisions that CICIG's Commissioners made to routinize and infuse the institution with value.

THE FOUR DESIGN PRINCIPLES

I have demonstrated that in some cases leaders can play a limited yet crucial role in institutionalization. In the case of CICIG in Guatemala, I argue that the anti-corruption body's three Commissioners activated the four design principles to first develop effective investigative and prosecutorial practices and achieve a high level of routinization. CICIG's Commissioners then activated the design principles to improve its working relationship with Guatemalan judicial institutions and civil society groups, which infused the institution with value and protected it from external threats. This combination of internal routinization and value infusion allowed CICIG to achieve the level of institutionalization necessary to adapt in times of crisis and to dismantle complex networks of corruption within Guatemalan institutions.

This thesis applies Boin and Christensen's design principle framework to explain how CICIG's institutional leaders developed effective practices and norms and infused the institution with value, which resulted in the development of a highly-institutionalized anti-corruption body capable of prosecuting complex cases of corruption. External factors such as a weak judicial system, complex networks of corruption, and elite political threats to the institution's legitimacy constrained CICIG's Commissioners. Despite these constraints, CICIG's leaders applied the administrative tools at their disposal to develop the effective practices and value infusion necessary to achieve their goal of prosecuting entrenched networks of corruption. This section will explain Boin and Christensen's design principle framework, and by using the practice of wiretapping as an example it will demonstrate how each principle relates to CICIG's institutionalization process.

Boin and Christensen's four design principles are: 1. Pursuance of effective practices. 2. Sanctioning of emergent norms. 3. Embedding of accepted norms. 4. Continuous adaptation and crisis management. By activating these four design principles at different steps in the institutionalization process, leaders can create a high-level of institutionalization. As Boin and Christensen argue, while a leader's activation of these design principles may occur in order from one to four, they may apply the design principles at any point in the institutionalization process (2008, 280). To understand this process, it is imperative to briefly describe the underlying logic of each design principle and how each relates to CICIG.

Design Principle 1: Pursuance of Effective Practices

It is difficult for policymakers to identify effective practices when designing institutions because they have often not personally experienced the 'on the ground' problems that the organization seeks to solve. Therefore, the first design principle is the leader's pursuance of

effective and legitimate practices to translate the institution's formal goals into working rules. After an institution first receives its mandate it must overcome what Stinchcombe (1964) referred to as the "liability of newness" to "develop and administer effective solutions to complex problems that often change in unforeseen directions" (Boin and Christensen 2008, 275). Leaders engage in two activities to assist in the development of effective practices: they provide the resources necessary to find these practices and they also protect their employees from the expectation of immediate returns. First, leaders pursue effective practices in a "trial and error process". Specifically, leaders encourage and facilitate experimentation by exploiting "the ambiguity of the organization's formal goals" (Boin and Christensen 2008, 282). Leaders facilitate the identification of effective practices by giving organization members the financial and technical resources to test a variety of practices. Ultimately, the discovery or identification of effective practices may arise as part of a group experience within the institution, but leaders facilitate the process by giving organization members the means to discover them (Boin and Christensen 2008, 282). Therefore, by pursuing effective practices leaders begin to internally routinize the institution and provide it with the tools to achieve its goals.

In the case of CICIG, Boin and Christensen would expect that the anti-corruption institution's Commissioners provided the resources and time necessary to discover and develop both effective and legitimate investigative and prosecutorial practices. For example, in terms of CICIG's development of wiretaps as a crucial investigative practice, the sociologists would predict that Commissioner Castresana's decision to suggest reforms to the *Ley contra la Delincuencia Organizada* and to broker a deal between the MP and the EU for wiretapping resources gave CICIG the ability to first use wiretapping as an investigative tool. Then, Boin

and Christensen would expect that Commissioner Castresana used wiretapping in a trial and error process during investigations to start routinizing it within the CICIG and the MP.

Design Principle 2: Sanctioning of Emergent Norms

Once leaders have identified an effective practice or norm, they must sanction it so that employees throughout the institution view the practice as a “valid, functional, and appropriate” way of achieving the organization’s goals (Finnemore and Sikkink, 1998). For the practice to survive it needs the support of organizational elites to diffuse and protect it (Selznick 1957). In this way, leaders further routinize the practice by assessing if it meets three criteria: 1. If it is effective. 2. If it is appealing to those who work within and with the institution. 3. If it is feasible that the organization can continue the practice in the future. Once leaders have determined that the emergent norm meets these three criteria they “direct the process through which the emergent norm becomes accepted” within the institution (Boin and Christensen 2008, 283). By ordering institution members to use the emergent practice, leaders further the process of behavioral routinization and begin to infuse the institution with value as employees and external state and civil society actors start to accept the practice.

Again, using wiretapping as an example, Boin and Christensen would expect that after Commissioner Castresana provided the means and time necessary to adopt wiretapping as an investigate practice, he and other administrators helped to embed it within CICIG. The sociologists would predict that Castresana determined that wiretapping was effective, that it was appealing to those who work within and with CICIG, and that wiretapping was a feasible practice for the anti-corruption body to utilize in the future. Finally, Boin and Christensen would forecast that CICIG Commissioners defended the use of wiretapping from external critics and

continued to ensure that CICIG investigators and their MP partners used the practice as part of their investigative arsenal.

Design Principle 3: Embedding of Accepted Norms

After leaders have identified and sanctioned an emergent practice, they seek to embed the practice and ensure that it is completely routinized within the institution. To embed the accepted practice within the organization, leaders ensure that two things occur. First, leaders adapt the structure of the organization to the practice by communicating its effectiveness and ensuring that employees do not attempt to undermine the practice. Second, leaders apply the resources and administrative tools at their disposal, such as access to human capital and legal expertise, to teach those who work within and partner with the organization how to make use of the practice (March and Olsen, 1989; Selznick, 1957). By ensuring that these two things occur, leaders routinize the practice at all levels of the institution: in policy paradigms, operational routines, and training manuals. Furthermore, as leaders ensure that the practice becomes embedded they can simultaneously infuse the institution with value by engaging in public relations efforts to support and promote the practice (Boin and Christensen 2008, 285). The combination of these actions thus routinizes the effective practice and convinces external state and civil society actors that the practice is legitimate and desirable.

With the example of wiretapping, Boin and Christensen would expect that Commissioner Castresana embedded the practice by indoctrinating CICIG's employees at all levels of the organization. The sociologists would forecast that Castresana and other Commissioners also applied the resources and administrative tools at their disposal (in the form of their legal expertise) to teach the MP and other judicial institutions how to utilize the practice in the investigative process and how to make use of wiretap evidence in court. Furthermore, Boin and

Christen would expect that when external actors, such as the Constitutional Court and the media, criticized wiretapping that CICIG's leaders responded by engaging in public relations campaigns with civil society assistance to protect the practice and to convince society of its legitimacy.

Design Principle 4: Continuous Adaption and Crisis Management

Institution leaders engage in three crucial strategies to preserve the legitimacy and value of the organization in the face of threats: “they actively work to establish autonomy, they are concerned with issues of reliability, and they engage in crisis management” (Boin and Christensen 2008, 286). By adapting the institution in times of crisis, leaders protect routinized practices and the perceived value of the organization.

New institutions require autonomy in their sphere of interest to minimize outside interference that might seek to coopt the institution for their own purposes (Wilson 1989, 183). While the underlying institutional design is important to ensure autonomy, leaders must develop autonomy by building and maintaining a sufficient level of support for their activities. One way that leaders can maintain this support is through the “formulation of a favorable agency myth” (Boin and Christensen 2008, 286). Given that the autonomy of young institutions is vulnerable, public organizations must enhance the ‘myth’ that their activities are “altruistic” and that they should be continued (Hargrove and Glidewell 1990). To improve the institution's autonomy, leaders also “silence” critics by bringing them on board to assist in achieving institutional goals. In doing so, leaders force potential threatening actors to share responsibility with the institution (Selznick 1949). Finally, leaders ensure autonomy by improving organizational transparency in terms of explaining what is being done and why. When leaders improve transparency, they lessen the risk of public attacks from critics.

In addition to autonomy, institutionalization requires that the organization reliably perform its tasks. To ensure that external actors do not interfere in this reliability, leaders must engage in a sophisticated public relations effort (Boin and Christensen 2008, 288). Leaders concern themselves with all events, both internal and external, that could potentially damage the institution's reliability and legitimacy. For example, they encourage employees to report errors and improve upon organizational deficiencies to improve future reliability. Boin and Christensen argue that leaders also "continually monitor the relation between the institution and its environment" and "invest much time in talking to external stakeholders, listening to complaints, and monitoring perceptions" (2008, 288). By investing considerable time in constantly improving internal practices and controlling external perceptions, leaders ensure that the institution can reliably perform its tasks.

Finally, because crises will inevitably interrupt institutionalization, leaders must treat these threatening moments as opportunities and defining moments for the institution. If leaders do not quickly react to a crisis, loss of societal and political support is likely (Boin and Christensen 2008, 289). In a short timespan leaders must use their administrative tools and resources to address both the original source of legitimacy loss and its consequences. Leaders understand that they may need to abandon or modify the practice that caused the crisis or double down on its use to quickly diffuse the threatening situation.

During instances when external actors threaten the legitimacy of their institution, leaders must actively establish and maintain autonomy, improve reliability, and engage in crisis management. The fourth design principle is the most important for CICIG in the Guatemalan context. Given constant attacks from specific members of the Guatemalan political and business elite during the creation and institutionalization of CICIG, Commissioners' ability to protect the

institution's legitimacy and autonomy as well as adapt the anti-corruption body in response to crises was vital. Boin and Christensen would therefore expect that CICIG's Commissioners improved its autonomy by constantly demonstrating the institution's value and by ensuring that the anti-corruption body remained transparent in its actions. They would also predict that Commissioners engaged in public relations efforts and met with external stakeholders and institutional partners such as the MP to ensure that the institution could reliably perform investigations and prosecutions. Finally, they would forecast that CICIG Commissioners used their positive relationships with local civil society groups to protect the institution's legitimacy and autonomy when corrupt state actors used their own connections to attack the anti-corruption body.

Application of the Design Principle Framework to CICIG's Commissioners

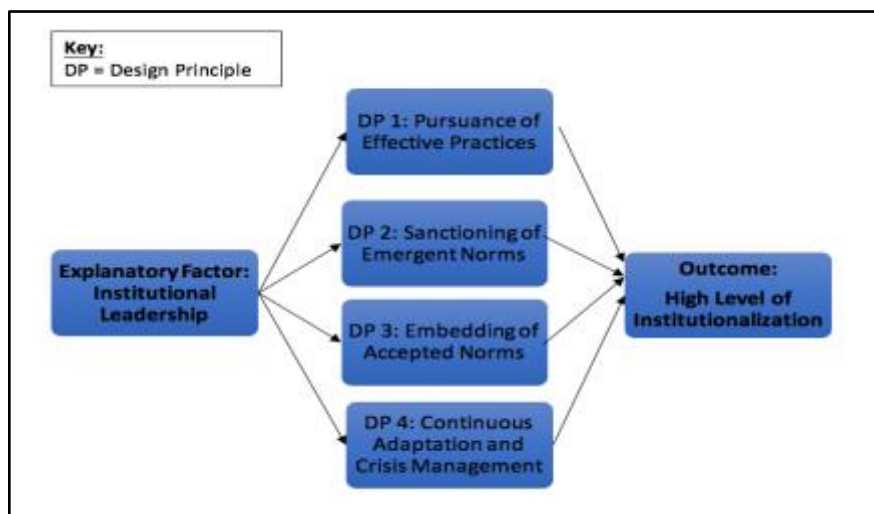


Figure 1.

Following Boin and Christensen's framework as shown in Figure 1 above, I argue that during the tenure of CICIG's three Commissioners, these leaders activated or failed to activate the four design principles. By examining how each leader activated each design principle in

chapters three through five, I explain how the Commissioners' actions led to the institutionalization or deinstitutionalization of CICIG.

Commissioner Carlos Castresana Fernández successfully activated all four design principles at different times during his tenure and established the foundation of CICIG as a highly-institutionalized body between 2007 and 2010. In 2008, Castresana first leveraged CICIG's mandate to purge threatening corrupt actors in the MP and PNC. He pursued effective practices by experimenting with legitimate ways that CICIG could assist MP investigations. He sanctioned emergent norms through creating key legal reforms to endorse new investigative practices within CICIG and the MP. During the case of lawyer Rodrigo Rosenberg, he embedded the investigative practice of wiretaps. However, despite initially pushing back against external threats and again attempting to do so in his last months as Commissioner, due to CICIG being a new institution, corrupt networks were ultimately able to force Castresana to resign in 2010.

Throughout his time as Commissioner, Dall'Anese's leadership ultimately led to a process of deinstitutionalization within CICIG. I recognize that in 2010 and 2011, Dall'Anese initially continued to infuse CICIG with value by working with the collection of civil society groups called *Convocatoria Ciudadana* to elect Claudia Paz y Paz as the new Attorney General. The Commissioner then worked with Paz y Paz as she effectively overhauled the MP, improved its capacity, and attacked powerful gangs within Guatemala. Dall'Anese also infused CICIG with value by providing technical support to the 2012 anti-corruption law, which codified illicit enrichment and influence peddling as crimes for the first time in Guatemala. However, despite his actions leading to an initial period of value infusion, Commissioner Dall'Anese failed to prosecute numerous high profile cases, such as that against former Interior Minister Carlos

Vielmann. Furthermore, as external threats increased against CICIG and the Commissioner himself, he did not engage in crisis management to the extent that Castresana did. Therefore, while Dall’Anese initially activated the second and third design principles, his inability to respond to these crises led to his resignation in 2013 and to a serious loss of legitimacy for CICIG.

Commissioner Velásquez’s administrative decisions between 2013 and 2015 caused CICIG to achieve a high-level of institutionalization whereby it was well-routinized and infused with value. Velásquez’s routinization of a new work strategy (which activated the first three design principles) focused on a handful of investigations of powerful corruption networks that CICIG and MP employees could reasonably finish before September of 2015. The new work strategy streamlined CICIG’s organizational structure to quickly investigate and prosecute high-impact corruption cases. Velásquez also made use of the effective practice of wiretaps and the unit of analysis within the MP to successfully investigate the *La Línea* case between 2013 and 2015. Furthermore, prior to the *La Línea* case announcement on April 16, 2015, Commissioner Velásquez had joined with 35 civil society groups to engage in a public relations campaign in favor of CICIG’s renewal. As the *La Línea* protests continued, they strengthened the public relations campaign to add on to U.S. and private sector insistence that President Pérez Molina extend CICIG’s mandate until September 2017. Lastly, demonstrating that CICIG had achieved a high level of institutionalization, Commissioner Velásquez announced President Pérez Molina’s implication in the *La Línea* case on August 21, 2015. Facing an abandonment by the U.S. Embassy and by CACIF, as well as sustained social protests that Velásquez brought about through the *La Línea* investigation, President Pérez Molina was forced to resign and face the charges against him.

RESEARCH DESIGN

This thesis examines how CICIG's commissioners activated or failed to activate Boin and Christensen's four design principles. Due to the understudied role of leaders in specific cases of institutionalization, we lack standardized metrics to measure institutional strength and institutionalization across all cases. Therefore, by applying Boin and Christensen's framework this thesis contributes a case study to the literature on the critical role of leadership in the institution building process.

Despite gaps in the overall quantitative measures of the role of leaders in institutionalization, there is little debate that CICIG is a highly-institutionalized anti-corruption institution. I define the outcome of a high level of institutionalization as the state when CICIG has first achieved internal routinization and then becomes infused with value. In this way, CICIG's status as a highly-institutionalized anti-corruption body was achieved when it had developed accepted and effective investigative practices and working relationships with Guatemalan judicial institutions. While the outcome is a high-level of institutionalization, due to resource constraints I was unable to compare CICIG's successful institution building with a negative case of low institutionalization. Despite the lack of a negative case, I focus on periods when CICIG experienced a process of deinstitutionalization.

As I demonstrated in the research puzzle, CICIG has overcome numerous challenges and crises by developing a high level of internal routinization and value infusion. Boin and Christensen's framework is effective in explaining CICIG's process of institutionalization because of the variety of ways in which the institution's Commissioners successfully or unsuccessfully activated each design principle. For this reason, the third, fourth, and fifth chapters of this thesis apply the design principle concept as a tool to analyze the tenures of

CICIG Commissioners Castresana, Dall’Anese, and Velásquez between the institution’s founding in 2007 and the prosecution of the emblematic case of *La Línea* in 2015. I isolate the *La Línea* case because experts consider that it is the first time that CICIG successfully investigated and prosecuted sitting Guatemalan executive branch members that had been linked with clandestine criminal networks. Despite the inter-connected nature of the cases in terms of the actors involved and its importance to CICIG, I do not include the *Cooptación del Estado* case to simplify the analysis of how the Commissioners activated each design principle. A future analysis of CICIG’s institutionalization should include this second case due to its scale and relation to the *La Línea* case.

The varying ways in which each Commissioner improved or harmed CICIG’s autonomy and legitimacy and the different ways that they activated each design principle means that a comparison can illuminate key explanatory factors and mechanisms that caused CICIG’s high level of institutionalization. During the tenure of each Commissioner I chose specific practices that they developed or helped to embed within CICIG. I also chose specific instances in which CICIG Commissioners used the administrative tools at their disposal to strengthen their relationships with Guatemalan judicial institutions and civil society groups, thereby infusing CICIG with value. Finally, to compare between the successful and unsuccessful activation of the design principles, I choose specific instances where Commissioners failed in their activation, which led to brief spells of deinstitutionalization. Therefore, while tracing the process of how Commissioners activated each design principle to routinize behavior and infuse the institution with value, I show how institutional leadership is the explanatory factor and the activation of design principles are the mechanisms that influenced the outcome of CICIG’s high level of institutionalization.

Data Collection

This study draws on qualitative data collected during three weeks of field work in Guatemala City, Guatemala between January 3 and January 28, 2017. I conducted semi-structured interviews with ten individuals from five different categories of experts: human rights NGO employees, former prosecutors and employees of the MP, journalists, a private political analyst, and a foreign service officer in the United States Embassy.¹⁶ Moreover, I spoke with experts that had knowledge of, or participated in, either CICIG's institutionalization process, the protests against former President Pérez Molina and former Vice-President Baldetti, or the investigation and prosecution of the case of *La Línea*. Each type of expert added different perspectives and accounts about CICIG's institutionalization and the recent MP and CICIG prosecution of corrupt state actors.

Throughout this thesis, I rely on these interviews to uncover and trace the process of how CICIG Commissioners successfully or unsuccessfully activated each design principle. By working within the MP, some of these experts provided insider information about the institutionalization of CICIG and the legal reforms that it advocated. Furthermore, by forming part of the Guatemalan civil society protests, some NGO employees provided insider information about how CICIG used its relationship with leading civil society members to establish and restore its legitimacy as an anti-corruption institution.

I fully recognize that ten interviews and three weeks of field work is a limiting factor on an in-depth analysis of CICIG's institutionalization. To augment my fieldwork experience, this study also relies on a mix of primary sources from CICIG, the MP, and the Guatemalan Congress as well as from news reports to trace the process of the anti-corruption body's

¹⁶ For a full list of the experts interviewed in this thesis see the appendix.

institutionalization. During January of 2017 I created my own archive of Guatemalan news reports about the *La Línea* case, which I cite when discussing how Commissioner Velásquez's activation of the four design principles caused the CICIG and the MP to be able to investigate and prosecute the case between 2013 and 2015. By drawing from this variety of interviews and primary sources, I access numerous perspectives to provide evidence for my claims.

ALTERNATIVE EXPLANATIONS

State Capacity

Some scholars point to increased state capacity as a key mechanism that influences the outcome of institutionalization. Without detracting from these analyses, I argue that increased state capacity cannot be an explanatory factor or a mechanism that caused CICIG to become a high-institutionalized anti-corruption body. First, the Guatemalan state has not had a notable increase in capacity between 2007 and 2015. In fact, as of 2016, 85 percent of Guatemalan municipalities continued to have no resident prosecutor to dismantle corrupt networks (Olson 2016). It is true that CICIG's Commissioners used their administrative resource of human capital to design and implement crucial legal reforms. This fact might lead some critics to point out that these legal reforms increased judicial capacity to prosecute corruption. For example, scholars have advocated that an increase in the technical capacity of judges and prosecutors (through training programs and legal reforms) has allowed for more effective judicial decision making in complex cases (González-Ocantos 2016, 5). While this is a legitimate argument for other cases, it cannot be applied to the case of CICIG because these legal reforms would not have occurred without the leadership of CICIG's Commissioners. For this reason, I reject an increase in state capacity as the main explanatory variable.

Civil Society Strength

This thesis provides evidence for literature that argues that civil society is a key part of institutionalization processes. However, the existing scholarship on civil society fails to explain the eight-year process of CICIG's institutionalization. Civil society members and an active citizenry were crucial in bringing about the prosecution of President Pérez Molina and Vice-President Roxana Baldetti in the customs fraud case of *La Línea*. This reality might cause some scholars to argue that civil society involvement and support is the explanatory factor that explains CICIG's robust process of institutionalization. Scholars argue that civil society activity can act as a necessary condition for supporting a process of institutionalization.

However, by applying Boin and Christensen's framework I demonstrate that the Commissioners' activation of design principles convinced middle-class and urban citizens that were not traditionally part of Guatemalan civil society to protest, and that in many cases had never challenged the political establishment. Moreover, CICIG provided the evidence necessary to convince these citizens to demand the prosecution of corrupt state actors. Thus, I incorporate civil society involvement when explaining the activation of the third and fourth design principles of embedding accepted practices and crisis management. In chapter three I argue that in his activation of the third design principle, Commissioner Castresana successfully used his relationship with a group of Guatemalan civil society organizations called *Convocatoria Ciudadana* to elect Claudia Paz y Paz as Attorney General, thereby improving CICIG's relationship with the MP. In chapter five I argue that Commissioner Velásquez promoted an intense public relations campaign with 35 civil society organizations while applying the fourth design principle of crisis management. Velásquez's media campaign built upon spontaneous protests in the summer of 2015 to add to international and societal pressure on President Pérez Molina to renew CICIG's mandate until 2017. For these reasons, while important, civil society

literature cannot explain the successful institutionalization of CICIG.

CHAPTER ORGANIZATION

The following chapters of this thesis explain the process by which CICIG became a highly-institutionalized anti-corruption body. In three sections, chapter two adopts a historical approach and is largely descriptive. First, I illuminate the historical trends of corruption and illicit networks in Guatemala and demonstrate why it is difficult to prosecute entrenched networks of corruption. I traverse the history of Civil War era Illegal Clandestine Security Apparatuses (*Cuerpos Ilegales y Aparatos Clandestinos de Seguridad*, CIACS), and specifically how the CIACS perpetuated violence in Guatemala and corruption within the country's institutions. Second, I highlight the failures of the UN to establish the Commission of Investigation of Illegal Clandestine Security Bodies and Networks (*Comisión de Investigación de Cuerpos Ilegales y Aparatos Clandestinos de Seguridad*, CICIACS). By outlining the lack of political will that caused the failure of the CICIACS proposal, I explain many of the reasons why it was necessary for CICIG's Commissioners to apply administrative tools to infuse the institution with value. Finally, I describe CICIG's institutional design and mandate to explain the organizational relationship between CICIG and the MP. In this section I also show why CICIG's commissioners had to apply the four design principles to create accepted practices and further develop the anti-corruption institution's technical and political autonomy.

In four sections, chapter three demonstrates how Commissioner Castresana built upon the anti-corruption's institutional design to initially develop its autonomy and legitimacy in the Guatemalan context. Section one analyzes how the Spanish prosecutor initially used the administrative tools at his disposal to force these threatening external actors to step down from their positions of power in 2008. Section two focuses on how the Spanish prosecutor activated

the first three design principles by organizing CICIG's internal structure, advocating for legal reforms to assist in the development of effective practices, and by taking the initiative to develop working relationships with the MP and PNC. Third, the chapter analyzes how Commissioner Castresana first utilized and embedded the system of wiretaps and the unit of analysis in the high-visibility case of Guatemalan lawyer Rodrigo Rosenberg. Finally, the chapter re-visits external threats to Castresana's tenure that forced him to resign in 2010 and that interrupted CICIG's institutionalization process. In this section I demonstrate that by not continuously engaging in crisis management, Commissioner Castresana was forced to resign, which ultimately damaged CICIG's legitimacy.

Chapter four analyzes an initial period of value infusion under Commissioner Dall'Anese as well as the overall process of deinstitutionalization during his tenure. The first section analyzes the Viemann case and demonstrates that by failing to prosecute this high-profile case and to respond to the backlash that arose from it, Dall'Anese weakened CICIG's legitimacy. Second, the chapter demonstrates that within the overall process of deinstitutionalization Dall'Anese continued to infuse CICIG with value by partnering with a collection of civil society groups called *Convocatoria Ciudadana* to elect Claudia Paz y Paz as Attorney General, by working with Paz y Paz to reform the MP, and by providing support during Congressional debates over the 2012 *Ley contra la Corrupción*. Finally, I describe the defamation campaign that CICIG and Dall'Anese faced during his time as Commissioner. This section demonstrates that by not effectively responding to these external threats as Castresana did in 2008 (and attempted to do in 2010), the Costa Rican prosecutor was forced to resign, thus damaging CICIG's public image.

In chapter five I explain Commissioner Velásquez's crucial role in activating all four design principles to transform CICIG into a highly-institutionalized anti-corruption body. Section one describes how Commissioner Velásquez activated the first three design principles to routinize a new work strategy in CICIG and to streamline its internal organization with the goal of focusing on high-impact corruption cases. Section two describes how Commissioner Velásquez utilized the legacy of Castresana's routinization of wire taps and FECI to investigate the *La Línea* case. The third section analyzes how the *La Línea* case announcement invigorated sustained social protest and gave hope to social activists, which led to Baldetti's resignation. The section also looks at how Commissioner Velásquez harnessed these protests and engaged in a public relations campaign with over thirty civil society organizations to restore CICIG's legitimacy, extend its mandate until 2017, and infuse it with value more than the institution's previous leaders could. Finally, the fourth section analyzes how Velásquez's decision to announce President Pérez Molina's involvement in the customs fraud scandal contributed to his resignation and how the announcement engendered the August 27, 2015 protests that forced the U.S. embassy and the Guatemalan business association, CACIF to withdraw their support from the President.

Finally, in chapter six, I summarize my argument about the role of leadership in CICIG's process of institutionalization. I also consider how my findings contribute to literature that focuses on the influence of leaders in building institutions. In doing so, I offer means by which scholars can extend the thesis project to further study the institutionalization of CICIG. Lastly, I consider the policy implications of my findings for anti-corruption institution building in Honduras.

CHAPTER TWO: CREATING CICIG

Introduction

In an interview with Dr. Alejandro Rodríguez, the former MP employed remarked that when CICIG first arrived in Guatemala, that its baseline was 100 degrees below zero (Author Interview with Rodríguez). Dr. Rodríguez was of course referring to the extreme extent to which illicit networks had infiltrated the Guatemalan judicial institutions that CICIG relies on to prosecute corrupt actors. It is impossible to appreciate the magnitude of the obstacles that CICIG's Commissioners faced during the institutionalization process without first understanding the history of the criminal networks that the anti-corruption institution attempts to dismantle. Between 1960 and 1996, the Guatemalan Civil War devastated the country's indigenous community, transformed the state apparatus into a tool to serve the military and political elite, and degraded judicial institutions. The history of Guatemala's internal conflict sheds light on the creation of networks of criminality and how they negatively affect human rights and the justice system. To explain the history of these networks and of the events that led to the creation of CICIG, this chapter answers two questions. First, how did the Civil War cause the formation of networks of corruption in Guatemala? Second, what events led to the creation of CICIG and what tools does its mandate bestow upon the institution to dismantle these networks?

To answer these questions, this chapter is divided into three sections. I begin by adopting a historical approach to describe the development of corrupt networks in Guatemala during and after its internal conflict between 1960 and 1996. Throughout the first section I provide additional evidence for how these corrupt networks weakened Guatemalan judicial reforms and the justice system. In the second section I highlight the failures of the UN to establish the Commission of Investigation of Illegal Clandestine Security Bodies and Networks (*Comisión de*

Investigación de Cuerpos Ilegales y Aparatos Clandestinos de Seguridad, CICIACS). By outlining the lack of political will that caused the failure of the CICIACS proposal, I explain the political obstacles that would later challenge CICIG's institutionalization process. Finally, in the last section I outline CICIG's institutional design to explain the organizational relationship between the anti-corruption body and the MP. In this section I list the administrative tools that CICIG's Commissioners could call upon while activating the four design principles. I also explain why CICIG's leaders had to activate the design principles to strengthen the institution's political and technical autonomy and to build upon its mandate.

LEGACIES OF CIVIL WAR

Before I describe the specific actions that CICIG's Commissioners took to build the institution and to dismantle corrupt networks in Guatemala, it is imperative to understand the origins of these networks, how they gained power and infiltrated state institutions, and their effect on grand corruption. For this reason, this section traverses the history of Civil War era Illegal Clandestine Security Apparatuses (*Cuerpos Ilegales y Aparatos Clandestinos de Seguridad, CIACS*). To borrow a phrase from Susanne Jonas, I describe the creation of the Guatemalan "counterinsurgency state" and how its violence against citizens during the internal conflict continued through the creation of the CIACS. I demonstrate how the CIACS coopted the state apparatus and explain how they function as illicit parallel forces within and alongside Guatemalan institutions. By examining the debilitating effects of the CIACS on the justice system, I highlight why Guatemalan civil society members and international human rights experts as early as 2002 demanded the creation of a UN mechanism to strengthen Guatemalan judicial institutions such as the MP and PNC.

Guatemala's Internal Conflict

The history of Guatemala since its independence from Spain in 1821 until the 1996 Peace Accords was marked by profound conflict and foreign intervention. In the 20th century, out of 20 different Guatemalan governments, 12 were put in power through dictatorships, coups, or were members of the military (Blanco and Zapata 2007, 293). As part of this violent history, in 1954 the United States financed a military coup that ousted President Jacobo Arbenz in order to advance a neocolonial agenda in support of U.S. business interests, primarily that of the United Fruit Company (CIA and Assassinations: the Guatemala Documents). The removal of the democratically elected and moderate land reformer Arbenz threw the country into a political and judicial crisis that marked the start of a wave of dictatorships, fraudulent elections, and the suspension of the political system during the Guatemalan Civil War between 1960 and 1996.¹⁷

During the 1960s, guerrilla fighters of largely mestizo origin rose up to fight for land reform. However, as the United States continued to invest in the professionalization of the Guatemalan military as part of its Cold War containment strategy, the movement was defeated (Jonas 2000, 21). While a brief spell of civilian rule controlled the Guatemalan state between 1966 and 1970 during the Presidency of Julio César Méndez Montenegro, continued U.S. military investment transformed Guatemala into a “counterinsurgency state”. In this sense, the military transformed Guatemalan institutions in such a way that the entire state apparatus could be used for the goal of destroying indigenous and mestizo rural guerrilla movements. The first event that led to the creation of the “counterinsurgency state” occurred in 1970 when Colonel Carlos Arana Osorio won the Presidential election and institutionalized death squads and state

¹⁷ For a more expansive analysis of the history of Guatemala’s internal conflict, Guatemalan politics throughout the war, and U.S. neocolonial interventionism see Susanne Jonas’ *The Battle for Guatemala: Rebels, Death Squads, and U.S. Power* (1991).

violence against the Guatemalan public (Colonel Carlos Arana Osorio gana la Presidencia en 1970).

During the height of the Guatemala's internal conflict in the 1980s, the institutionalization of military death squads led to incredible repression, disappearances, and genocide.¹⁸ With General Efraín Ríos Montt as the head of the armed forces between mid 1981 and 1983, death squads connected to the Guatemalan military destroyed 440 villages and killed or "disappeared" up to 150,000 civilians of largely Mayan origin (Jonas 2000, 24).¹⁹ For example, on March 13, 1982 the army and civil self-defense patrol arrived in the Achí-Maya village of Río Negro. Reacting to previous experiences of violent repression, the men fled and 70 women and 107 children stayed in the village. The army rounded up these 177 individuals and forced them to hike up a nearby mountain. The state forces then raped, murdered, and buried these women and children naked from the waist down (Sandford 2003, 249-250).²⁰ On May 20, 1999 representatives of the National Security Archive, the Washington Office on Latin America, the American Association for the Advancement of Science, and Human Rights Watch released the Guatemalan Death Squad Dossier. The 54-page document contained photos and reports of 183 victims of the military regime and provided crucial evidence of the Guatemalan

¹⁸ While certain sectors of Guatemalan society continue to deny that the State committed genocide against Guatemala's indigenous population (Casaús Arzú 2013), I use the term because as the Commission for Historical Clarification (CEH) demonstrated in its 1999 report, the army specifically targeted Mayan non-combatants as potential allies of the guerrilla movement. The CEH report argued that the army not only targeted the Mayan population indiscriminately, but that it sought to completely repress and destroy their cultural identity (La Comisión para el Esclarecimiento Histórico 1999, 34-35).

¹⁹ Throughout the entire conflict, it is estimated 200,000 civilians lost their lives, with the Guatemalan state committing 90% of these killings (Alston 2007, 4). In total, the military destroyed 626 villages and an additional 1,500,000 million Guatemalans were internally displaced (Sanford 2003, 255).

²⁰ In the 1982 massacre, the civil patrol spared eighteen young girls and forced them to live in slave-like conditions. In 2010, many of these women took their case to the Inter-American Commission on Human Rights (IACHR) to seek reparations for the Río Negro massacres. According to the Guatemala Human Rights Commission, the women are seeking that their case be moved to the Inter-American Court in Costa Rica to receive justice (Río Negro Massacres). In 2014, the IACHR ordered that the Guatemalan government pay Río Negro families \$6,450,000 in reparations and declare public culpability in the human rights atrocity (Río Negro Massacres v. Guatemala).

military's use of death squads to commit atrocities (Guatemalan Death Squad Dossier).

Massacres like the ones in Río Negro became routine during Guatemala's Civil War, and by controlling the state apparatus the military institutionalized this violence, which then became the norm.

In addition to committing genocide against Guatemala's indigenous population through the institutionalization of death squads, the military also formed a close relationship with members of the political elite. The army used a national security doctrine to curtail civilian political institutions, to justify its crimes, and to grant political and military elites economic privileges and positions within the government (Gramajo Morales 1997, 112). Throughout the conflict, the relationship between conservative politicians and the military strengthened as the two groups transformed the state's institutional structure for their personal gain. One example of how these relationships managed to create a lasting effect on the state was in 1982 when the military junta issued Decree 24-82 (called the *Estatuto Fundamental de Gobierno*), which granted the junta the power to appoint members of the Supreme Court and other collegial courts (Paz y Paz Bailey 2016, 21). Additionally, the military appointed the Procurador General de la Nación (now Attorney General) and controlled the entire the court system, which would later give them power to block prosecutions for even the most obvious human rights abuses (Paz y Paz Bailey 2016, 23). As the next section will explore, the power bloc between the military and members of the political elite was able to use its influence to shape the peace process and the constitutional reforms that the accord had proposed to strengthen judicial institutions and democratic quality.

Peace Process and Constitutional Reforms

While civilians regained control of the government in 1986, Guatemala's internal conflict would officially last until 1996. In 1994, the government and the Guatemalan National Revolutionary Union (*Unión Revolucionaria Nacional Guatemalteca*, URNG) signed an accord which established a truth commission called the Commission for Historical Clarification (*La Comisión para el Esclarecimiento Histórico*, CEH) (Se presenta informe *Guatemala memoria del silencio* en 1999). The goal of the commission was to end the silence about the human rights abuses that the government had committed in the name of national security and "to establish a historical record of these realities within the national consciousness" (La Comisión para el Esclarecimiento Histórico 1999, 12).²¹ On December 29, 1996, the government and the URNG signed the final accord that put an end to 36-years of conflict (The Guatemalan Peace Accords). The Peace Accord and the CEH's 1999 report established the culpability of the Guatemalan state in mass atrocities and achieved a lasting peace between the Government and guerrilla forces. However, the Constitutional reform process agreed to in the Accords did not bring about the specific reforms necessary to establish effective judicial institutions.

During the dictatorship of Óscar Humberto Mejía Victores, the military passed the Guatemalan Constitution of 1985. Conservative political parties that were allied with the military had led the 1984 National Constituent Assembly during which they created "a small state impermeable to concentrations of power that could challenge the political order" (Gavigan 2016, 25). After the peace agreement of 1996, this Constitution was now a remnant of a military regime. Therefore, the government and civil society groups agreed to a 1999 referendum to reform and modernize the judicial administration to impede systematic impunity and corruption (Blanco and Zapata 2007, 341). Prior to the referendum, civil society leaders, indigenous

²¹ Translation by author.

groups, and members of Congress labored on a set of Constitutional judicial and political reforms that citizens would vote on. Guatemalan human rights leaders such as Helen Mack argued that the 1996 Peace Accords were not enough to bring about long-term societal reconciliation. Mack argued then (and continues to argue now) that Guatemala still required “institutional transformation, economic improvement, the reconstruction of the social fabric, the recovery of dignity for civil war survivors, and the search for social justice” (Grandin et al. 2011, 451). Some of the 50 proposed 1999 Constitutional reforms sought to strengthen the judicial career service and judicial independence, remove the military from public security functions, and recognize the full rights of indigenous peoples (Zubieta 1999).

However, the May 1999 referendum failed as only 18.5% of the electorate voted: 7.6% voted “yes”, 9.3% voted “no”, and 1.6% cast blank or void ballots (Jonas 2012, 324). The internal dynamics of the “no” campaign contain important historical elements that can shed light on political factors that would later threaten CICIG’s legitimacy and autonomy. Political and economic elites – including the military – were strongly opposed to the proposed 1999 reforms and used their influence and ties to the media to derail the process.

Susanne Jonas argues that from the beginning, the Constitutional reform process “fell hostage to intraparty political maneuvers and skirmishes” (2000, 190). For example, the Guatemalan Republican Front (*Frente Republicano Guatemalteco*, FRG) obstructed the process by insisting that Congress annul the reform that prevented its leader, General Efraín Ríos Montt, from being a presidential candidate in the next election (Encuesta confirma derrumbe del Partido del general Ríos Montt).²² The “No” campaign also escalated its campaign during the three

²² The 1999 CEH report indicated that the army conducted over 600 systematic massacres, of which nearly half (48%) occurred in 1982 under Ríos Montt’s tenure as the head of the armed forces (Efraín Ríos Montt and Mauricio Rodríguez Sanchez: Before the National Courts of Guatemala).

weeks leading up to the May vote. They invested millions of *quetzales* in a “television and press blitzkrieg” against the reforms and used racially charged rhetoric to insist that if citizens voted “Yes”, they “would turn the country into another Yugoslavia, restart the war, turn the country over to the indigenous, force everyone to learn Mayan, and replace the legal system with customary indigenous law” (Jonas 2000, 196-197). Additionally, two days before the vote, clandestine forces assassinated two leaders of leftist and indigenous movements (Jonas 2000, 198). The combination of the relationship between the FRG and the army and their connections to the media allowed these elite forces to substantially lessen the number of voters and ultimately cause the “Yes” campaign to lose the 1999 referendum. The historical lessons of the 1999 Constitutional reform referendum demonstrate that members of the political and military elite wield considerable power to influence institution building in Guatemala.

CIACS and the Rule of Law

The relationships that the military, powerful businessmen, and conservative politicians formed during Guatemala’s internal conflict continued to influence judicial institutions after they succeeded in imposing their will on the 1999 Constitutional referendum process. As the 1999 CEH report argues, this group of actors retained considerable power because during the internal conflict they had penetrated “all of the country's institutions, as well as its political, social and ideological spheres”, and “developed a parallel, semi-visible, low profile, but high impact, control of national life” (La Comisión para el Esclarecimiento Histórico 1999, 24).²³ In this context, after the 1996 accord, criminal networks continued to grow parallel to state institutions, weakening the state apparatus and the ability of the judicial system to deliver justice (Dudley 2014 (3)). In Guatemala, the acronym for these criminal networks is CIACS for their name in

²³ Translation by author.

Spanish, *Cuerpos Ilegales y Aparatos Clandestinos de Seguridad* (Illegal Bodies and Clandestine Security Apparatuses). Senior members of the Guatemalan security forces that had taken part in acts of genocide during the internal conflict escaped prosecution and used their political and military connections to form the different groups that make up the overall structure of the CIACS. While the early CIACS date back to the 1990s and early 2000s, the criminal organizations continue to adapt in the face of present prosecution against them. To understand the need for CICIG's presence in Guatemala and the nature of the corrupt networks that it worked to dismantle between 2007 and the present, it is imperative to describe how the CIACS have affected and continue to affect the Guatemalan justice system.

The birth of the CIACS was a direct result of the “counterinsurgency state” that Jonas described in 2000. The goal of the CIACS is to profit from illicit activities such as narcotrafficking, contraband, illegal adoptions, and the fabrication of false passports. In the pursuit of this economic goal, former generals and officers of the Guatemalan military use their connections to politicians, wealthy businessmen, and private security forces (known as “clandestine groups”) to either bribe or use the threat of violence to penetrate and corrupt Guatemalan institutions (Perfil de los CIACS). In 2003, a Washington Office on Latin America report described that the CIACS use these connections to “protect themselves from prosecution for the crimes they commit” through intimidating or eliminating those that investigate them (Peacock and Beltrán 2003, 5-6). In this way, CIACS presented an almost insurmountable barrier for the postwar Guatemalan judicial system and their existence continues to threaten CICIG's autonomy and legitimacy.

In 2003, there were four different groups that made up the CIACS: *La Cofradía* (The Brotherhood), *El Sindicato* (The Union), the Presidential General Staff (*Estado Mayor*

Presidencial, EMP), and the leadership of the Civil Self-Defense Patrols (*Patrullas de Auto-Defensa Civil*, PACs) (Peacock and Beltrán 2003, 14). One of the earliest CIACS, and perhaps the most relevant group in terms of this thesis is the EMP. This is because before becoming President in 2011 (in addition to being implicated in the *La Línea* and *Cooptación del Estado* corruption scandals), Otto Pérez Molina had led the group when he was a coronel in the army. The military created the EMP in the 1970s to protect the President and his family, and it simultaneously served as a center of military intelligence where officers planned attacks against guerrilla fighters and Mayan communities (Perfil de los CIACS). Even though the final 1996 Peace Accord stipulated that the President had to disband the EMP and create a separate security force to protect the Executive branch, President Portillo maintained the EMP as part of the Guatemalan state until as late as October 2003, when its budget was 130 million *quetzales* (Peacock and Beltrán 2003, 22). The EMP has been implicated in high profile human rights abuses, including the assassination of Bishop Juan José Gerardi in 1998 (Bishop Gerardi: A Life Devoted to Social Justice). The fact that the former head of the EMP could become President of Guatemala in 2012 demonstrates the considerable connections and power that the CIACS can call upon to block investigations and to impede the development of institutions that seek to dismantle them.

Ultimately, the CIACS are the manifestation of illicit relationships and networks of corruption and impunity that grew out of Guatemala's internal conflict. Their political and military connections as well as their considerable financial resources mean that they could successfully block MP and PNC investigations into the violence and illegal activity that they perpetuated. It is within this context that Guatemalan civil society groups and international

human rights organizations began to plan the creation of an international mechanism to dismantle the CIACS.

FAILURE OF CICIACS: DEBATES OVER THE CREATION OF CICIG

The last section gave an historical overview of Guatemala's internal conflict and described the creation of powerful networks called CIACS that use their connections and violence to profit from illegal activity and to defend themselves from prosecution. Their existence in postwar Guatemala and their continued transformation threatens the rule of law, prohibits the establishment of effective judicial institutions, and perpetuates violence against those who threaten their power. This section will highlight the failures of the UN to establish a CICIG-like body to dismantle the CIACS as early as 2004 called the Commission of Investigation of Illegal Clandestine Security Bodies and Networks (*Comisión de Investigación de Cuerpos Ilegales y Aparatos Clandestinos de Seguridad*, CICIACS). While the CICIACS proposal failed in 2004, it would become the basic blueprint of CICIG during the final Guatemala-UN agreement in 2007. By outlining the lack of political will that caused the CICIACS proposal to fail, I explain the political obstacles that would later require CICIG's Commissioners to develop relationships with Guatemalan judicial institutions to infuse the anti-corruption body with value.

In addition to the well-documented influence of CIACS and clandestine forces on judicial institutions, international human rights organizations (such as the Washington Office on Latin America and Amnesty International) reported that the CIACS steadily increased their violence against Guatemalan civil society organizations in the early 2000s. Between January 2000 and July 2001 CIACS and clandestine groups committed at least 150 acts of violence against Guatemalan human rights defenders and members of civil society (Peacock and Beltrán 2003, 3).

In 2002, a coalition of human rights defenders launched a drive to persuade the government to establish a body to investigate the groups responsible for the threats and attacks against their colleagues (CICIG: Antecedentes). Faced with this violence, the democratically elected government was forced to engage with civil society groups such as the Myrna Mack Foundation.

In response to increasing violence against Guatemalan human rights defenders, in 2003 President Alfonso Portillo asked the UN Department of Political Affairs (DPA) “to provide assistance for the development of a mechanism to help the state investigate and prosecute members of the” CIACS (CICIG: Antecedentes).²⁴ To combat the power of the CIACS, lower the rate of endemic violence, and push back against threats to civil society members, on January 7, 2004, the UN and the government of Guatemala signed an agreement to create a commission known by its Spanish acronym, CICIACS. In its original mandate, CICIACS had autonomous prosecutorial power. This institutional design threatened President Berger’s authority, who had assumed power in 2004 after President Portillo had already solicited the UN for CICIACS. According to former MP Secretary of Criminal Politics, Dr. Alejandro Rodríguez, given that the Guatemalan executive has power over the Constitutional Court (*Corte de Constitucionalidad*, CC) through nominations, President Berger told the judges that they had to declare the CICIACS’ independent prosecutorial power as unconstitutional (Author Interview with Dr. Alejandro Rodríguez). The CC gave in to President Berger and successfully challenged the agreement on the grounds that CICIACS violated the Constitution by endowing an international entity with prosecutorial powers that were the exclusive right of the MP (The Washington Office on Latin America 2015, 5). When I asked Helen Mack why the CICIACS proposal did not gain more traction she cited one factor in particular: the lack of political will. Revealing a

²⁴ Translation by author.

conversation that she had with Vice-President Juan Francisco Reyes (2000-2004), Mack stated that he admitted that CICIACS would never survive a constitutional challenge and that it was simply a way for President Portillo to wash his hands in terms of human rights (Author Interview with Helen Mack). Ultimately, the initial failure of CICIACS to materialize demonstrated that there was a lack of powerful political actors within the state in 2004 who were willing to fight against those who wanted to perpetuate corruption and impunity.

After the CC struck down the agreement to create CICIACS, homicides continued to rise, reaching 5,781 in 2007 according to the PNC.²⁵ Civil society groups such as the Myrna Mack Foundation seized the increase in violence as a key moment and pressured President Berger to rejoin negotiations with the UN in late 2006. On December 12, 2006, the UN and Berger signed the “Agreement to Establish the International Commission against Impunity in Guatemala, CICIG”, which no longer gave CICIG an independent prosecutorial power (CICIG: Antecedentes). Following the signing, CIACS carried out extrajudicial killings against three Salvadoran congressmen on Guatemalan soil, which caused international outrage (Three Salvadoran Congressmen Killed in Guatemala). In my interview with Helen Mack, she stated that international concern stemming from the combination of this increasing level of violence and from the murder of the Salvadoran congressmen forced the Guatemalan Congress to sign the CICIG agreement (Author Interview with Helen Mack). Another factor that pressured Congress to sign was a 2007 UNHCR report by human rights expert Philip Alston, which declared that the highest levels of Guatemalan state institutions were involved extrajudicial executions, and recommended drastic judicial reform of the MP and PNC (2007, 24). On August 1, 2007, the Guatemalan Congress signed the final agreement, and CICIG started its work with Spanish

²⁵ In 2008, the Guatemalan homicide rate reached its highest point since the Civil War at 46.0 per 100,000 inhabitants (Factors Affecting Homicide Rates in Guatemala: 2000-2013).

prosecutor Carlos Castresana at the head of the anti-corruption institution.

This section has explored the political obstacles that blocked the creation of the CICIACS. These obstacles (mainly the lack of political will and the existence of powerful actors who attempted to derail the agreement such as President Berger and members of the Constitutional Court) serve as examples of the challenges that CICIG first faced and would continue to face in its process of institutionalization. To culminate the chapter, the next section describes CICIG's institution design per the 2007 agreement and demonstrates how the international anti-corruption body functions alongside the MP without an independent prosecutorial power.

CICIG'S INSTITUTIONAL DESIGN AND MANDATE

To provide an understanding of CICIG's functions and a list of the administrative tools that CICIG's Commissioners could utilize to develop effective practices and to infuse the institution with value, this section describes CICIG's mandate and institution design. After listing the powers that CICIG relies on to independently investigate and provide technical assistance in cases of corruption and impunity, I show why it was necessary for the Commissioners to build upon the original mandate to further establish the anti-corruption body's autonomy and legitimacy.

CICIG is a unique mechanism and anti-corruption body. It is a UN institution, but it operates entirely under Guatemalan law and heavily relies on the Guatemalan justice system to prosecute corruption. In this way, it is a "hybrid mechanism of international cooperation without precedent anywhere in the world" (The Washington Office on Latin America 2015, 9). While CICIG participates in investigating and providing legal assistance during the prosecution phase of cases, it also has the power to suggest reforms that seek to strengthen the capacity of

Guatemalan judicial institutions. This dual function gives CICIG power to combat grand corruption by dismantling the CIACS and by improving the ability of the Guatemalan justice system to fight against corruption on its own. These two functions relate to CICIG's institutionalization process and this thesis because per its mandate, CICIG's Commissioners can develop the institution's effective investigative practices and they can also infuse the institution with value by building a working relationship with the MP.

The final agreement for CICIG signed by Guatemalan Congress on August 1, 2007 described CICIG's powers in the following way: "CICIG makes proposals for legal reforms, works closely with selected staff from the MP and the PNC to enhance expertise in criminal investigation and prosecution, and provides technical assistance to these and other justice sector institutions" (Mandato, Acuerdo de Creación de la CICIG).²⁶ There are fifteen articles in the final agreement, and articles two and three elaborate the specific powers that CICIG's Commissioners can utilize to investigate the CIACS and assist the MP in prosecuting them. In articles two and three CICIG had these five major powers when its mandate commenced in 2007:

1. Stemming from Article 3 (1) (c), CICIG has the legal power to advise and provide technical assistance to Guatemalan public prosecutors during penal investigation.
2. Per Article 3 (1) (b) CICIG has the legal power to act as a "querellante adhesivo". In Guatemalan law this means that CICIG has the power to collaborate and assist in the prosecutorial phase of a case once the MP has brought it to court. However, this status does not allow CICIG to act as an independent prosecutorial body in Guatemalan courts.
3. Stemming from Article 3 (1) (d) and (e) CICIG has the legal power to make public accusations against Guatemalan public officials that have committed actions to block the

²⁶ Translation by author.

mandate of CICIG. CICIG may act as an interested third party in the disciplinary actions taken against these public officials.²⁷

4. Per Article 3 (1) (g) CICIG has the legal power to guarantee confidentiality to persons that collaborate with the investigations that it undertakes, may they be witnesses or collaborators, to promote their protection from the accused parties.
5. Stemming from Article 2 (1) (c), CICIG has the power to recommend that Congress adopt judicial and institutional reforms that seek to dismantle the CIACS and that relate to fighting corruption and impunity.

Source: Mandato, Acuerdo de Creación de la CICIG.

This mandate provided CICIG with both opportunities for institutionalization and challenges that its Commissioners would have to overcome. The power to conduct independent investigations into CIACS and the power to make public accusations against Guatemalan public officials that have committed actions to block its mandate afforded the anti-corruption institution's Commissioners with the basic tools to begin to establish its autonomy and legitimacy. Simultaneously, by having the power to recommend judicial and institutional reforms to Congress, CICIG can attempt to pass reforms to strengthen and further build relationships with the Guatemalan institutions that it works with. However, since the CC and President Berger had successfully blocked CICIG from having an independent prosecutorial power, it does not have the power to directly go after the CIACS. This is CICIG's greatest weakness as an anti-corruption institution. Without an independent prosecutorial power, CICIG lacked technical autonomy from the MP during the prosecutorial process. This meant that its Commissioners would have to rely on the aforementioned powers to first develop effective

²⁷ While CICIG has the power to act as an interested third party in investigations against those it has accused of impeding its mandate, it has never used this power in court.

investigative practices and to convince the MP to accept their validity. Ultimately, CICIG's institutional design, its lack of a prosecutorial power, and the weakness of the MP as a judicial institution in 2007 meant that the Commissioners had to activate each design principle to generate additional autonomy and legitimacy.

Conclusion

In conclusion, a historical examination of the origins of corrupt networks that infiltrated Guatemalan institutions during the country's internal conflict demonstrates that CICIG faced powerful and longstanding criminal organizations. The networks that the Guatemalan state and the UN created CICIG to dismantle also posed an immediate and credible threat to the anti-corruption institution's legitimacy and autonomy. Furthermore, the failure of the initial CICIACS proposal showed that powerful state actors not only lacked the political will to dismantle the CIACS and other corrupt networks, but that they actively blocked any process that sought to do so. Finally, CICIG's mandate and institutional design show that it is a unique anti-corruption mechanism. It is powerful in terms of its ability to independently investigate cases of corruption and impunity. However, without the power to prosecute these cases, it heavily relies on judicial institutions such as the MP and PNC to dismantle networks of corruption. For this reason, CICIG's Commissioners had to first improve the MP's investigative and prosecutorial capacity and build an effective working relationship with the Guatemalan institution before it could begin to achieve its goals. Building upon these obstacles to CICIG's institutionalization process, the next three chapters apply Boin and Christensen's design principle framework to explain how CICIG's Commissioners achieved a high level of internal routinization and value infusion.

CHAPTER THREE: INSTITUTIONALIZATION UNDER CASTRESANA: 2007-2010

Introduction

Between September 2007 and June 2010, Spanish prosecutor Commissioner Carlos Castresana Fernández oversaw CICIG's institutional development. As Helen Mack describes him, "Castresana is the one that gives the instruments to CICIG to exercise its mandate" (Author Interview with Mack). To build CICIG's autonomy and legitimacy, Castresana created an "action plan" (*plan de acción*) for CICIG's first year in Guatemala. The *plan de acción* sought to establish the anti-corruption body's internal organization, to build a working relationship with the MP and PNC by purging corrupt actors within them, and to assist these Guatemalan judicial institutions in the investigation and prosecution of CICIG's first cases (CICIG 2008, 2-3). During this first year, CICIG lacked support from Guatemalan authorities to combat impunity and corruption. While it had financial support from the UN, the U.S. Embassy, and its UNDP funding mechanism, CICIG first needed to overcome the "liability of newness" and convince its Guatemalan counterparts of its legitimacy and authority.

Within Boin and Christensen's framework, during his tenure Commissioner Castresana activated all four design principles between 2007 and 2010. He pursued, sanctioned, and embedded effective norms and practices within CICIG and within Guatemalan judicial institutions. By activating the four design principles during his time as Commissioner, Castresana laid the foundation for CICIG as a highly-institutionalized body. Castresana pursued effective practices by experimenting with legitimate ways that CICIG could assist with MP and PNC investigations. He also gave sanction to emergent practices by creating crucial legal reforms to endorse new investigative techniques within CICIG and Guatemalan judicial institutions. Finally, Commissioner Castresana embedded accepted investigative practices

through applying the administrative tool of access to international human capital and legal expertise. However, despite initially pushing back against external threats and again attempting to do so in his last months as Commissioner, due to CICIG being a new institution, corrupt networks were able to force Castresana to resign in 2010. In his activation of the first three design principles, Commissioner Castresana internally routinized CICIG and established relationships with the MP and PNC, which infused the anti-corruption with value. Furthermore, his use of CICIG's power to publically denounce corrupt justice system officials also purged threatening actors that sought to block the anti-corruption institution's mandate.

Whereas the previous chapter described the history of the corrupt networks and CIACS that the UN designed CICIG to dismantle, in four sections this chapter will demonstrate how Commissioner Castresana built upon the anti-corruption's institutional design to initially develop its autonomy and legitimacy in the Guatemalan context. Section one describes internal organizational problems as well as threats from powerful political and judicial actors that Castresana faced in 2007 and 2008. It also analyzes how the Spanish prosecutor initially used the administrative tools at his disposal to force these threatening external actors to step down from their positions of power. Section two focuses on how the Spanish prosecutor activated the first three design principles by organizing CICIG's internal structure, advocating for legal reforms to assist in the development of effective practices, and by taking the initiative to develop working relationships with the MP and PNC. Third, the chapter analyzes how Commissioner Castresana first utilized and embedded the system of wiretaps and the unit of analysis in the high-visibility case of lawyer Rodrigo Rosenberg. Finally, the chapter re-visits external threats to Castresana's tenure that forced him to resign in 2010 and that halted CICIG's institutionalization process. In this section I demonstrate that by not continuously engaging in

crisis management, Commissioner Castresana was forced to resign, which ultimately damaged CICIG's autonomy and reliability.

INITIAL CHALLENGES TO AUTONOMY AND LEGITMACY

I have already described how the CIACS affect judicial institutions, but after a year of work, in 2008 a U.S. diplomatic cable revealed that Commissioner Castresana had discovered that the effect of corruption on judicial institutions was “worse than he had anticipated” and that he was receiving significant pushback from within the judicial system (Derham 2008). To provide context for the rest of the chapter, this section provides an overview of the challenges that Castresana grappled with while organizing CICIG's internal structure and the external threats that he faced between 2007 and 2010. The section demonstrates that at the beginning of his tenure, Castresana did activate the fourth design principle by using his article 3 (1) (d) power to make accusations against Guatemalan officials who were attempting to block CICIG's mandate. While chapters one and two described the extent to which corrupt networks had penetrated state institutions, it is imperative to also understand how Guatemalan leaders within the executive branch, the ministries, and judicial institutions first reacted to CICIG's presence in the political landscape.

Following the August 2007 agreement, the UN Department of Political Affairs and Commissioner Castresana had to quickly develop CICIG's internal structure before its mandate ended in 2009. CICIG did not find a secure office until January of 2008. Additionally, through interviews with UN officials, Open Society Foundation's Patrick Gavigan discovered that the UN Secretariat refused to provide startup funds to Castresana because the agreement had established CICIG as a non-UN body. For this reason, Castresana would have “to build all of CICIG's administrative systems from scratch (Gavigan 2016, 40). Due to the UN's inability to

provide support in early 2008, it took Castresana until mid-2008 to create five working areas within CICIG: litigation, legal and investigation units, and administration and security departments (Gavigan 2016, 40). While fleeting, these challenges presented significant constraints to Castresana's ability to establish CICIG's internal organization, to investigate cases, and to assist the MP in prosecution between August 2007 and July 2008.

Scholars that focus on political opportunity structures (POS) might argue that when Álvaro Colom of the center-left National Unity of Hope party (*Unidad Nacional de la Esperanza*, UNE) defeated General Otto Pérez Molina in the 2007 presidential election, this represented an opening of the political environment that CICIG was initially working in. After all, the 2007 election was the first major victory for the Guatemalan left since the Peace Accords in 1996 (Lemus 2015). If the POS did open, this would be a credible explanatory factor in CICIG's institutionalization process. However, as the numerous threats that CICIG faced from within Guatemalan ministries and institutions from Berger-era appointees demonstrate, the election of Colom did not signify a substantial opening of the POS. The two major external threats that CICIG faced during Castresana's tenure were: 1. Non-cooperation and active subversion from Attorney General Luis Florido Solís and those loyal to him within the MP. 2. PNC Director Isabel Mendoza and other senior officials within the Guatemalan police institution.

As evidence of the threat that Attorney General Florido and Director Mendoza presented to CICIG's institution building process, on March 14, 2008 Commissioner Castresana told U.S. Ambassador James Derham that Florido was not in control of the MP, and (alluding to Mendoza) that "senior leaders of some law enforcement agencies have private agendas which include crime and corruption" (Derham 2008). To initially combat these external threats (thereby activating the fourth design principle), Castresana utilized CICIG's Article 3 (1) (d) power to make public

accusations against officials within the two justice system institutions and pressure both leaders to resign.

The first time that Castresana actively pressured a corrupt leader of a Guatemalan institution was in April of 2008 as he clashed with Attorney General Florido. The two argued over the public killing of a Ministry of Government employee named Víctor Josué Rivera Azuaje who had business links to drug trafficker Jorge Mario Paredes Córdova. CICIG took interest in the case and determined that Álvaro Matus (Director of the Fiscalía of Crimes Against Life of the MP) and Leyla Susana Lemus (Sub Director of the Office of Witness Protection of the MP) had conspired to first manipulate the crime scene and then block the case from advancing (CICIG 2010, 15). In an interview with Dr. Alejandro Rodríguez, he commented that Attorney General Florido had refused to hand over crucial information regarding the MP's illegal actions in the case, and that Commissioner Castresana was rapidly becoming frustrated with his inability to investigate his first major corruption case (Author Interview with Rodríguez). Finally, Castresana decided to meet with President Colom and said that either the President had to force Florido to resign, or he and CICIG would leave the country (Gavigan 2016, 43). On July 30, 2008 Attorney General Florido resigned due to Castresana's decision to pressure President Colom to ask for Florido's resignation (Fiscal general dimitió ayer en Guatemala). In Florido's place, José Amílcar Velásquez Zárate became Attorney General, who (as I explain in the next section of this chapter) would later help Castresana develop a special anti-corruption unit within the MP. Therefore, by deciding to use his mandate to pressure President Colom to ask Florido to resign, the Commissioner defended CICIG's autonomy, improved the investigative capacity of the MP, and removed a barrier that had blocked him from working with Guatemalan public prosecutors on important cases.

The second example of Commissioner Castresana using his power at the start of his mandate to defend CICIG from powerful external actors and to improve its relationship with Guatemalan judicial institutions came in July of 2008. When President Colom assumed control of the Government in January 2008, he left Berger-era appointee Isabel Mendoza Agustín as Director of the PNC. According to CICIG's second annual report, Mendoza and other high ranking police officials "have made it hard to conceive and execute medium and long-term security plans despite their extreme necessity" (CICIG 2009, 9).²⁸ In the report, Castresana was referencing the necessity of CICIG to create protection units for its employees and witnesses, and that Mendoza and others were blocking these efforts. In response, Castresana used CICIG's Article 3 (1) (d) power to make accusations against high ranking PNC officials in July of 2015 (Gavigan 2016, 43). These public accusations further pressured President Colom to ask for Mendoza's resignation and name Marlene Blanco as PNC director, who immediately dismissed numerous senior officials on Castresana's list (El presidente de Guatemala destituye a la cúpula policial).²⁹ By actively deciding to utilize his mandated power, Commissioner Castresana removed Mendoza as an external threat to CICIG's initial process of institutionalization. Additionally, the decision to publish the list and the subsequent purge of high ranking corrupt PNC officials slightly improved the capacity of one of the anti-corruption institution's justice system partners.

This section has demonstrated that in 2008 Commissioner Castresana initially activated the fourth design principle and removed external threats to CICIG's autonomy. In doing so, he

²⁸ Translation by author.

²⁹ While Castresana's list of officials that were complicit of illicit activity pressured President Colom to ask for Director Mendoza's resignation, it did not have a lasting anti-corruption effect on the PNC. On March 27, 2012 CICIG and the MP presented 190 pieces of evidence that the new director, Marlene Blanco had ordered PNC officials to commit numerous extrajudicial executions (Comunicado de Prensa 021).

managed to purge both the MP and PNC of actors that sought to directly inhibit the anti-corruption body's institutionalization process. While President Colom's center-left government may have seemed like an opening in the POS, without Castresana's pressure it is unlikely that the new President would have asked for the resignation of Attorney General Florido and PNC Director Isabel Mendoza.

DEVELOPING EFFECTIVE PRACTICES AND VALUE INFUSION

As I argued in chapter one, institutional leaders' pursuit and sanction of effective practices is crucial to the process of institution building. After an institution first receives its mandate, it must overcome the liability of newness to "develop and administer effective solutions to complex problems that often change in unforeseen directions" (Boin and Christensen 2008, 275). By providing the resources necessary to pursue these practices and by ordering institution members to use them, leaders further the process of behavioral routinization and begin to infuse the institution with value as employees and external state and civil society actors start to accept the practice.

While the last section analyzed how Commissioner Castresana responded to external threats that plagued CICIG during the beginning of its first mandate, this section accomplishes two goals. First, it will demonstrate how the Spanish prosecutor activated the first two design principles by pursuing and sanctioning effective practices within CICIG, and by passing legal reforms to internally routinize the practices within the two Guatemalan judicial institutions. Through this activation, Castresana routinized the practice of wiretaps, a system of witness protection, and a unit of analysis within the MP.³⁰ Second, it will explain how Castresana

³⁰ While I explain the formation of these practices now and focus on how wiretaps assisted in the Rosenberg case, in chapter five I revisit how CICIG utilized the practices in the *La Línea* case.

infused CICIG with value by creating the Special Support Unit to CICIG within the MP (*Unidad Especial de Fiscalía de Apoyo a la CICIG*, UEFAC), which is now known as the Special Public Prosecutors Office against Impunity (*Fiscalía Especial contra la Impunidad*, FECI). By creating a special office against impunity in the MP, Castresana laid the groundwork for a greatly improved working relationship with the Guatemalan judicial institution.

Developing Effective Practices: Wiretaps, Witness Protection, and Analysis Unit

Since Guatemalan law did not permit wiretapping in criminal investigations, Castresana had to first use his power to suggest legal reforms regarding anti-corruption efforts to reform the Law Against Organized Crime (*Ley contra la Delincuencia Organizada*) in 2008. While the inability to wiretap may seem insignificant, legal experts have dubbed this a major weakness of the MP prior to CICIG's assistance in the 2008 legal reforms. Because they could not rely on wiretaps, "prosecutors and police were therefore forced to rely on vulnerable and frequently unreliable witness testimony while Guatemala had no effective witness (protection) program" (Gavigan 2016, 43). As part of this reform, CICIG helped modify articles 92, 93, 94, 101, and 104 of the law to allow the MP to legally wiretap those it suspected of being implicated in cases of corruption (Estado de las reformas promovidas por la CICIG en materia legislativa Guatemala). Therefore, Castresana's assistance in reforming the *Ley contra la Delincuencia Organizada* was an example of his activation of the first design principle, the pursuance of effective practices. Castresana also activated the second design principle of sanctioning effective practices by assisting in the creation of a financial agreement between the European Union (EU) and the MP to fund wiretaps. On November 24, 2008 Attorney General Velásquez Zárte signed the "Interinstitutional Agreement for the establishment and application of a system of wiretaps" (*Acuerdo Interinstitucional para el establecimiento y aplicación de un Sistema de escuchas*

telefónicas). Per the agreement, the EU financed a wire-tapping team, its equipment, and a monitoring center to intercept calls that the MP had received warrants to tap (Acuerdo Interinstitucional para el establecimiento y aplicación de un Sistema de escuchas telefónicas). These wiretaps would become crucial in CICIG's first high-visibility case, the *Caso Rosenberg*.

In addition to routinizing the practice of wiretaps, Commissioner Castresana also created a vital system of witness protection to safeguard witnesses from the CIACS and other criminal networks. In October 2008, CICIG presented a proposal to strengthen the witness protection program (*Programa de Protección a Testigos*), which led to the signing of an agreement between the MP, the Ministry of Government, and the Commission (Strengthening the Institutions). In its third annual report, CICIG noted the prosecutorial benefits of having an established witness protection program for joint CICIG-MP cases. The report argues that since 2009, CICIG has worked with the ministry of government to “implement rules, protocols, models of good practices, and operational strategies” (CICIG 2010, 20).³¹ Former MP prosecutor Julio Prado argues that the witness protection program that Castresana routinized within the Commission, the Ministry of Government, and the MP would later provide key protection against witness intimidation in high-risk cases. Since the model of prosecution in 2008 and 2009 still relied heavily on witness testimony, witness protection was vital (Author Interview with Prado).³² Therefore, by creating the system of witness protection and by working with his Guatemalan counterparts to develop the witness protection program, Commissioner Castresana improved the Commission's and the MP's internal routinization of effective prosecutorial practices.

³¹ Translation by author.

³² Currently, the witness protection program functions through a force of 48 PNC officers that inter-American security experts (largely from Colombia and Uruguay) have trained in specifically protecting witnesses that CICIG and the MP have convinced to give testimonies in high-risk cases (Asistencia Técnica).

Finally, Castresana also created a new unit of analysis (*Unidad de Métodos Especiales*) team within the MP and provided technical assistance in the form of seven classes (*talleres*) to routinize its use within the Guatemalan judicial institution. The seven classes were: a *taller* about CICIG's policy and legal framework, a *taller* about the investigation of organized crime between CICIG and the MP, a *taller* about using wiretaps as a method in prosecution, a *taller* about managing stress and tension, a *taller* about the use of data and information in prosecution, a seminar about the inter-American human rights system, and a *taller* about the implementation of investigation phases (CICIG 2009, 12).³³ As chapter one mentioned, leaders activate the third design principle partly by teaching those who work within and partner with the organization how to make use of effective practices. These classes served to embed the accepted investigative practices of CICIG inside the new unit of analysis within the MP. In an interview, former MP prosecutor Julio Prado praised the analysis team for improving the capacity of the MP by increasing the amount of information that could be analyzed for use in important cases (Author Interview with Prado). These classes also served to further infuse CICIG with value as the CICIG team built relationships with MP prosecutors.

Ultimately, by creating the system of wiretaps, the witness protection program, and the analysis unit, Commissioner Castresana pursued and sanctioned emergent practices and started to embed them within CICIG and its Guatemalan organizational partners. Beyond demonstrating how this improved CICIG's routinization and value infusion, this section has served to describe these new practices, which future Commissioners would make use of in cases such as *La Línea*.

Creation of the Fiscalía Especial contra la Impunidad (FECI)

In addition to creating and providing the resources for the development of the previously

³³ Translation by author.

mentioned investigative practices within CICIG and the MP, Commissioner Castresana also created a special public prosecutor's office within the MP called the Special Unit of the Public Prosecutor's Office to Support CICIG (*Unidad Especial de Fiscalía de Apoyo a la CICIG*, UEFAC). In February of 2008, Castresana and Attorney General Velásquez Zárte signed the agreement to create the UEFAC, which changed its name to FECI in 2010 (*Convenio de Cooperación Bilateral entre el Ministerio Público y la Comisión Internacional contra la Impunidad en Guatemala*). To staff the FECI, Castresana initiated a strict vetting process to nominate select Guatemalan prosecutors and advisors that had previously dedicated themselves to anti-corruption efforts (CICIG 2009, 8). The singular goal and task of UEFAC (and eventually FECI) is to investigate specific high-impact cases of impunity and corruption. Per the agreement, CICIG would provide an advisory role to the FECI prosecutors; the anti-corruption body would investigate cases of corruption and then work with FECI to advise on legal strategies to use in court.³⁴

In comparison to Attorney General Florido's non-cooperation and active subversion of CICIG's goals, the second annual report stated that since the creation of the UEFEC under Velásquez Zárte, the "CICIG-MP relationship has been consolidating" (CICIG 2008, 9).³⁵ Having previously worked within FECI as an assistant prosecutor, Julio Prado could not overstate the positive influence of the special public prosecutor's office on the relationship between CICIG and the MP. He reported that "the creation of FECI and its ability to solely focus on high-risk cases built a strong relationship between CICIG and the MP" (Author

³⁴ Since its creation, with CICIG assistance FECI has investigated 119 high-impact cases of corruption and impunity in Guatemala. Some notable cases include, *caso Pavón*, *caso del Alcalde de la Antigua Guatemala*, and *caso Militares* (Jacobo Salán y Napoleón Rojas) (Fiscalía Especial contra la Impunidad-FECI).

³⁵ Translation by author.

Interview with Prado).³⁶ According to the Washington Office on Latin America, Castresana's agreement with Attorney General Velásquez Zárte was important because FECI allows CICIG "to legally request summons, searches, and other pertinent proceedings, including requests for subpoenas; the calling of witnesses, experts, or defendants; and inspections or search warrants" (2015, 10).³⁷ Ultimately, Castresana's decision to work with Attorney General Velásquez Zárte to create FECI further infused CICIG with value because it laid the groundwork and provided the mechanism for a stable working relationship between the anti-corruption institution and the MP.

ROSENBERG CASE: CREATING LEGITIMACY

On May 10, 2009, prominent lawyer Rodrigo Rosenberg Marzano was murdered while riding his bicycle in the 14th Zone of Guatemala City (Muerte de abogado Rosenberg causa conmoción). While investigating and attempting to prosecute this case, Commissioner Castresana accomplished two transcendental results. First, he activated the third design principle by embedding the system of wire taps and the unit of analysis within CICIG and the MP. Second, by working closely with the UEFAC on the case, Commissioner Castresana further infused CICIG with value by improving its relationship with the MP. While the Rosenberg case eventually stalled, and the primary suspects succeeded in delaying their prosecution until 2013, the case itself demonstrated that CICIG and the MP could successfully use wiretaps as a form of scientific evidence in a high-profile case (Comunicado de Prensa 050). According to interviews with Dr. Alejandro Rodríguez (who worked in the MP at the time of the case) and with Helen Mack, CICIG's involvement in the *Caso Rosenberg* gave it increasing visibility and credibility within the Guatemalan judicial system because of the way that it successfully used the wiretaps

³⁶ Translation by author.

³⁷ I return to the importance of these methods and the relationship between CICIG and the MP in chapter six and in the discussion of the La Línea case.

in the investigative phase of the case (Author Interviews with Rodríguez and Mack). This section therefore analyzes the Rosenberg case to demonstrate how Commissioner Castresana embedded new effective practices in CICIG and the MP, and in doing so improved CICIG's legitimacy and further improved its relationship with Guatemalan judicial institutions.

Before describing how Castresana embedded the system of wiretaps, it is important to understand the details of the complex Rosenberg case. Days before his murder, Rodrigo Rosenberg recorded a video foretelling his eventual death that he asked to be played at his funeral; it was later shown on YouTube and on Guatemalan television (Grann 2011). In the video, the lawyer blamed his murder on President Colom, the President's wife, and the private Presidential secretary, Gustavo Alejos (Rosenberg planeó su propio asesinato para culpar al presidente de Guatemala). In addition to his own murder, Rosenberg claimed that these actors were also responsible for killing his client, Khalil Musa and his daughter Marjorie Musa on April 14, 2009 for having discovered a corruption network within a Guatemalan bank (López 2010). The video caused national outrage against President Colom and his government; protests quickly formed against him in the capital. Conservative parties also called for his immediate resignation (Gavigan 2016, 46). Despite this political pressure, after eight months of intensive investigation, CICIG and the MP announced in January of 2010 that their preliminary hypothesis was that Rosenberg had planned his own death to implicate President Colom. CICIG announced that responding to a personal crisis (stemming from his romantic relationship with Marjorie Musa), Rosenberg hired former PNC officers and ex-army members who had turned into assassins through an organized crime ring that was run by the prominent Valdés Paiz brothers (CICIG 2010, 17). During a nationally televised speech, Commissioner Castresana announced that "Rodrigo Rosenberg was an honorable person and he was convinced of what he was saying. He

thought that his actions would draw attention to the case” (referring to the murder of the Musa family) (López 2010). The details of the case demonstrate the extraordinary extent of insecurity in Guatemala in 2009, and the announcement brought CICIG onto the national stage, given the implications for Colom’s presidency.

While the Rosenberg case details are important, the investigation itself illuminates how Commissioner Castresana embedded the effective practice of wiretaps in CICIG and the MP and how he utilized the new unit of analysis. Throughout the case, CICIG and MP made use of the system of wiretaps that Commissioner Castresana had pursued and sanctioned in 2008. During the entire investigation, the MP analyzed around 100,000 phone calls of fourteen different phone lines (Caso Rosenberg: Resultados de la Investigación). From analyzing threatening calls that Rosenberg had received between May 5 and May 10, 2009, the unit of analysis in the MP and UEFAC determined that the owner of the numbers 57759747 and 57320265 was implicated in the case. By analyzing these numbers, which belonged to burner phones, the unit tracked their purchases to different kiosks on May 5, 2009. Next, UEFEC and the unit looked at camera footage near the kiosks to determine the identity of the buyer. Their video analysis determined that the buyer of the phones was Luis Eduardo Lopez Florian, pilot and private security agent for Rosenberg. Further phone analysis and video surveillance determined that Lopez Florian then used the phone with the number 57759747 to make threatening calls to Rosenberg and that he gave the other phone with the number 57320265 to Francisco Valdés Paiz to plan the murder (Caso Rosenberg: Resultados de la Investigación). Therefore, the unit of analysis and the UEFAC’s use of wiretaps and advanced video surveillance was crucial to determine that Rosenberg had planned his own murder to implicate President Colom.

In addition to embedding the system of wiretaps and using them in an investigation to great effect, on July 15, 2010 (just eight days after Commissioner Castresana's resignation) the High-Risk Trial Court (*Tribunal de Sentencia de Mayor Riesgo*) gave CICIG and the MP a positive ruling in the Rosenberg case. The Court issued sentences against nine accused parties of murder, illicit association, and the illegal possession of firearms (CICIG 2010, 17). Additionally, utilizing its Article 3 (1) (b) power, CICIG functioned as a *querellante adhesiva* to file charges with the UEFAC against two other parties for illicit association and obstruction of justice (CICIG 2010, 20). Ultimately, if Commissioner Castresana had not designed the system of wiretaps and provided the resources necessary to fund the practice in 2008, it is unlikely that the unit of analysis and UEFAC would have been able to investigate such a complex case. Furthermore, by working closely with UEFAC on a highly visible case, Castresana improved the relationship between CICIG and the MP and thus infused the anti-corruption body with value.

RENEWED EXTERNAL THREATS AND RESIGNATION

Per Boin and Christensen's framework, leaders must quickly respond to crises, "continually monitor the relation between the institution and its environment", and "invest much time in talking to external stakeholders, listening to complaints, and monitoring perceptions" (2008, 288). The previous sections demonstrated how Commissioner Castresana activated the first three design principles, internally routinized CICIG and its Guatemalan judicial counterparts, and infused the anti-corruption body with value. Castresana also activated the fourth design principle while making public accusations against corrupt state officials in 2008, which pressured President Colom to ask for their resignation. However, Castresana was

ultimately unable to respond to external crises which arose in the Spring of 2010, despite attempts to do so.

Public accusations of abuse of power and the selection of Conrado Reyes as the new Attorney General caused Commissioner Castresana to resign on June 7, 2010. Castresana had succeeded in routinizing new and effective investigative practices within CICIG, the MP, and the PNC, in creating the UEFAC to improve the relationship between the MP and the international anti-corruption body, and in investigating and prosecuting the highly visible Rosenberg case. However, per Open Society Foundation's Patrick Gavigan, while exercising his mandate the Commissioner "had earned the enmity of Portillo's supporters for his dogged pursuit of the ex-president, of powerful judicial and legal actors for his criticism of their efforts to preserve impunity, and of political parties whose judicial bargaining had been thwarted by CICIG" (2016, 53). Therefore, by using his mandated powers Castresana had incurred the wrath of Guatemala's political elite.

On May 24, 2010 President Colom named Conrado Reyes as the new Attorney General. Statements that Commissioner Castresana has made after his resignation indicate that by the Spring of 2010, there was a group of officials within the MP, including Conrado Reyes, that were using the institution's resources to block CICIG's mandate (Ortiz 2010). As he did in 2008 with Attorney General Florido and PNC Director Isabel Mendoza, the Commissioner used his power to publically denounce the new Attorney General. First, Castresana claimed that alternate judge of the Constitutional Court, Hilario Roderico Pineda Sánchez, and a member of Attorney General Conrado Reyes' security team had been spying on him. He also cited phone conversations to demonstrate that Conrado Reyes and officials within MP had created a defense strategy for the Valdés Paiz brothers (whom CICIG was prosecuting at the time in the Rosenberg

case) (Ortiz 2010). Despite this evidence and Castresana's petition for Conrado Reyes' immediate resignation, President Colom initially refused to ask him to resign. Castresana therefore himself resigned from CICIG on June 7, 2010 because, in his words, "I could not keep working because my counterpart (Conrado Reyes) was opening up the MP to the most corrupt sectors of society" ("Había una trama para matarme en Guatemala" dice Carlos Castresana).³⁸ Castresana's resignation succeeded in creating pressure against Colom. For example, on June 9, 2010 WOLA issued a statement that Castresana's resignation and President Colom's actions could have serious implications for the willingness of CICIG donor nations to provide additional funds to Guatemalan anti-corruption efforts (Washington Office on Latin America 2010). On June 10th, 2010, the Guatemalan Supreme Court fired Conrado Reyes as Attorney General.

Castresana's resignation is not a symptom of his failure to activate the fourth design principle or to engage in crisis management. As this section has demonstrated, the Commissioner used the resources at his disposal to provide evidence to President Colom of Conrado Reyes' actions to block CICIG activities. However, as CICIG was still overcoming the "liability of newness", and given the strength of corrupt networks in Guatemala, Conrado Reyes and other officials in the MP were able to infiltrate the Guatemalan institution and use its resources to pressure Castresana to resign.

Conclusion

In retrospect, some current experts on CICIG criticize Commissioner Castresana for denouncing powerful judicial officials and politicians without adequate evidence (Gavigan 2016, 9). However, as this chapter has demonstrated, Castresana activated all four design principles at different times during his tenure to great effect. He leveraged CICIG's mandate to publically

³⁸ Translation by author.

denounce officials in the MP and the PNC that attempted to block his initiatives. He also pursued, sanctioned, and embedded the effective practice of wiretaps, which routinized the practice within the MP and CICIG. He created a new witness protection system. He created a new unit of analysis and the UEFAC (later known as FECI) within the MP to exclusively work on high-risk corruption cases, which infused CICIG with value by working to improve its relationship with its Guatemalan judicial counterparts. Finally, Castresana used these effective investigative and prosecutorial practices to successfully prosecute CICIG's most important case during that time, the *Caso Rosenberg*. This investigation further embedded the practices and built CICIG's legitimacy as an anti-corruption body by demonstrating that it could dismantle networks of corruption. While it is true that Commissioner Castresana was unable to successfully respond to external threats within the MP in May of 2010, his resignation was a symptom of CICIG's status as a new institution and the power of illicit networks within the Guatemalan judicial system.

CHAPTER FOUR: DEINSTITUTIONALIZATION UNDER DALL'ANESE: 2010-2013

Introduction

After Castresana's resignation in May, CICIG experienced a period of deinstitutionalization between 2010 and 2013 under the leadership of Costa Rican prosecutor Francisco Javier Dall'Anese Ruiz. Under Commissioner Dall'Anese, this deinstitutionalization manifested itself in CICIG failing to prosecute high-profile cases and in not effectively responding to numerous attacks against its legitimacy. Despite a legacy of having deinstitutionalized CICIG, Dall'Anese's actions as Commissioner continued to infuse the institution with value by improving its relationship with the MP and with the new Attorney General, Claudia Paz y Paz. Furthermore, he continued to utilize CICIG's Article 2 (1) (c) power to suggest reforms to the judicial system. As Dr. Alejandro Rodríguez put it, "while everyone says that Dall'Anese didn't do anything, he helped take back the MP from the corrupt networks that had forced Castresana to resign" (Author Interview with Rodríguez).³⁹ Therefore, one can characterize Commissioner Dall'Anese's tenure as containing two parallel veins: on one hand, he continued to infuse CICIG with value by improving its relationship with the MP and by proposing crucial judicial reforms such as the 2012 anti-corruption law. On the other hand, throughout his tenure, Dall'Anese weakened CICIG's legitimacy because he did not effectively respond to increasing threats against the institution; his tenure was a low point in CICIG's institutionalization process.

In this chapter, I argue that throughout his entire time as Commissioner, Dall'Anese's leadership led to a process of deinstitutionalization within CICIG. I recognize that in 2010 and

³⁹ Translation by author.

2011, Dall’Anese initially continued to infuse CICIG with value by working with the collection of civil society groups called *Convocatoria Ciudadana* to elect Claudia Paz y Paz as the new Attorney General. The Commissioner worked with Attorney General Paz y Paz as she effectively overhauled the MP, improved its capacity, and attacked powerful gangs within Guatemala. The Costa Rican prosecutor also infused CICIG with value by providing technical support to the 2012 anti-corruption law, which codified illicit enrichment and influence peddling as crimes for the first time in Guatemala. However, despite his actions leading to an initial period of value infusion, Commissioner Dall’Anese failed to prosecute numerous high profile cases, such as that against former Interior Minister Carlos Vielmann. Furthermore, as external threats increased against CICIG and the Commissioner himself, he did not engage in crisis management to the extent that Castresana did in 2008 and attempted to do in the Spring of 2010. Therefore, while Dall’Anese initially activated the second and third design principles through legal reform, his inability to respond to these crises led to his resignation in 2013 and to a serious loss of legitimacy for CICIG.

In three sections this chapter therefore analyzes this initial period of value infusion under Commissioner Dall’Anese as well as the overall process of deinstitutionalization during his tenure. The first section analyzes the Vielmann case, and demonstrates that by failing to prosecute this high-profile case and to respond to the backlash that arose from it, Dall’Anese weakened CICIG’s legitimacy. Second, the chapter moves to demonstrate that within the overall process of deinstitutionalization, Dall’Anese continued to infuse CICIG with value by partnering with a collection of civil society groups called *Convocatoria Ciudadana* to elect Claudia Paz y Paz as Attorney General, by working with Paz y Paz to reform the MP, and by providing support during Congressional debates over the 2012 *Ley contra la Corrupción*. Finally, I describe the

defamation campaign that CICIG and Dall’Anese faced during his time as Commissioner. This section demonstrates that by not effectively responding to these external threats as Castresana did in 2008 (and attempted to do in 2010), the Costa Rican prosecutor was forced to resign, thus damaging CICIG’s public image.

ELITE BACKLASH: VIELMANN AND EXTRAJUDICIAL KILLINGS

When Dall’Anese became Commissioner in August of 2010, CICIG was already wrapped up in a complex case against former security officials from President Berger’s administration, including the previous Minister of the Interior, Carlos Vielmann. The goal of this section is to explain that by failing to prosecute Vielmann within the Guatemalan judicial system, Commissioner Dall’Anese weakened CICIG’s legitimacy. The CICIG-MP attempted prosecution of these senior security officials, especially of Vielmann, also created elite backlash that further threatened the anti-corruption institution’s legitimacy. As Commissioner, Dall’Anese was in a position to combat these threats, but his failure to do so between 2010 and 2012 allowed them to grow in strength to oppose CICIG’s mandate.

Before describing this elite backlash that stemmed from attempting to prosecute Vielmann, it is important to understand the case against the former Interior Minister and his colleagues. In August of 2010, CICIG and the MP accused Vielmann and other high-level security officials of running a parallel structure of social cleansing within the penitentiary system (*Fiscal español pide procesar a Carlos Vielmann por muerte de presos*). These senior officials were: the ex-director of the PNC, Erwin Sperisen; the subdirector of criminal investigations, Javier Figueroa; and the former director of the penitentiary system, Alejandro Giammattei. In its fifth annual report, CICIG described that in 2005 and 2006 these officials had created two plans, (“Plan Gavilán” and “Pavo Real”) and described the modus operandi of the illicit structure as

“assigning personnel, functions and logistics to consistently find problematic gang members (within the prison system) and eliminate them” (2012, 10). On August 8, 2013 Víctor Soto, former Chief of the Crime Division of the PNC, was sentenced to 33 years in prison for participating in the “Pavo Real” plan, which killed ten prisoners who had led a riot in the Pavón jail (Comunicado de Prensa 041). Despite this eventual prosecutorial success against Soto in 2013, as the Washington Office on Latin America notes, “of the high-level officials in the parallel criminal structure, Alejandro Giammattei was the only one to be tried in Guatemala”, and he was acquitted in July 2012 (2015, 11). Because they had different European citizenships, Vielmann, Sperisen and Figueroa had moved to Europe and out of the reach of Guatemalan courts.⁴⁰

Between August 2010, when the First Criminal Court (*Juzgado Primero de Instancia Penal*) issued a warrant against Carlos Vielmann, and February 2012, when the Spanish National Assembly denied the Guatemalan Ministry of the Exterior’s extradition request for the former Minister of the Interior, Vielmann used his connections to push back against Dall’Anese. This elite backlash damaged CICIG’s public image in Guatemala. In its fifth annual report, CICIG stated that Vielmann has spent millions on a “media and social campaign dedicated to controlling the message that gets transferred to the public in opinion columns... through the express demonstrations of support from the leadership of CACIF (*Comité Coordinador de Asociaciones Agrícolas, Comerciales, Industriales y Financieras*) ... and from former President Berger” (2012, 10).⁴¹ In addition to this media campaign to brand Vielmann as the recipient of unjust

⁴⁰ While I did not look at the resolutions of the European cases against these officials, their arrest and prosecution is important in terms of holding administrative officials accountable for their actions. On August 31, 2012, the Swiss police captured Sperisen and kept him in preventative prison for his participation in homicides committed in Guatemala between 2004 and 2007. Figueroa also finds himself in preventative prison in Austria for similar crimes (CICIG 2012, 11). Vielmann is currently standing trial in Madrid and is facing a sentence of 40 years for ordering the extrajudicial killing of 10 gang members in 2006 (Pérez).

⁴¹ Translation by author.

CICIG prosecution, former Vice-President Eduardo Stein accused CICIG of being out of control and of seeking political ends. Stein subsequently called upon the UN to rein in Dall’Anese (Ex vicepresidente de Guatemala critica Cicig por captura de Vielman en España). Additionally, CACIF, as a powerful Guatemalan business association, sent members to Washington D.C. to hire lobbyist Robert Gilbert with the goal of removing Dall’Anese (CICIG revela nombre de responsable de campaña de desprestigio en su contra). The lobbyist, the elite financed media campaign, and accusations of politicization all resulted from Dall’Anese’s pursuit of Vielmann, which challenged CICIG’s legitimacy in Guatemala.

As mentioned in the introduction and in the previous chapter, when faced with a serious threat to their institution’s legitimacy, leaders must respond to and manage the crisis. The events that were a result of the Vielmann crisis threatened CICIG’s image in Guatemala, and Dall’Anese failed to respond to them in 2010 and 2011. Therefore, by not immediately responding to these public accusations, Dall’Anese allowed the external threats against CICIG to grow, which would ultimately lead to a process of deinstitutionalization and his resignation in 2013. Experts might question why Commissioner Dall’Anese did not immediately respond to these threats as Castresana had in 2007 and 2008. Open Society Foundations’ Patrick Gavigan posits that Dall’Anese did not respond because he sought to lessen CICIG’s media profile in deference to the MP (2016, 6). It is logical that Dall’Anese attempted to learn from Castresana’s public war with public officials and the intense critique that it amounted to. However, as the third section of this chapter explores, non-engagement was not a sound tactic in response to external threats either. Before returning to these external threats, the next section analyzes how Dall’Anese continued CICIG’s value infusion process by improving its relationship with the MP and by working with the collection of civil society groups called *Convocatoria Ciudadana*.

REFORMS AND STRENGTHENING THE MP

In this section I provide evidence for the claim that, despite causing an overall process of deinstitutionalization, Commissioner Dall’Anese continued Castresana’s legacy of infusing CICIG with value by improving its relationship with the MP. The Costa Rican prosecutor built upon Castresana’s actions by developing a working relationship with a collection of Guatemalan civil society groups called *Convocatoria Ciudadana* to provide guidance during the 2010 Attorney General election campaign. By working with *Convocatoria Ciudadana*, Dall’Anese successfully advocated for Claudia Paz y Paz’s election as the new leader of the MP. Furthermore, Dall’Anese utilized his Article 2 (1) (c) power in 2011 and 2012 to provide technical support during Guatemalan Congressional debates about codifying influence peddling and other corruption related crimes. Dall’Anese’s assistance led to the passage of the 2012 Anti-corruption Law (*Ley contra la Corrupción*), which would later provide legal standing to CICIG in future cases, including that of *La Línea*.

Dall’Anese and Convocatoria Ciudadana

Following the Guatemalan Supreme Court’s decision to fire Conrado Reyes Sagastume on June 10, 2010, there was a national search to elect a new Attorney General. Since 2009, by law the selection process for Attorney General was held in public in the Supreme Court building. After an investigation process, a Postulation Commission (*Comisión de Postulación*) would send a list of six finalists to the President for the final selection of Attorney General (Luis Sanz, Jose 2014). Since the process was a public affair, CICIG and *Convocatoria Ciudadana* could work together to influence the decision of the postulation committee before it sent its final list to President Colom. *Convocatoria Ciudadana* was “an umbrella group for 49 organizations (institutes, human rights defenders, business chambers) that sought to review judicial candidates

and oversee the transparency of the election process” (Gavigan 2016, 48). By working with *Convocatoria Ciudadana* to produce a ranking of the six most qualified candidates for Attorney General, Commissioner Dall’Anese used CICIG’s investigative resources to improve its relationship with these 49 Guatemalan organizations, thereby contributing to the Commission’s value infusion process.

Between July and November 2010, CICIG and *Convocatoria Ciudadana* collected and analyzed information about all 40 candidates for Attorney General. Having learned from the flawed process that led to the election of Conrado Reyes Sagastume, Dall’Anese critically analyzed all the candidates. He created a list of the six most qualified candidates, and excluded others due to a lack of “honesty, ability, or fitness” (CICIG 2011, 26).⁴² On November 22, 2010, CICIG and *Convocatoria Ciudadana* published their findings and sent a report with “all of the relevant information that would permit the Postulation Commission to judge the candidates and evaluate if they met all requirements under the law” (CICIG 2011, 26).⁴³ Having received the highest score in Dall’Anese and *Convocatoria Ciudadana*’s investigations, Paz y Paz topped the list; based on their recommendation, President Colom named her as the new Attorney General on December 8, 2010 (Presidente Álvaro Colom nombra a Claudia Paz y Paz como Fiscal General). Ultimately, by utilizing CICIG’s investigate resources to work with the 49 Guatemalan organizations in *Convocatoria Ciudadana*, Dall’Anese further infused CICIG with value. As the next section explores, in addition to creating this working relationship with civil society groups, Commissioner Dall’Anese’s influence over the value infusion process continued through his positive relationship with Attorney General Paz y Paz between 2010 and 2013.

⁴² Translation by author.

⁴³ Translation by author.

Paz y Paz and Dall’Anese, Value Infusion

Between her election in late 2010 and Dall’Anese’s resignation in 2013, Paz y Paz and the Costa Rican Commissioner greatly improved the relationship between CICIG and the MP. Given that per its institutional design and mandate, CICIG relies on the MP to prosecute corrupt state actors, the strengthening of this relationship would later prove vital to complex cases between 2013 and the present. While Commissioner Castresana started the process of value infusion, Dall’Anese and Paz y Paz were able to strengthen their cooperation in numerous areas. During this period, Commissioner Dall’Anese and Attorney General Paz y Paz worked together to sign another cooperation agreement and to provide funding and resources to transform the UEFAC into the FECI, both of which improved the MP’s investigative and prosecutorial capacity. Therefore, Dall’Anese (like Castresana had done in 2008) activated the first design principle by continuing to fund FECI as it continued to pursue effective practices as a new CICIG-MP mechanism.

In its fourth annual report, CICIG noted that immediately after Paz y Paz became Attorney General, the working relationship between the anti-corruption body and the MP improved. The report states that the election of Paz y Paz “has signified a notable improvement in the independent direction of the MP, its fight against impunity and its effective cooperation with CICIG.... In CICIG’s fourth year, the number of joint investigations has greatly increased” (CICIG 2011, 11).⁴⁴ The first step in this “notable improvement” was the December 17, 2010 signing of an addendum to the CICIG-MP cooperation agreement that Commissioner Castresana had agreed to with Attorney General Velásquez Zarate in February of 2008. The addendum further “developed the financial and technical cooperation (between CICIG and the MP), with

⁴⁴ Translation by author.

the intent of increasing the MP's technical capabilities and its specialization of human resources" (CICIG 2011, 12).⁴⁵ Per the addendum, CICIG provided additional resources to transform the UEFAC into the FECI. As the last chapter described, the FECI greatly improved the relationship between CICIG and the MP because it created a nexus of cooperation for prosecutors of both institutions to meet to plan investigations and prosecutions of high-risk corruption cases. As the next chapter will discuss, Dall'Anese's decision to continue to fund FECI would be essential to the *La Línea* investigation.

In addition to funding and providing technical assistance to FECI, Dall'Anese contributed to CICIG's value infusion process by deferring leadership to Attorney General Paz y Paz and assisting her in reforming the MP. In her first year in office, Paz y Paz overhauled the leadership of the MP and attempted to purge all corrupt actors from the Guatemalan public prosecutor's office. In her 2016 book about her accomplishments as Attorney General, Paz y Paz states that her criteria for firing or approving was "based more on merit and moral character". These criteria led to "gains in the independence and autonomy of the institution" and the "possibility of forming teams with the proper technical background for running the institution" (Paz y Paz Bailey 2016, 61). During her tenure as Attorney General between 2010 and 2014, Paz y Paz suspended 286 prosecutors and employees from service (Luis Sanz 2014). Furthermore, based on FECI investigations, in 2013 MP prosecutors convicted 149 cases of corruption (up from only 12 convictions the previous year). Also in 2013, MP prosecutions led to the sentencing of 6,188 criminals (compared to 2,844 in 2012), including over 100 members of the Zetas cartel (Dudley 2014 (1)). Attorney General Paz y Paz's purge of corrupt actors from the MP, her dismantling of

⁴⁵ Translation by author.

the Zeta cartel, and her increase in the overall rate of prosecution was her own doing.⁴⁶

However, by working with *Convocatoria Ciudadana* to pressure President Colom to choose Paz y Paz as Attorney General and by continuing to provide resources to FECCI, Dall’Anese further strengthened CICIG’s relationship with the MP.

2012 Anti-Corruption Law

Commissioner Dall’Anese first contributed to CICIG’s value infusion process by joining with *Convocatoria Ciudadana* to elect Claudia Paz y Paz and by building an effective working relationship with the new Attorney General. At the same time as these developments, the Costa Rican prosecutor also activated the first design principle and utilized his Article 2 (1) (c) power to suggest and provide technical support to an anti-corruption law. Dall’Anese’s actions activated the first design principle because he assisted the MP in codifying illicit enrichment and influence peddling as a crime, which public prosecutors would use to great effect in future corruption cases.

In 2011, CICIG argued that since illicit enrichment was not codified as a crime under Guatemalan law, that this helped corrupt state actors use their positions to steal with impunity. CICIG stated that it was “urgent for the Guatemalan Congress to pass the anti-corruption law initiative to create” illicit enrichment as a crime (El enriquecimiento ilícito debe ser tipificado en

⁴⁶ Despite her achievements as Attorney General, entrenched corrupt state actors forced Claudia Paz y Paz out of office in 2014 a full seven months before her term was set to end. According to a report by InSight Crime, wealthy businessman Ricardo Sagastume brought a challenge to the Constitutional Court about Paz y Paz’s term limits. Per news reports, Sagastume and other political elites felt threatened by Paz y Paz’s purge of corrupt state actors and therefore decided to push her out of office – false charges of mismanagement of public funds were subsequently filed against the former Attorney General who had already fled the country (Lohmuller 2014). The history of the MP is beyond the analysis of this thesis, but Paz y Paz’s exit and the charges against her demonstrate how entrenched corrupt political elites inhibit the Guatemalan justice system’s ability to prosecute them. For a more complete report on the elite forces behind Paz y Paz’s resignation see Steven Dudley’s “The War of Paz y Paz: Portrait of a Guatemalan Political Broker”.

la legislación guatemalteca).⁴⁷ Furthermore, CICIG officials stated that there was no reason for Congress to reject the bill since it had received broad support from Guatemalan civil society groups, from international legal experts, and from the anti-corruption institution itself since 2008 (Comunicado de Prensa 084). Dall’Anese and CICIG worked with the Institute of Comparative Penal Studies of Guatemala (*Instituto de Estudios Comparados en Ciencias Penales de Guatemala*, ICCPG) to pressure Congress to pass the law. With ICCPG, Dall’Anese took advantage of the political moment in 2012. According to Dr. Alejandro Rodríguez, after Pérez Molina became President with the Patriotic Party (*Partido Patriota*, PP) in January of 2012, he wanted a large budget to combat organized crime. Since President Colom’s leftist UNE party, the CREO party, and the LIDER party represented a unified minority that could block his budget, they demanded the anti-corruption law as part of the budget negotiations (Author Interview with Rodríguez). Because President Pérez Molina wanted to pass his budget and since it would have been unpopular with voters to reject an anti-corruption law, the PP did not veto the bill. Oliverio García, president of the Legislation Commission and Constitutional Law of the Guatemalan congress (as well as PP politician) supported the law (Congreso aprueba ley contra la corrupción). For these reasons, PP, UNE, CREO, and the LIDER parties joined to pass Decree Number 31-2012 or the *Ley contra la Corrupción* on October 30, 2012.

In addition to other modifications to the penal code, the version of the anti-corruption law that the Guatemalan Congress passed in October 2012 codified illicit enrichment and influence peddling for the first time in Guatemala.⁴⁸ The law specified that the punishment for illicit

⁴⁷ Dall’Anese and CICIG officials cited that after codifying illicit enrichment as a crime, México, Belize, Costa Rica, Colombia, and Chile could create “tools to combat corruption in public administration” (El enriquecimiento ilícito debe ser tipificado en la legislación guatemalteca).

⁴⁸ The 2012 anti-corruption law reformed the following parts of the Guatemalan penal code: Decree Number 17-73, the Law Against Organized Crime (2006), and the Extinction Domain Law (2010) (*Ley contra la Corrupción* 2012, 2).

enrichment would be a jail sentence between five and ten years as well as a fine between 50,000 quetzales and 500,000 quetzales (Ley contra la Corrupción 2012, 9). A crime of influence peddling would receive a jail sentence of two to six years, and if the offender was a member of the justice system this punishment would double (Ley contra la Corrupción 2012, 10). By joining with legal experts at the ICCPG to provide technical assistance in the drafting of the law in 2011, Dall’Anese took advantage of the political position in 2012 to pass a law that would later prove vital in the *La Línea* case. Furthermore, by codifying illicit enrichment and influence peddling, the 2012 anti-corruption law would later give Commissioner Velásquez and Attorney General Aldana a stronger legal standing to prosecute the *La Línea* case than if the Guatemalan Congress had not passed the law (Author Interview with Rodríguez). Therefore, Dall’Anese’s use of his Article 2 (1) (c) power to make suggestions to the law also activated the first design principle as it created illicit enrichment and influence peddling as crimes under Guatemalan law.

DEFAMATION CAMPAIGN AND DALL’ANESE’S RESIGNATION

While it was necessary to demonstrate the nuanced position of Dall’Anese’s contributions to CICIG’s value infusion process, Guatemalan human rights and corruption experts consider that his tenure marked a period of deinstitutionalization for CICIG. In an interview with The Myrna Mack Foundation’s Helen Mack, she told me that Dall’Anese’s lackluster leadership in times of crisis almost caused CICIG to close numerous times between 2013 and 2015 (Author Interview with Mack). As I demonstrated in the first section of this chapter, Dall’Anese’s attempted prosecution of Berger-era Interior Minister Vielmann unleashed backlash by elites against CICIG and personal attacks against the Costa Rican prosecutor. Commissioner Dall’Anese, perhaps seeking to contrast Castresana’s punitive style while facing threats from powerful state actors, did not respond to attacks against CICIG’s legitimacy

between 2010 and 2011. These initial attacks coincided with a visit to Guatemala by UN Secretary General Ban Ki-moon on March 17, 2011. While the Secretary General stated his public support for CICIG's mission and announced the donation of \$10 million for the UNDP fund that finances the institution, external threats against CICIG did not stop (CICIG 2011, 10). By not responding in 2010 and 2011, Dall'Anese allowed the external threat to build, which would come to haunt him in 2013 during the saga of the Ríos Montt genocide trial and cause his resignation by the end of August 2013. This section argues that by not effectively engaging in crisis management (the fourth design principle), Dall'Anese lost support for CICIG in Guatemala, which led to his resignation, a serious loss of legitimacy for the anti-corruption body, and President Pérez Molina announcing that CICIG would leave the country when its mandate terminated in September of 2015.

As I described in chapter two, during his 1982-83 military campaign, General Efraín Ríos Montt committed genocide and crimes against humanity against Guatemala's Mayan population. In the most well-known case during her career as Attorney General, Claudia Paz y Paz initially succeeded in prosecuting Ríos Montt, who the High-Risk Tribunal A (*Juzgado y Tribunal de Alto Riesgo A*) found guilty of genocide, crimes against humanity, and sentenced to eighty years in prison. However, on May 20, 2013 the Constitutional Court declared a mistrial on procedural grounds and sent the case back to the Tribunal (Efraín Ríos Montt and Mauricio Rodríguez Sanchez: Before the National Courts of Guatemala).⁴⁹ While the initial prosecutorial success and the Constitutional Court's decision shocked many, the external threats to CICIG's legitimacy built up during the case. On April 16, 2013 twelve senior former government officials published a statement to warn that a successful prosecution would destabilize the Peace Accords. On April

⁴⁹ For a full analysis and description of the Ríos Montt case and trial see the Open Society Justice Initiative's report, "Efraín Ríos Montt and Mauricio Rodríguez Sanchez: Before the National Courts of Guatemala".

17, President Pérez Molina issued a statement echoing the first publication (Pérez Molina también afirma que el juicio por genocidio hace peligrar la paz). In response to these declarations by elites about Attorney General Paz y Paz's case, Commissioner Dall'Anese's strayed from his usual non-combative stance that his chapter has described. Building upon a January 29, 2013 press release that had praised Paz y Paz for attempting to prove that no one is above the law, Dall'Anese issued a second statement on April 18, 2013 (Comunicado de Prensa 008). In this statement Dall'Anese declared that "the warning issued by the signatories (referencing the twelve former senior officials), all individuals whom in another time embodied the flag of human rights and enjoyed the confidence of the international community" was "an unjustifiable threat" against the High-Risk Tribunal A (Cicig acusa a exfuncionarios de amenazar a jueces en caso de genocidio).

In April and May 2013, the conflict between Dall'Anese, these former senior officials, and President Pérez Molina's cabinet threatened CICIG's legitimacy more than at any other time in its history. Behind the scenes, Pérez Molina's government lobbied the UN for Dall'Anese's resignation (Gavigan 2016, 69). However, on May 29, Foreign Minister (*Canciller*) Fernando Carrera publically stated that the government had communicated with the UN to complain about "the fact that he (Dall'Anese) specifically issued a statement about the opinion of Guatemalan citizens in reference to the ongoing case against General Ríos Montt".⁵⁰ Carrera then announced that Dall'Anese had resigned, when in fact he had not (Francisco Dall'Anese dejará Cicig tras roce con Gobierno de Guatemala). Even though Dall'Anese had not resigned, he could no longer endure the intense pressure from President Pérez Molina's government and the media. As a result, Commissioner Dall'Anese resigned on August 1, 2013, citing personal reasons (Corte

⁵⁰ Translation by author.

acepta renuncia de Fiscal Francisco Dall’Anese). Following his resignation, President Pérez Molina famously stated that CICIG’s time in Guatemala was over and that it would have to present a plan to finish its functions before its mandate terminated in September of 2015 (Rodríguez 2015).

Ultimately, as this section has demonstrated, by not activating the fourth design principle to engage in crisis management, Commissioner Dall’Anese’s actions caused CICIG to lose legitimacy between 2010 and 2013. In 2010 and 2011 when the political elite used their connections to support Carlos Vielmann and his colleagues after their implication in extrajudicial killings, Dall’Anese chose to keep a low profile. His decision to not immediately engage in crisis management allowed these external threats against CICIG to grow. Despite not being in position to do so, Dall’Anese’s change in tactics and his response to the April 16, 2013 Ríos Montt letter unleashed a storm of pressure against CICIG. While Commissioner Dall’Anese was correct in his assumption that these twelve former senior officials were attempting to coerce the High-Risk Tribunal A in the genocide case, he and CICIG no longer had the Guatemalan allies to respond to the growing external threat from President Pérez Molina and other elites.

Conclusion

By analyzing the tenure of Commissioner Dall’Anese, this chapter has demonstrated that leaders of fledgling institutions must engage in crisis management as quickly as possible. Boin and Christensen’s logic that “if leaders do not quickly react to a crisis, loss of societal and political support is likely” is therefore directly applicable to Dall’Anese’s tenure as Commissioner (2008, 289). Per the fourth design principle, during crisis management leaders “must engage in a sophisticated public relations effort” in response to external threats that threaten the institution’s reliability and legitimacy. For example, Commissioner Dall’Anese

could have engaged in an intense media campaign (as Castresana did in 2008) to counter Vielmann's own defamation campaign. His decision to lower CICIG's profile allowed these threats to grow in strength as the anti-corruption institution lost legitimacy between 2010 and May 2013. Finally, in late April 2013, CICIG could no longer withstand a defamation campaign from Vielmann's allies and from within Guatemala's executive branch. Thus, as this chapter has shown, leaders contribute to the institutionalization process by engaging in crisis management. It is true that Dall'Anese contributed to CICIG's value infusion process by working with *Convocatoria Ciudadana* to elect Claudia Paz y Paz as Attorney General, by continuing to provide technical and financial assistance to FECCI, and by assisting in the passage of the 2012 anti-corruption law. However, the outcome of Dall'Anese's resignation and President Pérez Molina's announcement that CICIG would leave Guatemala in 2015 was a direct result of the Commissioner's decision to not methodically fight back against external threats. For these reasons, Dall'Anese's tenure is marked by the overall process of deinstitutionalization of CICIG.

CHAPTER FIVE: RE-INSTITUTIONALIZATION UNDER VELÁSQUEZ: 2013-2015

Introduction

When Colombian Supreme Court Judge Iván Velásquez Gómez took over the leadership of CICIG on October 1, 2013 he could still utilize the effective investigative practices that Commissioner Castresana had routinized within CICIG and the MP. However, due to the deinstitutionalization that had occurred under Commissioner Dall'Anese, Velásquez had to rebuild CICIG's legitimacy. While CICIG had a positive relationship with the MP in 2013, its infusion with value process had been damaged greatly by the altercation between Pérez Molina's administration and Dall'Anese over the Ríos Montt case. Therefore, when Velásquez became Commissioner in late 2013, President Otto Pérez and Velásquez himself assumed that CICIG would leave the country when its mandate expired in September of 2015. Neither Pérez Molina nor the Commissioner imagined that CICIG would be able to rebuild its legitimacy and successfully investigate the most emblematic corruption case in Guatemala's recent history: *La Línea*. Responding to this surprising result, this chapter seeks to answer the following question: given that President Pérez Molina's cabinet had the power to pressure Dall'Anese to resign in 2013, how did Commissioner Velásquez re-institutionalize CICIG and enable the anti-corruption institution to investigate the *La Línea* scandal and contribute to the resignations of Vice-President Baldetti and President Pérez Molina in 2015?

In this chapter I argue that Commissioner Velásquez's administrative decisions between 2013 and 2015 caused CICIG to achieve a high-level of institutionalization whereby it was well routinized and infused with value. Velásquez's routinization of a new work strategy (which activated the first three design principles) focused on a handful of investigations of powerful corruption networks that CICIG and MP employees could reasonably finish before September

2015. The new work strategy streamlined CICIG's organizational structure to quickly investigate and prosecute high-impact corruption cases. Velásquez also made use of the effective practice of wiretaps and the unit of analysis within the MP and FECI to successfully investigate the *La Línea* case between 2013 and 2015. Furthermore, prior to the *La Línea* case announcement on April 16, 2015, Commissioner Velásquez had joined with 35 civil society groups to engage in a public relations campaign in favor of CICIG's renewal. As the *La Línea* protests continued, they strengthened the public relations campaign to add on to U.S. and private sector insistence that President Pérez Molina extend CICIG's mandate until September 2017. Lastly, demonstrating that CICIG had achieved a high level of institutionalization, Commissioner Velásquez announced President Pérez Molina's implication in the *La Línea* case on August 21, 2015. Facing an abandonment by both the U.S. Embassy and CACIF, as well as sustained social protests that Velásquez brought about through the *La Línea* investigation, President Pérez Molina was forced to resign and face the charges against him.

To explain Commissioner Velásquez's crucial role in activating all four design principles to transform CICIG into a highly-institutionalized anti-corruption body, this chapter is divided into four sections. Section one describes how Commissioner Velásquez activated the first three design principles to routinize a new work strategy in CICIG and to streamline its internal organization with the goal of focusing on high-impact corruption cases. Section two describes how Commissioner Velásquez utilized the legacy of Castresana's routinization of wire taps and FECI to investigate the *La Línea* case. The third section analyzes how the *La Línea* case announcement invigorated sustained social protest and gave hope to social activists, which led to Baldetti's resignation. The section also looks at how Commissioner Velásquez harnessed these protests and engaged in a public relations campaign to restore CICIG's legitimacy, extend its

mandate until 2017, and reinvigorate its value infusion process. Finally, the fourth section analyzes how Velásquez's decision to announce President Pérez Molina's involvement in the customs fraud scandal contributed to his resignation and how the announcement engendered the August 27, 2015 protests that forced the U.S. embassy and CACIF to withdraw their support from the President.

ROUTINIZING A NEW WORK STRATEGY

In an interview with Helen Mack, she claimed that if “Commissioner Velásquez did not come, CICIG would not exist today; it would have been a failure” (Author Interview with Mack).⁵¹ Similarly, Director Virginia Staab of the Guatemala office of the Bureau of International Narcotics and Law Enforcement Affairs (INL) notes that “CICIG had never seen so much success until Commissioner Iván Velasquez” (Author Interview with Staab)⁵². Considering that President Pérez Molina asked Velásquez to produce a two-year work plan that transferred its functions to the MP, in October 2013, it seemed likely that CICIG would fail to extend its mandate and that it would leave Guatemala by September 2015 (Comunicado de Prensa 039). While Commissioner Velásquez responded to the President's request by creating a work plan (called the “*Plan de Trabajo: 2013-2015*”), he activated the first three design principles and routinized a new CICIG strategy to investigate high-impact corruption cases. To quickly investigate these cases, Velásquez streamlined CICIG's organizational structure by consolidating investigative and litigation departments into new units. The routinization of this new work plan allowed CICIG to focus on dismantling entrenched networks of corruption rather than simply winding down its activities leading up to the September 2015 deadline. By analyzing CICIG's

⁵¹ Translation by author.

⁵² INL is a bureau within the U.S. Department of State.

seventh annual report, this section demonstrates how Velásquez transformed the institution's organizational structure and administered the work plan.

The Work Strategy (Plan de Trabajo) 2013-2015

According to CICIG's seventh annual report, in October 2013, Commissioner Velásquez initiated a "restructuring" of the institution. The overarching goals of the *Plan de Trabajo: 2013-2015* were three-fold: A) "The investigation of criminal structures that CICIG has prioritized." B) "the creation of thematic reports." C) "the transference of CICIG capacities to Guatemalan judicial institutions" (CICIG 2014, 11).⁵³ To achieve these three goals, Velásquez planned to join with the MP to target a handful of "criminal organizations with links to state agents that degrade citizenship and political rights" (CICIG 2014, 11). Finally, in interviews with CICIG officials in October 2015, Open Society Foundation's Patrick Gavigan discovered that the institution's employees were explicitly instructed "to develop as many high-impact cases as possible between 2014 and early 2015, in time to allow the Commissioner (Velásquez) to share the results of those investigations with the Guatemalan public" (2016, 74). While the creation of thematic reports and the transference of CICIG capacities to the MP is important in the overall process of prosecuting corruption in Guatemala, the rest of this section focuses on Velásquez's decisions as Commissioner to restructure CICIG's internal organization and how his actions fit within Boin and Christensen's framework.

In terms of restructuring CICIG's internal organization to prioritize the investigation of corrupt criminal networks with links to state actors, the report indicates that:

"the Department of Investigation and Litigation (Departamento de Investigación y Litigio, DIL) was transformed and reinforced. In the DIL the sections of Legal Investigation, Litigation and Police Investigation were suppressed, and in their place the Units of Investigation were created and made up of legal investigators, police investigators, and litigation lawyers, which assures the development of the work given

⁵³ Translation by author.

to them. Furthermore, the simple structure (of the DIL) allows the effective management of resources and information as well as a suitable formula to orient the dismantling of CIACS” (CICIG 2014, 9).⁵⁴

In an interview with InSight Crime’s David Gagne, former Attorney General Paz y Paz stated that this internal restructuring of the DIL to focus on high-impact cases was a positive change because this “strategy was much more proactive and had a defined agenda in terms of the investigation.... They did not wait for the cases to come to them, but instead they focused on investigating contraband.... I believe that is what changed, and that enabled the investigations to advance much more” (than in the past) (Gagne 2016). By deciding to restructure CICIG’s internal structure in terms of its investigative and litigation units, Velásquez activated the first three design principles because he sought to pursue, sanction, and embed a more proactive investigative process to specifically target corrupt networks. As Attorney General Paz y Paz notes, if the Commissioner had not ordered the units of the DIL to merge and target specific networks with connections to state agents, the 2013-2015 investigations would not have advanced as far as they did. Therefore, as the next section will demonstrate, Commissioner Velásquez’s reorganization of the DIL and the creation of streamlined units within it would later have a large impact on the *La Línea* investigation.

Furthermore, Velásquez made the crucial decision to specifically target criminal structures that used their connections to corrupt state agents in order to move contraband through Guatemala’s customs system. This network of corruption functions (as would later be the case with *La Línea*) through the “illegal transfer of shipping containers, the alteration of customs documents, merchandising that allows a lower tax calculation, simulating the re-exportation of goods... and the concessions of port services to foreign beneficiaries and their local partners”

⁵⁴ Translation by author.

(CICIG 2014, 12).⁵⁵ In its seventh annual report, CICIG notes that because customs fraud harms the state's legitimacy and its functionality through a loss of tax revenue, that the anti-corruption body had launched an investigation into criminal networks that operated within that sphere (CICIG 2014, 12). These investigations would later uncover the customs fraud case of *La Línea*. In support of Commissioner Velásquez's decision to prosecute customs fraud, Helen Mack told me that it is well known within Guatemala that the customs system in Guatemala has been corrupt since the military took control over it during the internal conflict (Author Interview with Mack). Therefore, while Commissioner Velásquez did not know it at the time, his decision in early 2014 to restructure CICIG and to start investigations into customs fraud would later have an immense impact on CICIG's re-institutionalization process and its ability to prosecute the emblematic case of *La Línea*.

Ultimately, while Velásquez responded to President Pérez Molina's request for CICIG to create a work plan for its last two years in Guatemala, the Commissioner continued to institutionalize the anti-corruption body. By reconstructing CICIG's internal structure to streamline the investigative process and by ordering that employees utilize the institution's resources to focus on specific networks of corruption in key areas such as customs fraud, Velásquez ensured that the Commission's next two years would be productive. His routinization of the *Plan de Trabajo: 2013-2015* within CICIG set the foundation for its effective investigation of the customs fraud case *La Línea* that would later lead to the resignation of both President Pérez Molina and Vice-President Baldetti.

LA LÍNEA: INVESTIGATION AND CASE ANNOUNCEMENT

⁵⁵ Translation by author.

To provide context for the next two sections about social protest and the mandate extension, the first part of this section is purely descriptive and relies on CICIG's eighth and ninth annual reports as well as the first-hand testimony of FECI prosecutor, Julio Prado. It outlines phase I of the *La Línea* investigation, which occurred between initial wiretaps in 2013 and the announcement of the customs fraud scandal in the Guatemalan tax agency (*Superintendencia de Administración Tributaria*, SAT) that also implicated the private secretary of Vice-President Baldetti, Juan Carlos Monzón. The second part of this section analyzes how Commissioner Velásquez built upon the legacy of Castresana's routinization of wire taps and the funding of FECI to investigate the *La Línea* case between 2013 and 2015. It also connects Velásquez's decision to streamline CICIG's investigative and litigation units within the DIL to the anti-corruption body's ability to quickly investigate the case. In these two ways, the section demonstrates how Velásquez's administrative decisions in late 2013 and early 2014 directly contributed to investigating one of the most emblematic cases of corruption in Guatemalan history. Furthermore, by referencing Castresana's contributions in 2008 and 2009 (that chapter three described), the section provides evidence for how leaders contribute to the institution building process in the long term.

La Línea Investigation Phase I

On April 16, 2015, CICIG and the MP announced that they had uncovered a corruption network within the SAT. The network, which the perpetrators called "The Line" (*La Línea*), involved the current and former head of the tax collection agency and former Vice-President Roxana Baldetti's private secretary, Juan Carlos Monzón, who is said to have led the tax fraud ring. In three separate ports, foreign importers called *La Línea* to negotiate a deal: the importer paid 40 percent of standard import taxes to the state, delivered 30 percent to the tax fraud ring,

and keep the remaining 30 percent. In total, *La Línea* defrauded the government of \$120 million (940 million quetzales). In 2015, due to the sheer size of the corrupt parallel state apparatus of Secretary Monzón, Vice-President Baldetti, and President Otto Pérez Molina, it took many months to discover all the illicit political and economic networks in the case.

What CICIG's eight annual report calls the first phase of the investigation started on April 16, 2015. In 2012 and 2013, MP and CICIG had conducted initial wiretaps that led investigators to suspect that there was a group of foreign importers that had connections with a customs fraud network with the goal of evading import taxes (CICIG 2015, 37). While the initial wiretaps in 2012 and 2013 convinced Velásquez to include customs fraud in his work plan for 2013 through 2015, CICIG was largely unaware of the extent of the network as well as the high-level political connections that allowed it to function with impunity. In 2014, FECI units and CICIG investigators within the newly reorganized DIL intercepted one of the most important calls in the entire case (CICIG 2015, 37). While listening to this call, the investigators determined that there was a phone line (*La Línea*) that the fraud ring used to communicate between the SAT and foreign importers. According to Julio Prado (who worked as an assistant prosecutor within FECI at the time) that call was between Chinese importer Erick Mioa Mioa and ring member Julio César Aldana. Per Prado, within the false customs declarations there were still truthful aspects such as the number of Mioa Mioa's company. FECI and PNC investigators called Mioa Mioa's company and received an address, but since the owner was not there, workers gave the investigators his number. From that point on FECI, the PNC, and CICIG intercepted calls between Mioa Mioa's personal phone and the *La Línea* number of corrupt SAT employee, Julio César Aldana (Author Interview with Prado). According to Julio Prado, Mioa Mioa "liked to chat" on the phone calls, which allowed FECI to determine that there was an

illegal structure that reached at least the administrator of Port Quetzal (*Puerto Quetzal*) (Author Interview with Prado).

After the Miao Miao calls in 2014, FECI raided SAT offices and apprehended crucial financial documents from members of the fraud ring. CICIG documents do not reveal the exact date of these captures, but they do explain that members of the fraud ring that the PNC and MP captured in 2014 were: Salvador Estuardo González (alias Eco), Osama Aziz Aranki, y Javier Ortiz (alias *el Teniente Jerez*) (CICIG 9, 2015). During our interview Julio Prado stated, “these men had entire excel sheets that we found when we seized their laptops pointing to which ships and which goods were part of the scandal, and how much the companies paid in corruption” (Author Interview with Prado). Based on the extent of the corruption that investigators found in the excel sheets, FECI forensic accountants later determined that the customs scandal extended farther than the SAT and it also involved Vice-President Baldetti’s private secretary, Juan Carlos Monzón.⁵⁶ Therefore, in a simultaneous process on April 16, 2015 Commissioner Velásquez and Attorney General Aldana publically announced the La Línea scandal while the PNC and the MP issued a capture order for Juan Carlos Monzón and apprehended high level SAT officials: its overseer (*superintendente*) Omar Franco and his predecessor, Carlos Muñoz (CICIG 2016, 12). In this first phase of the investigation, while Vice-President Baldetti had not been formally charged, twenty-four other people were charged with illicit association, passive bribery, and customs fraud (CICIG 2015, 38).

Castresana’s Legacy and Velásquez’s Application: La Línea Phase I

⁵⁶ I recognize that the U.S. through its INL Guatemala office provided considerable assistance in training these FECI forensic accountants. According to INL Guatemala Director Virginia Staab, the U.S. Embassy in Guatemala “has hired experts from around the world to conduct training in the MP (FECI), but also to assist in the cases with CICIG” (Author Interview with Staab). While the first wiretap of importer Miao Miao was critical in investigating the *La Línea* case, these forensic auditors did assist in the case based on U.S. training. A future analysis might further look at this relationship in terms of training.

As the description of phase one of the *La Línea* investigation indicates, the unit of analysis within FECI played a crucial role through wiretaps and forensic auditing. The evidence that FECI provided was vital in providing the evidence necessary to issue warrants for SAT employees and Juan Carlos Monzón. In this way, as chapter three analyzed, the initial routinization of wiretaps under Commissioner Castresana, the creation of the unit of analysis, and the creation and continued funding of FECI laid the foundation for an effective investigation in the case of *La Línea*. In an interview with former MP consultant, Sonja Perkič, she stated that “the reforms that Castresana put in place that enabled the phone taps were hard to achieve, but they were fundamental in investigating the case” (Author Interview with Perkič).⁵⁷ In her interview with InSight Crime’s David Gagne, former Attorney General Paz further showed how Velásquez worked with FECI and Attorney General Aldana to build on Castresana’s legacy. Paz y Paz stated that under Velásquez and Aldana “the analysis unit in the MP became much stronger. It went from having 10 people to having 140, including 40 auditors. That analysis unit merged with the financial analysts that CICIG already had, and they worked together on cases” (Gagne 2016). Furthermore, the sheer amount of analysis that FECI and CICIG conducted during the entire *La Línea* investigation (and that the analysis unit deciphered) supports Paz y Paz’s claims. For example, CICIG states in their eighth annual report that they worked with FECI to: tap 88,920 phone calls, comb through 5906 emails, forensically analyze 175,000 documents, conduct 17 searches, and acquire financial information from 100 people and 22 businesses (CICIG 2015, 39). From Julio Prado, Sonja Perkič, and Claudia Paz y Paz’s first-hand experience and CICIG reports it is thus clear that Commissioner Velásquez successfully

⁵⁷ Translation by author.

built upon Castresana's legacy and continued to routinize wiretaps and the unit of analysis within the MP.

In addition to continuing to routinize these investigative tactics and systems, Commissioner Velásquez's restructuring of CICIG's internal structure and of its investigative priorities significantly contributed to the successful investigation of the *La Línea* case in a short period between 2014 and 2015. Beyond merging the DIL investigative units with the FECI analysis unit to analyze an immense volume of calls and documents, Velásquez's decisions in late 2013 and early 2014 directly contributed to the investigation's success. As the first section of this chapter noted, Velásquez activated the first three design principles by deciding to pursue, sanction, and embed new investigative practices. By focusing on specific networks of high-level corruption and by prioritizing the investigation of CIACS that commit customs fraud in his 2013-2015 work plan, Velásquez concentrated CICIG and MP resources to dismantling the *La Línea* corruption network. Furthermore, by restructuring and streamlining the DIL investigative, litigation, and police units, Commissioner Velásquez ensured that they could work quickly to focus on his goal of investigating the high-impact case of *La Línea*. Ultimately, without Velásquez's decision to restructure CICIG's organization and its priorities, it is unlikely that the anti-corruption body would have been able to work with the MP to investigate the *La Línea* case in such a short period of time.

PROTEST, VICE-PRESIDENTIAL RESIGNATION, AND MANDATE RENEWAL

This section connects the *La Línea* case announcement on April 16, 2015 to two events: first, the spontaneous protest movement that endured throughout the summer of 2015 which forced Vice-President Baldetti to resign, and second, President Pérez Molina's decision to renew CICIG's mandate. In accordance with interviews with first-hand witnesses and CICIG reports,

this section argues that these protests were a direct result of the *La Línea* case announcement. The announcement gave hope to social activists and invigorated sustained protest, which eventually caused the Guatemalan business association CACIF to abandon Vice-President Baldetti, who formally resigned on May 8, 2015. Furthermore, the section demonstrates that Commissioner Velásquez activated the fourth design principle whereby he engaged in a public relations campaign that was in sync with the demonstrations in the Constitutional Plaza in order to extend CICIG's mandate. Velásquez's successful *La Línea* investigation and this public relations campaign restored CICIG's legitimacy and continued its value infusion process. The campaign also added to domestic pressure from CACIF as well as significant international pressure from the U.S., which left President Pérez Molina with no choice other than to extend CICIG's mandate until 2017. The first part of this section links the case announcement to the protests that caused Baldetti's resignation. The second part of this section looks at how Velásquez's media campaign and relation to the protests added to the other factors that pressured President Pérez Molina to renew CICIG's mandate.

Protest and Baldetti's Resignation

This section argues that the *La Línea* case announcement convinced average citizens that were concerned with corruption to protest by giving them hope that it was possible to dismantle the most powerful illicit networks in Guatemala. Before Baldetti, a head of state had never been forced to resign while in office; CICIG's case announcement made these citizens think that it could be possible. As Guatemalan political analyst Jonatán Lemus notes, "after the CICIG-MP news conference, Guatemalans that had never protested before started to slowly understand that Pérez Molina and Baldetti could be implicated. But, the business community was cautious at first to make any statements" (Author Interview with Lemus). In its ninth annual report, CICIG

states that “the events of 2015... generated a citizen movement against the clientelistic system within the State. This citizen movement...was crucial for actions such as the demonstrations in the Constitutional Plaza for more than twenty Saturdays and the so called “National Strike” on the 27th of August 2015” (CICIG 2016, 3).⁵⁸ These protests were the mechanism by which CACIF threatened a national strike in early May that caused the PP to abandon Baldetti and that forced her to resign. However, given the lack of previous success against removing members of the executive branch, these activists first needed CICIG to announce the *La Línea* case and to realize the implications for Juan Carlos Monzón and Vice-President Baldetti.

Two days after the case announcement, on April 18, 2015 a small group of citizens (many of whom had never participated in political protest) gathered in the Constitutional Plaza to call for the resignation of Baldetti and the lifting of her immunity (*antejuicio*). At first, these citizens used the hashtag “#RenunciaYa” (#ResignNow) to spread their message to other Guatemalan social media users (CICIG 2016, 3). This hashtag went viral and in just a few days, the movement had 35,000 followers on Facebook. On Saturday April 25 at 3pm, thousands of citizens filled the Constitutional Plaza to achieve their demand (Arrazola 2015). Speaking with a journalist from *El País*, one of the original protestors named Lucía Mendizábal commented that “we discovered that common people can take initiative to assert their rights, enough to be transparent and honest” (Ahrens 2015). Giving her opinion on the protests, UDEFEGUA (a Guatemalan NGO that seeks to protect human rights defenders) co-coordinator Edda Gaviola stated that “when they went to the streets it was a historic movement, the society exploded against all the corruption and demanded change” (Author Interview with Gaviola).⁵⁹

⁵⁸ Translation by author.

⁵⁹ Translation by author; While beyond the scope and the goal of this thesis, another way that scholars could analyze the “historic moment” of these spontaneous protests would be through social movement literature that looks at the role that mobilizing grievances play in motivating citizens to protest against the state (Snow and Soule 2010, chapter

While CICIG's La Línea case announcement spurred the April 25, 2015 protests, the factors that finally caused Roxana Baldetti to resign and the Guatemalan Supreme Court to lift her immunity (*antejuicio*) were twofold: in response to the protests PP party elites pleaded with President Pérez Molina to ask for the Vice-President's resignation, and the business association CACIF withdrew their support from her and stated that if Baldetti did not resign, that they would use their resources to initiate a national strike. Founder and director of Nomada, Martín Rodríguez Pellecer, argues that the protests influenced the citizens that had voted for the PP in 2011 to join the movement to "show their tiredness of corruption and to ask for her (Baldetti's) resignation" (Pellecer 2015).⁶⁰ In addition to a loss of PP support, even though President Pérez Molina had asked the private sector and CACIF for time to resolve the scandal, on May 6, 2015 they issued an ultimatum to the president that stated: "Baldetti resigns or we will conduct a national strike" (Pellecer 2015). Given the close relationship between the President and CACIF that stemmed from his election campaign, he had to ask for Baldetti's resignation or risk a national strike and the loss of his allies. Faced with this pressure, Baldetti resigned on May 8, 2015 and the Supreme Court allowed Congress to lift her immunity from prosecution (Lohmuller 2015 (2)).

Vice-President Baldetti's resignation and the lifting of her immunity were ultimately the result of political pressure from members of the PP and from members of CACIF on President Otto Pérez. However, without Commissioner Velásquez's changes to CICIG's structure and his joint efforts with the MP, the anti-corruption body likely would not have been able to investigate

two; Johnston 2005). Gaviola, Mack, and Lemus all commented in our interviews that Vice-President Baldetti's corruption was especially mobilizing because of the poor quality of social services in Guatemala, given that Baldetti had made numerous public statements that she had done nothing wrong, and given that she had purchased numerous expensive properties in Central America (Author Interviews with Gaviola, Mack, and Lemus).

⁶⁰ Translation by author.

and announce the *La Línea* case in time before CICIG's mandate expired in September of 2015 (Author Interview with Rodríguez). Therefore, Velásquez's pursuance, sanctioning, and embedding new investigative tactics and priorities directly contributed to the start of the protest movement. Additionally, the case announcement on April 16, 2015 convinced members of the citizenry who had never protested to now do so. In this way, Velásquez's decisions also caused the intense social pressure that convinced the PP and CACIF to abandon Baldetti and demand that President Otto Pérez ask for her resignation.

Pérez Molina Renews CICIG's Mandate

Prior to the protests, in February of 2015 Commissioner Velásquez had joined with 35 civil society organizations to engage in a public relations campaign that further infused the anti-corruption institution with value and restored its legitimacy (Sociedad civil respalda comisión). By April of 2015, the public relations campaign strengthened as the *La Línea* protests continued. As Nomada's Martín Rodríguez Pellecer' notes, the *La Línea* case announcement and Baldetti's resignation had placed significant societal pressure on President Pérez Molina (Author Interview with Pellecer). Adding to the pressure that already existed from the U.S. and from CACIF, Velásquez's public relations campaign influenced the *Instancia para el Fortalecimiento del Sector Justicia* (the body made up of the heads of each justice sector institution that Pérez Molina had commissioned to recommend or reject CICIG's renewal) to argue for a CICIG mandate extension. In a press conference on April 23, 2015 President Pérez Molina announced that in response to "clamor of Guatemalans for more security and justice" he would ask the UN to extend CICIG's mandate until 2017 (Lohmuller 2015 (1)).

The public relations campaign that Commissioner Velásquez had joined in February of 2015 (prior to the *La Línea* case announcement) was made up of over thirty-five Guatemalan

civil society organizations that demanded the renewal of CICIG based on its accomplishments since 2007. The organizations that ran the public relations campaign represented business, university, youth, and Church groups, amongst others (Sociedad civil respalda comisión). Together, the groups supported CICIG's value infusion process and enhanced its legitimacy by financing advertisements in national newspapers between February and April to pressure the *Instancia para el Fortalecimiento del Sector Justicia* to provide a favorable report to President Pérez Molina about CICIG's positive effects on the Guatemalan justice system in terms of combating impunity and the CIACS (Gavigan 2016, 78). CICIG itself states that President Colom's Vice-President Rafael Espada as well as the Catholic Archbishop of Guatemala joined these civil society groups to ask President Pérez Molina to renew CICIG's mandate (Sociedad civil respalda comisión). At first, Commissioner Velásquez embraced the public relations campaign in support of CICIG. However, prior to the *La Línea* protests, the President continued to reject any calls to renew the institution's mandate. The revelation of customs fraud that extended into high echelons of state institutions (and the protest movement that it created) justified the argument that these 35 civil society organizations and Commissioner Velásquez had been making about the positive impact of CICIG (Comunicado de Prensa 006). Therefore, while the public relations campaign assisted in improving CICIG's public image, the protests and successful *La Línea* investigations into the SAT allowed Commissioner Velásquez to concretely demonstrate to the *Instancia para el Fortalecimiento del Sector Justicia* that CICIG could continue to dismantle networks of corruption in Guatemala.

In addition to the public relations campaign that influenced the *Instancia para el Fortalecimiento del Sector Justicia*'s recommendation to President Pérez Molina, the two other factors that influenced the President's final decision about the renewal on April 23, 2015 were:

A) U.S. support for CICIG through Vice-President Biden's public declarations about the U.S. aid package of \$750 million for the Alliance for the Prosperity of the Northern Triangle of Central America (*Plan de la Alianza para la Prosperidad del Triangulo Norte*).⁶¹ B) CACIF's public declaration of support for CICIG mandate extension.

During his visit to Guatemala in early March 2015, Vice-President Biden strongly hinted that extending CICIG's mandate was "important" for Guatemala to receive the funds that Congress had appropriated to the Alliance for the Prosperity of the Northern Triangle (Replogle 2015). Responding to U.S. Vice-President Biden's strong suggestions, Helen Mack confidently stated that the U.S. attempted to use the aid package to pressure President Pérez Molina to renew CICIG's mandate (Author Interview with Mack). Despite this pressure in early March 2015, President Pérez Molina refused to negotiate with the U.S. or UN about CICIG's renewal (Author Interview with Rodríguez). The Guatemalan President publically stated on April 13, 2015 that "I do not accept pressure nor interference from other countries" and that the continuity of CICIG in Guatemala will ultimately depend on the final recommendation of the *Instancia para el Fortalecimiento del Sector Justicia* (Pérez Molina Rechaza Presión Para Que Siga CICIG). In addition to this U.S. pressure, on April 21, 2015 the head of CACIF stated that "we consider it important, with the objective to ensure the results of this labor (of CICIG), that CICIG's mandate gets renewed", and that Iván Velásquez remains as its Commissioner (Labrador 2015).⁶² While President Pérez Molina did not make a public statement about CACIF's sudden support of CICIG's mandate extension, the business association's support for Velásquez was considerable given its strong connections to the President.

⁶¹ For a detailed analysis of the *Plan de la Alianza para la Prosperidad del Triangulo Norte* and Congress' appropriation of \$750 million for the plan for FY2016 see the Washington Office on Latin America's report titled "U.S. Increases Central America Aid, But It's No Blank Check" (Beltrán 2015).

⁶² Translation by author.

In their description of the fourth design principle, Boin and Christensen argue that leaders can engage in public relations campaigns to protect their institution's legitimacy (2008, 288). At the start of Commissioner Velásquez's tenure, CICIG's legitimacy and public perception within Guatemala had been damaged to such an extent that everyone assumed that the anti-corruption institution would leave Guatemala by September of 2015. This section has teased out the nuances of how Velásquez's decisions contributed to CICIG's 2015 mandate renewal process. It has demonstrated that while not the only factor, Commissioner Velásquez's decisions contributed to CICIG's institution building process because they led to the *La Línea* protest movement as well as the public relations campaign that helped convince the *Instancia para el Fortalecimiento del Sector Justicia* to recommend CICIG's renewal. The section has also demonstrated that because Velásquez's decisions led to the protests, CICIG was indirectly able to convince the U.S. and CACIF to publically pressure President Pérez Molina to ask for the UN to renew CICIG's mandate. In these ways, the section has therefore provided evidence to demonstrate how an institution's leader can activate the fourth design principle to engage in crisis management and restore its legitimacy and value infusion process.

LA LÍNEA: IMPLICATING PÉREZ MOLINA

The last section of this thesis briefly analyzes phase two of the *La Línea* investigation that lasted from August 21, 2015 (when CICIG and the MP announced President Pérez Molina's direct involvement in the scandal) to September 3, 2015 (when Pérez Molina officially resigned). It analyzes how Commissioner Velásquez's political decision to announce President Pérez Molina's involvement in the customs fraud scandal contributed to his resignation because it forced the U.S. embassy and CACIF to withdraw their support from the President. Ultimately, Velásquez's ability to influence (albeit indirectly through the pressure of the protests) the U.S.

and CACIF's decision-making demonstrates that by September of 2015 CICIG had achieved a significant level of institutionalization whereby it could resist elite forces and combat networks of corruption that had previously forced Commissioner Castresana, Commissioner Dall'Anese, and Attorney General Paz y Paz to resign. Therefore, the section also serves as the last example of this thesis to provide evidence for Boin and Christensen's claim that leaders play a "limited but crucial role in the institutionalization process".

On August 21, 2015, the second phase of the *La Línea* investigation commenced as Commissioner Velásquez and Attorney General Thelma Aldana made the political decision to announce at a joint press conference that based on evidence that they had found during their investigations, that they had "no doubt" that both Baldetti and Pérez Molina were the leaders of the entire criminal network of *La Línea* (Orozco 2015). The decision to implicate Pérez Molina was ultimately political, because Velásquez and Aldana had no way of knowing how the President would react given the unprecedented nature of the case. On August 24, 2015 MP prosecutor Juan Francisco Sandoval revealed that FECI and CICIG wiretaps and analysis of financial documents had revealed two individuals whom members within the corrupt network referred to by their aliases: "the 1 and the 2" (*el 1 y la 2*), directly referencing President Otto Pérez and then former Vice-President Baldetti (Gramajo and Alvarado 2015). Three days after this joint CICIG-MP announcement, on August 27, 2015 roughly 40,000 protesters filled the Constitutional Plaza under the hashtag "*#JusticiaYa*" (*#JusticeNow*) (Carroll 2015). In anticipation of the August 27, 2015 protests CACIF as well as independent business owners announced a nationwide strike to support the protesters and to that Pérez Molina resign and allow himself to be turned over to the MP (Carroll 2015). Therefore, for the second time in the

summer of 2015, Velásquez's decisions as Commissioner influenced a mass mobilization of Guatemalan citizens that traditionally had not been involved in politics.

Velásquez's political decision on August 21 was therefore pivotal because in response to the national protest and strike on August 27, 2015 the U.S. embassy also withdrew its support from Pérez Molina. In the opinion of U.S. INL's Virginia Staab, Velásquez "has a great political mind", of which one example was that he knew "the critical dates to release information about potential criminals" (referencing the announcement of Pérez Molina's implication) (Author Interview with Staab). Prior to the protests, the U.S. had maintained an official position of electoral stability in which Pérez Molina finished out his term (Gavigan 2016, 84). However, as Juan Muñoz of Impunity Watch notes, the political decision that led to the national protests likely forced the Embassy to reverse its position. Muñoz argues that, "U.S. Ambassador Todd Robinson initially supported Otto Pérez. When Baldetti resigned, the Ambassador joined the President's press conference to show his support for the administration. However, I think that after the protests that the U.S. decided that it could no longer politically support Otto Pérez" (Author Interview with Muñoz).⁶³ Echoing Muñoz's opinion, UDEFEGUA's co-coordinator Edda Gaviola also said that "if Otto Pérez had kept the confidence of the Embassy, I am sure that he would have stayed in power" (Author Interview with Gaviola).⁶⁴ Therefore, as these first-hand accounts note, Commissioner Velásquez's political decision to announce Pérez Molina's implication in the La Línea scandal led to the August 27 protest and strike, which caused CACIF and the U.S. Embassy to reverse their desire for Pérez Molina to finish his term rather than face MP and CICIG prosecution.

⁶³ Translation by author.

⁶⁴ Translation by author.

Conclusion

This chapter sought to answer how Commissioner Velásquez re-institutionalized CICIG after its loss of legitimacy and value under Dall’Anese, as well as how Velásquez enabled the anti-corruption institution to investigate the *La Línea* scandal and contribute to the resignations of Vice-President Baldetti and President Pérez Molina.

In terms of Boin and Christensen’s framework, this chapter has argued that Commissioner Velásquez’s administrative decisions in late 2013 and early 2014 activated the first three design principles. During this period, Velásquez routinized a new work plan within CICIG that streamlined its organizational structure and ordered the institution’s employees to focus their resources to investigate select high-impact cases, including CIACS that commit customs fraud. Building upon Commissioner Castresana’s legacy of the routinization of wiretaps and the funding of FECCI, Velásquez’s units within the revamped DIL assisted the MP in successfully investigating the case of *La Línea*. In tandem with these investigations, Velásquez activated the fourth design principle by joining with 35 civil society organizations to engage in a public relations campaign to restore CICIG’s legitimacy and to influence the *Instancia para el Fortalecimiento del Sector Justicia*’s decision to recommend that Pérez Molina extend the anti-corruption institution’s mandate. Further based on these effective investigations, throughout the summer of 2015 Velásquez decided to announce the implication of first, Vice-President Baldetti and second, of President Pérez Molina. After both announcements (in April and August respectively), citizens protested to demand that the leaders of the Guatemalan Executive branch resign and that they face justice. As the protests grew in number, they influenced CACIF and the U.S. Embassy to first pressure President Pérez Molina to extend CICIG’s mandate and then to resign. Ultimately, by activating all four design principles, Commissioner Velásquez re-

institutionalized CICIG and gave it the legitimacy and value infusion necessary to both defend itself from threats from corrupt elites and to investigate and dismantle the *La Línea* network.

CHAPTER SIX: THE LEGACY OF THE CICIG INSTITUTIONAL EXPERIENCE

This thesis has traced the process of how CICIG, an anti-corruption institution with a unique hybrid model of international cooperation, achieved a high level of institutionalization. Given the weakness of the Guatemalan justice system and the strength of the CIACS to impede investigations through violence and influence peddling, CICIG's level of institutionalization shocked corruption experts. To explain this institutionalization, I have argued that CICIG's Commissioners used the administrative tools and resources at their disposal to develop effective investigative practices and to build working relationships with Guatemalan judicial institutions as well as with civil society groups. The combination of this internal routinization and value infusion, stemming from the Commissioners' activation of Boin and Christensen's four "design principles", has allowed CICIG to develop technical and political autonomy and legitimacy in a robust process of institutionalization.

Starting in 2007 under Commissioner Castresana, the institutionalization process culminated in 2015 and 2016 under Commissioner Velásquez when he and Guatemalan Attorney General Aldana announced their investigation and subsequent prosecution of the corruption cases of *La Línea* and the *Cooptación del Estado*. In two of the largest corruption cases in Guatemalan history, CICIG and the MP succeeded in investigating and bringing down some of the most powerful actors in Guatemalan politics, former President Pérez Molina and former Vice-President Baldetti. As this thesis has demonstrated, it is unlikely that CICIG would have been able to investigate and assist the MP in prosecuting these cases without its Commissioners' effective leadership during the institutionalization process between 2007 and 2015. As of May 8, 2017, CICIG and the MP continue to investigate and announce their joint-prosecution of new cases of corruption.

To culminate this thesis, this chapter first briefly summarizes my argument about the role of leadership in the process of institution building. The second section builds upon the findings of this thesis by describing how policy makers can learn from CICIG's institution building process when creating or attempting to institutionalize other anti-corruption bodies in the region. I specifically look at how CICIG's effective leadership may relate to current developments within Honduras' new anti-corruption institution called the Support Mission Against Corruption and Impunity in Honduras (*Misión de Apoyo contra la Corrupción y la Impunidad en Honduras*, MACCIH). In this section I describe the origins of MACCIH, how its institutional design differs from CICIG, concerns that Honduran civil society groups and international observers have about its ability to prosecute corrupt state actors, and what OAS Secretary General Luis Almagro could do as its leader to further institutionalize the anti-corruption body. The final section explores the limitations of this thesis and offers means by which scholars can extend the project to further study the institutionalization of CICIG.

CONCLUDING ARGUMENT

My analysis of CICIG's institutionalization and activation of Boin and Christensen's design principle framework demonstrates that scholars can apply their hypothesis to specific cases of institutionalization. The actions of CICIG's commissioners can be viewed through the lens of Boin and Christensen's framework. CICIG's Commissioners used the administrative tools and resources at their disposal to first develop effective investigative and prosecutorial practices and achieve a high level of routinization. The Commissioners then applied these same administrative tools and resources to improve CICIG's working relationship with Guatemalan judicial institutions and civil society groups, which infused the institution with value and protected it from external threats. This non-linear combination of internal routinization and

value infusion allowed CICIG to achieve the level of institutionalization necessary to adapt in times of crisis, defend its legitimacy from external threats, and to dismantle the complex networks of corruption within Guatemalan institutions that I explained in chapter two.

In chapter three I argued that Commissioner Carlos Castresana Fernández successfully activated all four design principles at different times during his tenure and established the foundation of CICIG as a highly-institutionalized body between 2007 and 2010. In 2008, Castresana first leveraged CICIG's mandate to purge threatening corrupt actors in the MP and PNC. He pursued effective practices by experimenting with legitimate ways that CICIG could assist MP investigations. He sanctioned emergent norms through creating key legal reforms to endorse new investigative practices within CICIG and the MP. During the case of lawyer Rodrigo Rosenberg, he embedded the investigative practice of wiretaps. However, despite initially pushing back against external threats and again attempting to do so in his last months as Commissioner, due to CICIG being a new institution, corrupt networks were ultimately able to force Castresana to resign in 2010.

In chapter four I argued that throughout his time as Commissioner, Dall'Anese's leadership ultimately led to a process of deinstitutionalization within CICIG. I recognize that in 2010 and 2011, Dall'Anese initially continued to infuse CICIG with value by working with a collection of civil society groups called the *Convocatoria Ciudadana* to elect Claudia Paz y Paz as the new Attorney General. The Commissioner then worked with Paz y Paz as she effectively overhauled the MP, improved its capacity, and attacked powerful gangs within Guatemala. Dall'Anese also infused CICIG with value by providing technical support to the 2012 anti-corruption law, which codified illicit enrichment and influence peddling as crimes for the first time in Guatemala. However, despite his actions leading to an initial period of value infusion,

Commissioner Dall’Anese failed to prosecute numerous high profile cases, such as that against former Interior Minister Carlos Vielmann. Furthermore, as external threats increased against CICIG and the Commissioner himself, he did not engage in crisis management to the extent that Castresana did. Therefore, while Dall’Anese initially activated the second and third design principles, his inability to respond to these crises led to his resignation in 2013 and to a serious loss of legitimacy for CICIG.

In chapter five I argued that Commissioner Velásquez’s administrative decisions between 2013 and 2015 caused CICIG to achieve a high-level of institutionalization whereby it was well-routinized and infused with value. Velásquez’s routinization of a new work strategy (which activated the first three design principles) focused on a handful of investigations of powerful corruption networks that CICIG and MP employees could reasonably finish before September 2015. The new work strategy streamlined CICIG’s organizational structure to quickly investigate and prosecute high-impact corruption cases. Velásquez also made use of the effective practice of wiretaps and the unit of analysis within the MP and FECI to successfully investigate the *La Línea* case between 2013 and 2015. Furthermore, prior to the *La Línea* case announcement on April 16, 2015, Commissioner Velásquez had joined with 35 civil society groups to engage in a public relations campaign in favor of CICIG’s renewal. As the *La Línea* protests continued, they strengthened the public relations campaign to add on to U.S. and private sector insistence that President Pérez Molina extend CICIG’s mandate until September 2017. Lastly, demonstrating that CICIG had achieved a high level of institutionalization, Commissioner Velásquez announced President Pérez Molina’s implication in the *La Línea* case on August 21, 2015. Facing an abandonment of the U.S. embassy and of CACIF, as well as

sustained social protests that Velásquez brought about through the *La Línea* investigation, President Pérez Molina was forced to resign and face the charges against him.

POLICY IMPLICATIONS FOR ANTI-CORRUPTION INSTITUTIONS

As this thesis has shown, CICIG's robust institutionalization process was possible due to its Commissioners' activation of four design principles to routinize effective investigative and prosecutorial practices and to infuse the institution with value. These administrative decisions in the case of CICIG created the legitimacy and autonomy needed for the anti-corruption institution to protect itself from external threats and to work alongside Guatemalan judicial institutions to dismantle specific corrupt networks such as those in the cases of *La Línea*, IGGS-PISA, and the *Cooptación del Estado*. The findings in this thesis of how CICIG became a highly-institutionalized anti-corruption body can serve as general guidelines for other anti-corruption institutions in Central America. As I mentioned in the introduction, on September 14, 2015, Honduran President Juan Orlando Hernández solicited the OAS Secretary General for the creation of an international anti-corruption body. The Support Mission Against Corruption and Impunity in Honduras (*Misión de Apoyo contra la Corrupción y la Impunidad en Honduras*, MACCIH) commenced its work on April 19, 2016. CICIG's institutionalization process can offer policy and administrative lessons for MACCIH and any future anti-corruption institutions in the region.⁶⁵

Before highlighting how CICIG's institutionalization can offer administrative lessons for MACCIH, it is important to understand corruption as it exists in Honduras and the corruption cases that pressured the Honduran government to ask the OAS for the creation of an international

⁶⁵ The argument of this thesis and the policy conclusions that it makes are the express opinion of the author.

anti-corruption body. In Honduras, much like Guatemala, corruption and impunity weaken the rule of law, erode and diminish citizenship rights, lead to human rights abuses, and inhibit the development of efficient public institutions. In 2015, a Latinobarómetro public opinion survey found that 72.7 percent of polled Hondurans had little or no trust in the judicial system (Informe Latinobarómetro Honduras: La Democracia 2015). In 2016, Transparency International's Corruption Perceptions Index (CPI) also found that Hondurans experience a high level of corruption in the country; Honduras ranked 123rd out of 177 countries polled in the CPI, in which a lower ranking correlates to a higher perception of corruption (Corruption Perceptions Index 2016). The World Economic Forum ranked Honduras' judicial independence as 114th of 144 countries in 2015 (Judicial Independence Competitiveness Rankings 2014-2015). Also in 2015, the World Justice Project published that Honduras had a rule of law score of .42, placing it 17th out of 19th in Latin America (Rule of Law Index 2015). While only a brief description of the extent of corruption and the weakness of judicial institutions in Honduras, these measures indicate a need for MACCIH as an independent anti-corruption authority.

Every country has its own historical, political, and judicial nuances that influence the level of corruption. As I explored in the second chapter, the joint UN-Guatemalan decision to create CICIG was made in response to a remnant of Guatemala's internal conflict, the CIACS. These clandestine organizations had infiltrated Guatemalan judicial institutions to such an extent that the judiciary could no longer effectively prosecute corruption and combat impunity. In Honduras, a major corruption scandal broke within the country's healthcare system, the Honduran Institute of Social Security (*Instituto Hondureño de Seguridad Social*, IHSS) in 2014. President Porfirio Lobo Sosa launched an investigation into the IHSS, and a bipartisan congressional report found that the scandal lost \$200 million in state funds and led to medicine

and equipment shortages that likely caused the deaths of numerous Honduran patients (Informe: Comisión Multipartidaria Nombrada por el Presidente del Congreso Nacional 2015, 5-6). In June 2015, as the extent of corruption became clear, thousands of Hondurans (known as the “*indignados*” movement) marched with lanterns in Tegucigalpa to protest not only the illicit activity, but the deaths that it caused (Miles de personas protestan contra la corrupción en Honduras). As the protests intensified, Honduran civil society organizations and international NGOs demanded the creation of an anti-corruption body similar to CICIG in Honduras. President Orlando Hernández responded to this societal pressure by petitioning OAS Secretary General Almagro for such an anti-corruption institution, now called MACCIH.

While MACCIH has only existed for one year, judicial and public policy experts have forecasted that MACCIH’s institutional design will limit its ability to fully dismantle corrupt networks within Honduran institutions. MACCIH aims to “select, advise, assess, and certify a group of Honduran prosecutors and judges who will be conducting investigations and prosecuting cases involving corruption networks” (Fact Sheet: What is MACCIH?). Therefore, as head of MACCIH, the OAS Secretary General directs MACCIH’s international legal staff to use their expertise to provide technical advice during corruption cases, but they lack the capacity to conduct their own independent investigations or to directly assist in MP investigations. This is a clear departure from the CICIG model, which allowed its employees to conduct their own investigations (but not to prosecute) and to directly assist the Guatemalan MP in any of its corruption cases.⁶⁶

⁶⁶ For a visual comparison between CICIG and MACCIH see The Wilson Center’s diagram: “Tackling Corruption in Honduras, Guatemala, and Mexico.”

International think-tanks such as The Wilson Center, advocacy organizations such as the Washington Office on Latin America (WOLA), and Honduran civil society groups such as the National Network of Human Rights Defenders in Honduras (*Red Nacional de Defensoras de Derechos Humanos en Honduras*) are concerned that MACCIH's institutional design will inhibit its ability to combat corruption. They argue that since its mandate does not allow the anti-corruption body to directly assist in specific cases, its ability to autonomously dismantle corrupt networks will be weaker than that of CICIG. Associate Director of the Latin America Program at The Wilson Center, Eric Olson is specifically worried that MACCIH's mandate does not allow for technical and political independence from the Honduran state because it remains unclear how MACCIH's legal staff will influence corruption cases without an independent power to investigate (2015). Furthermore, while respecting Honduras' specific realities and in conjunction with local civil society groups, during MACCIH's approval process WOLA urged the OAS to ensure that the Honduran anti-corruption body would have "the ability and independence to select, initiate, and carry out investigations of emblematic cases" and to work directly with the Honduran MP to bring forth prosecutions. As I noted in chapter two, one of the crucial parts of CICIG's institutional design was its article 3(1)(b) power to directly collaborate in the investigative process. Additionally, as I noted in chapter three, Commissioner Castresana used his article 3(1)(b) and (e) powers to accuse Attorney General Florido of impeding a CICIG investigation, to force President Colom to remove Florido from his position, and to appoint José Amílcar Velásquez Zárate as the new head of the MP (Mandato, Acuerdo de Creación de la CICIG). This CICIG example demonstrates that MACCIH's institutional design harms its autonomy, and potentially its ability to achieve its goals.

In its one year of existence, MACCIH has assisted the National Congress and Honduran electoral authorities in reforming campaign finance laws and in developing a national anti-corruption jurisdiction. In its first sixth month report, on October 19, 2016 the OAS stated that MACCIH had achieved nine results. Between April and October these results demonstrated positive reforms that MACCIH had assisted in implementing. Most notably, MACCIH worked on the development of “The Clean Politics Law” with the Supreme Electoral Court and the Electoral Affairs Committee of the National Congress. The new law places limits on contributions, creates a ceiling on campaign spending, and annuls the election of candidates who receive illegal financing (MACCIH First Semiannual Report, 3). Per MACCIH’s recommendation, the Honduran National Congress also created a national anti-corruption jurisdiction and developed a mechanism for the selection of anti-corruption prosecutors and judges (MACCIH First Semiannual Report, 4).

These accomplishments are significant, and it is imperative for MACCIH to continue to work with Honduran authorities and civil society groups to deepen this reform process. However, in terms of prosecuting corruption, the MACCIH experience thus far has demonstrated that international think-tanks and Honduran civil society groups were right to worry about the effect of its institutional design on its autonomy and legitimacy. In the semiannual report, the OAS notes that MACCIH has taken “the decision to join the Office of the Attorney General in investigating the IHSS case, working on the 47 cases under investigation and the 15 cases under prosecution” (MACCIH First Semiannual Report, 4). While MACCIH advisement on these 62 cases might yet yield results, the anti-corruption institution’s own spokesmen have recognized that their results in the IHSS case are “scarce” (MACCIH: resultados en el caso del IHSS son escasos). With the lack of power to conduct independent investigations proving to be a clear

weakness in its institutional design, what can the OAS Secretary General, in his capacity as the leader of MACCIH, learn from the CICIG experience to further institutionalize the Honduran anti-corruption body?

Any current MACCIH policy proposal based on the CICIG experience must first keep in mind that CICIG's institutionalization process took eight years to achieve the level of success that it has. From CICIG we have learned that anti-corruption institutions which have access to international political and financial resources are most successful in dismantling complex networks of corruption when their leaders apply administrative tools to routinize effective practices and to infuse the organization with value. As I have noted, unlike CICIG, MACCIH cannot conduct its own independent investigations. Therefore, Secretary Almagro is limited in terms of developing investigative tactics within MACCIH. Despite this limit, there are two actions that the OAS Secretary General could take in the coming year to strengthen MACCIH's institution building process. First, based on lessons from CICIG's *La Línea* case, he could routinize and finance a system of wiretaps within the Honduran Attorney General office. Second, he could order MACCIH employees to engage with the “*indignados*” social movement and Honduran civil society organizations such as the *Red Nacional de Defensoras de Derechos Humanos en Honduras*, to start infusing MACCIH with value. As these groups start to perceive that MACCIH is a legitimate institutional force that can dismantle corrupt networks, they can assist the institution in protecting itself from new external threats.

LIMITATIONS AND AVENUES FOR FURTHER RESEARCH

Limitations

While this thesis has provided a detailed overview of CICIG's institutionalization process and offered insights into the effective role that its leaders played in building its autonomy and

legitimacy, it has been limited in three areas. First, due to time constraints in Guatemala City and a lack of access, I did not conduct any interviews with members of the 2015 protests that were crucial in pressuring former President Pérez Molina and former Vice-President Baldetti to resign after the revelation of the *La Línea* scandal. Second, I was unable to consider if CICIG's lack of a prosecutorial power was a strength rather than a weakness. It is possible that not having the ability to prosecute meant that the anti-corruption institution was less threatening at first to CIACS and other networks of corruption. In response, these networks might have not threatened CICIG until it was too late to stop its robust process of institutionalization. Finally, due to the scope of the thesis focusing on CICIG's own process of institutionalization, I was unable to consider if its model of prosecution and of improving the technical capacity of the MP and PNC inhibited the anti-corruption organization from assisting in a broader judicial reform process. With these three limitations in mind, this section provides recommendations for how scholars can further study these areas to provide a broader understanding of how CICIG became a powerful in-country anti-corruption body.

Areas for Further Research

In response to the limitations of this thesis project, I offer three avenues that an interdisciplinary approach might take to further research CICIG's institutionalization. As Commissioner Velásquez and Attorney General Aldana continue to work together to dismantle corrupt networks in Guatemala, their efforts provide ample material for study. First, scholars might consider further analyzing the relationship between CICIG and Guatemalan civil society groups that were active in the 2015 *La Línea* protests. Such a study would contribute to the literature on civil society as a driving force in anti-corruption processes. Scholars might also conduct a cross-country study of anti-corruption institutions and agencies to determine if a lack

of a prosecutorial power can be a strength if it lulls corrupt actors into a false sense of security during the initial phases of the institutionalization process. Finally, another avenue of research that scholars might consider is whether CICIG's focus on prosecution will have created a lasting positive effect on grand corruption and judicial institutions in Guatemala after it leaves the Central American nation. With CICIG's mandate set to expire in 2019, it is unclear if President Morales and the UN will reach an agreement to extend the mandate for a sixth time. Therefore, it is necessary to consider if the CICIG model has succeeded in improving the capacity of judicial institutions or if additional reforms are also necessary.

The first limitation of this study was that I lacked the access needed to conduct a thorough analysis of the 2015 spontaneous protests that occupied the Guatemalan Constitutional plaza. In chapter five, I argued that after CICIG and the MP announced the case of *La Línea*, Commissioner Velásquez used his relationship with established Guatemalan civil society leaders to harness the political pressure of the protests. While this thesis relies on interviews with the Helen Mack Foundation and UDEFEGUA to demonstrate the relationship between Commissioner Velásquez and these protesters, it was not able to consider all the factors that led to the prolonged demonstrations. Therefore, an extension of this project would be to study these protests and specifically ask the following questions: Was the customs fraud and former Vice-President Baldetti's illicit enrichment in the *La Línea* scandal an especially mobilizing grievance? Why did the initial protests derive most of their support from middle class and urban citizens and not from well-established civil society organizations? Why did this protest movement lack an organized structure and leadership? Why have the protesters not established a prolonged movement as CICIG and the MP continue to announce new corruption cases? A

study that considers questions of this nature would establish a more complete picture of the relationship between CICIG and these spontaneous protests.

The second limitation of this thesis was that due to a lack of interview evidence, I was unable to consider if CICIG's lack of prosecutorial power was a strength rather than a weakness in the beginning of its institutionalization process. For example, while chapter three extensively described how Commissioner Castresana used the resources at his disposal to internally routinize effective investigative practices, it did not consider if his inability to prosecute made the CIACS believe that CICIG would never be able to prosecute cases such as *La Línea* eight years later. In interviews with independent political analyst Jonatán Lemus and with journalist Pedro Pablo Marroquín, they both stated that when renewing CICIG's mandate in 2011, Pérez Molina and Baldetti signed the agreement because they never thought that CICIG would be able to prosecute them (Author Interviews with Jonatán Lemus and Pedro Pablo Marroquín). If Guatemala's Constitutional Court had permitted CICIG's independent prosecutorial power, would Castresana have used it to quickly prosecute the *Caso Rosenberg* when the MP could not? If CICIG's mandate included a power to prosecute would it have faced additional external threats from corrupt networks during Castresana's tenure that? How does CICIG's lack of a prosecutorial power and high-level of institutionalization compare to other anti-corruption institutions around the world? To answer these questions, scholars can conduct a cross-country study of anti-corruption institutions and agencies to determine if a lack of a prosecutorial power can be a strength if it lulls corrupt actors into a false sense of security during the initial phases of the institutionalization process. Such a study would add an understanding of how CICIG's institutionalization relates to other anti-corruption models.

Finally, by solely focusing on CICIG's institutionalization process, this thesis did not

explore how CICIG engaged with the broader judicial reform process that is currently occurring in Guatemala called the While conducting an interview in the office of Dr. Alejandro Rodríguez, I had an engaging conversation with an Impunity Watch employee. A Guatemalan public policy expert, the employee posited the following question to me: does the CICIG model of prosecution focus too much on justice rather than on reform processes? Would it be better for the UN and CICIG's donor nations to spend their scarce resources to assist Guatemalan civil society members in making meaningful contributions to shape Guatemala's National Dialogue process?⁶⁷ In the introduction to this thesis I argued that despite its limitations, CICIG has succeeded in dismantling specific corrupt networks that had infiltrated state institutions. In prosecuting these specific cases, CICIG has certainly improved the effectiveness of Guatemalan institutions by removing corrupt actors. Furthermore, as I argued in chapter three, Commissioner Castresana improved the ability of the MP to prosecute corruption by creating the FECI. However, while thinking about these questions, I realized that while necessary, CICIG's prosecutorial successes will be limited in improving the rule of law if the anti-corruption institution does not also simultaneously succeed in advancing additional judicial reforms.

Commissioner Velásquez has recognized that corruption in Guatemala is structural, and that it does not stop at the case of *La Línea* nor in the offices of the *Partido Patriota*. In 2016, Velásquez recognized that “in the system of the administration of justice, the purpose has always been to guarantee impunity to accumulate illicit wealth and more power” (Palma 2016). Because criminal networks of corruption constantly evolve in the face of prosecution, without structural

⁶⁷ The National Dialogue towards Justice Reform in Guatemala (*Diálogo Nacional: Hacia la reforma de la Justicia en Guatemala*) is a joint project of the executive, legislative, and judicial branches of the Guatemalan state in conjunction with civil society organizations. It seeks to promote discussion, approval, and implementation of concrete reforms to the justice system that will contribute to the fight against corruption and impunity and that will guarantee judicial independence and the strengthening of judicial institutions. For an overview of the National Dialogue process see: “Hacia la Reforma de la Justicia en Guatemala: Diálogo Nacional”.

reforms to political immunity laws (*La Ley de Antejudicio*) and the judge selection process, CICIG's effect on grand corruption is limited.⁶⁸ The current immunity law requires the Supreme Court to lift immunity of members of Congress when CICIG and the MP implicate them in cases (Palacios 2015). Without effective and credible judges, it is impossible to fight against impunity. For example, as Nomada Director Martín Rodríguez Pellecer notes, the 2017 influence peddling case of the President of the Criminal Chamber of the Supreme Court, Blanca Aída Stalling Dávila, demonstrated the need to reform the way that Guatemala selects its judges and prosecutors and gives immunity to its political actors (Author Interview with Pellecer). While politically complicated, reforming the immunity law to not include corruption and making the selection process impervious to external influence would lessen the effects of grand corruption on Guatemala's judicial system. As the *Diálogo Nacional* is currently reviewing this process, a further analysis that would deepen our understanding of the impact of international anti-corruption institutions on grand corruption in Central America should specifically look at how CICIG has engaged with and provided consulting to Guatemala's National Dialogue reform process.

CONCLUSION

Corruption within Guatemalan institutions continues to persist despite the creation of CICIG as a highly-institutionalized anti-corruption body. The social phenomenon is a highly complex issue that creates considerable legal and political roadblocks for anti-corruption efforts. However, as this thesis demonstrates, international anti-corruption bodies can overcome challenges to their autonomy and legitimacy, dismantle illicit networks within state institutions, and assist in-country judicial institutions in prosecuting corrupt state actors. Those who are

⁶⁸ See chapter one for an overview of Guatemala's selection process for appellate and Supreme Court judges.

familiar with corruption in Guatemala have been surprised by its high level of institutionalization and by its success in directly assisting the investigative and prosecutorial phases of a diverse array of cases. During the tenures of CICIG's Commissioners, their leadership in developing effective practices and infusing the institution with value allowed the anti-corruption body to acquire high levels of legitimacy and autonomy. As Central American nations continue to seek innovative mechanisms to tackle corruption, the CICIG model and the integrity and effectiveness of its leaders provide a clear example of one way to dismantle illicit networks

APPENDIX: LIST OF INTERVIEWEES

1. Helen Mack:

Position: Founder and Director of the Myrna Mack Foundation, a Guatemalan human rights NGO

2. Dr. Alejandro Rodríguez:

Position: Director, Impunity Watch, Formerly in the Ministerio Público (2008-2014) as *Secretario de Política Criminal*

3. Julio Prado:

Position: Former Assistant Prosecutor in the Public Prosecutor's Office (*Ministerio Público*, MP), specifically in the Fiscalía Especial Contra la Impunidad (FECI)

4. Edda Gaviola:

Position: Co-Coordinator at UDEFEGUA, a Guatemalan NGO that seeks to protect human rights defenders

5. Jonatán Lemus:

Position: Political Analyst for business association CACIF, but interviewed in his private capacity as a citizen

6. Sonja Perkič:

Position: Former Consultant for the MP under Claudia Paz y Paz until 2014.

7. Virginia Staab:

Position: Director of the U.S. Department of State: INL (Bureau of International Narcotics and Law Enforcement Affairs) in Guatemala.

8. Pedro Pablo Marroquin:

Position: Writer, La Hora Newspaper

9. Martín Rodríguez Pellecer:

Position: Director/ Founder of Nomada

10. Juan Muñoz:

Position: Program Coordinator and Researcher at Impunity Watch, a Guatemalan anti-corruption and anti-impunity NGO

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