

## Intervention by Invitation? Shared Sovereignty in the Fight against Impunity in Guatemala

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### Abstract:

This article deals with the International Commission against Impunity in Guatemala (CICIG), a joint hybrid commission to investigate impunity in the context of illegal security networks and organized crime. It was set up as an external governance intervention through an agreement between the UN and the State of Guatemala in 2006 to strengthen state institutions in the face of a worsening security situation. Based on a delegation of governance in the modality of shared sovereignty, CICIG has been operating in the country since 2006, trying to generate support in the national realm and the judicial system of Guatemala while exposed to the critical junctures of the highly contested national debates on its existence. More specifically, the article analyses the patterns of appropriation and rejection of CICIG by different actor constellations. Through a critical discourse analysis, actor constellations are specified, various themes of appropriation and rejection are detected and specific aspects of CICIG's mandate are investigated. *Keywords:* security governance, organized crime, impunity, Guatemala, CICIG.

Resumen: ¿Intervención por invitación? Soberanía compartida en la lucha contra la impunidad en Guatemala

En el centro del texto se trata la Comisión Internacional contra la Impunidad en Guatemala (CICIG), una comisión híbrida conjunta que realiza averiguaciones sobre la impunidad en el contexto de las redes ilegales de seguridad y el crimen organizado. Esta entidad fue concebida como una intervención externa de gobernanza en base a un acuerdo entre las NN.UU. y el estado de Guatemala en 2006 con la intención de fortalecer las instituciones estatales ante una situación de seguridad empeorada. Fundamentada en la delegación de gobernanza como soberanía compartida, la CICIG está operando desde hace ocho años en Guatemala y ha vivido las coyunturas de los debates nacionales altamente polarizados sobre su quehacer. El texto analiza los patrones de apropiación y rechazo de la CICIG por diferentes configuraciones de actores. Con base en un análisis crítico de discurso se especifican las constelaciones de actores, los temas de apropiación y rechazo al igual como aspectos del mandato de la CICIG. *Palabras clave:* gobernanza de seguridad, crimen organizado, impunidad, Guatemala, CICIG.

In its latest annual global report (2015) the U.S.-based NGO Human Rights Watch underscores how impunity for both criminal groups and corrupt and abusive state institutions continues to be one of the central obstacles to the rule of law in Latin America. Of the countries most affected by impunity, the report gives particular emphasis to Colombia, Mexico, Honduras and Guatemala. Looking at these four countries of the region, it comes immediately clear that the phenomena subsumed under the heading of impunity are quite different, although a general definition that covers all of them can be resumed as ‘the absence of effective state structures to ensure justice’ (Hampson, 1995, p. 8). On the one hand, there are all the elements referring to a deficitary action or even inaction of the organs of the judiciary, which extends from missing access to justice, passing over the gap between punitive norms and their application, up to the situation of an offense without punishment; on the other hand there are all the modalities of political impunity, impunity by collusion, and all the unknown cases of impunity because the offended party does not report the offense or restrains from presenting criminal charges. ‘Crimen sin castigo’ (Zepeda, 2004) is a generalized characteristic and complaint, and has become the slogan in Latin America to describe the lack of accountability, which has been presented as the opposite extreme to impunity (Lessa, et al., 2014). One of the main shortfalls is seen in witness and victim protection as well as distrust in the police and the judicial authorities, as they are more a part of the problem than of the solution (Braig & Stanley, 2007). But ‘intervention’ of external actors in the transformation of judicial systems continues to be a rather rare and sensible topic, as it touches on the internal sovereignty and institutional autonomy, considered as the hard core of a nation’s independency. The present analysis contributes to the understanding of the challenges of shared sovereignty and security governance in the polarized national setting of Guatemala as an example for the patterns of appropriation and rejection of new norms and practices.

### **Guatemala as a showcase of impunity**

We will focus on Guatemala, a country with a large conflict experience (Kruijt, 2009) that has come to be seen as a showcase for impunity (United Nations Development Program, 2009, p. 22; Briscoe, 2009, p. 10). Moreover, Guatemala is frequently defined as a failing state. This mainly refers to the impact of transnational organized crime, which has successfully usurped state structures over the last years. Guatemala is seen as incapable of providing security in the face of organized crime and exercising the state monopoly of violence (Brands, 2011; Isaacs, 2010). Yet the country has seen individual judicial leadership as well. Although the name of Guatemala’s Attorney General Claudia Paz y Paz stands as a symbol for a new justice in Central America, the mere fact that she was removed from office by a decision of the Constitutional Court, shortening her term, reflects the continuing presence of secret negotiations and networks

of favours that demand their traditional control of the institutions. Another indicators are the emblematic trials against the former dictator Ríos Montt (1982-1983) and ex-president Alfonso Portillo (2000-2004); the first was formally indicted on 10 May 2013 for genocide and crimes against humanity, but only 10 days after the sentencing the Constitutional Court quickly annulled it. The latter was acquitted on all charges in 2011 and then extradited to the U.S.

Impunity has to be seen in the context of this recent development. It no longer refers to the lack of accountability for crimes committed during the civil war. The contemporary type of impunity has to be seen as a symptom of weak state structures because the judiciary, in the context of organized crime, is not capable of processing cases and prosecuting crimes (WOLA, 2007, pp. 7ff).

The installation of an International Commission against Impunity in Guatemala (*Comisión Internacional contra la Impunidad en Guatemala* – CICIG) is a response to this new type of impunity. In 2006 during the administration of President Óscar Berger (2004-2008), following certain pressures from Washington, Guatemala asked the United Nations for help in installing a joint hybrid commission to fight impunity in the context of organized crime. This was a politically and legally very controversial request that received further urgency after the murder of three Salvadorian members of the Central American parliament in Guatemala in February, 2007. This commission is supposed to identify and dismantle illegal security structures and strengthen the judicial capacity of Guatemalan state institutions through the promotion of individual prosecutions and institutional reform. CICIG represents a unitary case as there are no precedents of a sovereign country conceding to an international entity. In the case of CICIG, it conducts its own judicial investigations in coordination with the Attorney General operating under Guatemalan law, lodges complaints and accompanies the respective law suits as ‘querellante adhesivo’ (a sort of joint plaintiff), evaluates public office-holders and participates in the training of police-men and judicial agents. In this way, the Guatemalan state has ceded part of its attributes to safeguard security and justice (Aguilera Peralta, 2014, p. 120) and has established a modality of ‘shared sovereignty’ (Matanok, 2014). CICIG represents an external governance intervention in the inner circle of traditional national sovereignty, which called forth local reactions of contestation and non-conformities in public debates as well as in the respective institutions. The modalities by which external actors enhance the capacity (statehood) of authority structures in weak states or directly contribute to the provision of collective goods and services is a central research focus in the non-OECD world today (Krasner & Risse, 2014). Recent publications suggest that external actors should work within state structures rather than acting as substitutes for them; the approach represented by CICIG makes coordination of complex tasks more difficult (Matanock, 2014).

Under the leadership of CICIG’s third Commissioner Iván Velásquez, a Colombian judge, the CICIG has been in the forefront of the investigation of corruption scandals that have led to the resignations of the country’s vice pres-

ident Roxana Baldetti (9 May 2015) and president Otto Pérez Molina (2 September 2015), after their immunity was lifted by parliament. The processing of both mandataries as part of a network that had skimmed millions of dollars from Guatemala's customs agency – a case resumed under its Spanish name of 'La Linea' (CICIG, 2015) as it was directed by the vice president's private secretary – shook up the country's political status quo and made CICIG part of the temporary coalition of the Attorney General's Office and a mobilized civil society that together was able to bring more than 60,000 protesters to a public demonstration on 31 May 2015, urging an end to corruption and the traditional political elite's ruling (Pérez, 2015). This ousting of a corrupt government was followed by national elections in which the so called 'anti-systemic' candidate Jimmy Morales won the second round of the ballot on 25 October 2015 with a majority of 67.44 per cent; he has taken office on 14 January 2016. If these changes will lead to the retreat of an oligarchy that has dominated the country in different configurations for centuries (Casaus, 2010) depends on the resilience of the vicious cycle in Guatemalan politics and the reach of protection that criminal interests are able to exert. As these events of 2015 demonstrate, when it comes to counteracting criminal structures, CICIG is in need of support from institutional segments of the state and a mobilized civil society together with international backing. For our purpose we will centre our attention on the question of the impact that an external agent such as CICIG can have on the political and judicial system of Guatemala with its proper qualities of a socially and culturally polarized society.

The installation of CICIG is part of a general trend towards international hybrid justice systems such as they were applied in Cambodia, Timor-Leste or Sierra Leone (Mobbek, 2006, pp. 19ff). CICIG is a new step in this process, as it is the first hybrid justice mechanism that was not established in the context of transitional justice to enhance accountability for past crimes, but to build capacities for weak judicial structures. As this is a new and innovative model, its applicability to other contexts is already being discussed, such as for example a transnational model of CICIG for all Central American countries (Valdadares, 2010). In September 2015 the Secretary General of the Organization of American States (OAS), Luis Almagro, announced the creation of the *Mission to Support the Fight against Corruption and Impunity in Honduras* (MACCIH), which will be led by an internationally recognized jurist with high levels of competence in the investigation of cases of corruption and impunity (OAS, 2015), a design that comes close to the operational model of CICIG.

CICIG can be seen as a security governance intervention in an area of limited statehood, i.e. in the judicial sphere. The question we pose ourselves is: how is this external governance intervention appropriated, adapted or rejected in the local context? We try to answer this question by using critical discourse analysis as a method to find out which patterns of appropriation and rejection evolve in the discourse on CICIG and its predecessor, the Commission for the Investigation of Illegal Groups and Clandestine Security Organizations in Gua-

temala (*Comisión de Investigación de Cuerpos Ilegales y Aparatos Clandestinos y de Seguridad* – CICIACS).

### **The governance perspective**

The theoretical and conceptual background of this article is related to the research on governance in areas of limited statehood and analyses governance – the diverse forms and modes of ruling – in areas in which state authority is limited and lacks basic capacities to determine and enforce binding rules.<sup>1</sup> In opposition to other approaches which speak of failing or failed states, a more nuanced approach is applied here: areas of limited statehood. This concept refers to areas where the core functions of the statehood such as the state monopoly of force and the ability to enforce decisions are limited (Risse & Lehmkuhl, 2006, Risse, 2011, pp. 1ff).

Limited statehood might not necessarily cover the whole state territory or all political spheres. Areas of limited statehood can manifest themselves territorially, referring either to the whole territory or only parts of the state territory. Regarding different sectors, limited statehood can either cover all political spheres or only some. Furthermore, limited statehood might exist socially, referring either to the population as a whole or to parts of it. Temporally, limited statehood can manifest itself continuously or only for a limited period of time (Risse, 2011).

Governance, in this context, is defined as the ‘institutionalized modes of social coordination to produce and implement collectively binding rules’ (Risse, 2011, p. 10). A governance intervention might be hierarchical (e.g. sanctions) or non-hierarchical (e.g. incentives). Their level of intervention can be discursive, referring to the diffusion of values or norms, or operative, referring to monitoring or capacity building (Risse & Lehmkuhl, 2006, p. 10; Risse, 2011, pp. 10ff). In our case, the focus is on governance in the security realm. The term security governance is employed to cope with the complex network of actors and multiplicity of issues which are part of the security domain. Overall, the term security governance denotes a rejection of a state-centred, military notion of security, since security threats no longer emanate only from inter-state wars, but also from civil war, terrorism and transnational organized crime (Krahmann, 2003).

Following Jennifer Wood and Benoît Dupont (2006) security governance is understood as providing security (i.e. combating crime, control of violence, physical safety), legally binding rules for the establishment of security, and making the constitutionally binding provision of security. The definition of security is not limited to physical safety against violence, but is based on a more holistic concept which also comprises control of violence and establishing order, thus extending the definition of security from physical safety to security governed by the rule of law.

However, there are many factors influencing the success of security governance, such as the perception and definition of the respective security problem, the actors involved and the positions of power they hold. Due to its complexity, security governance interventions might have unintended consequences which might be negative or disturbing, because ‘effects and effectiveness have become contingent to so many factors that it becomes increasingly difficult to attribute both success and failure to specific policy measures’ (Daase & Friesendorf, 2010, p. 1). Our interest in this context focuses less on the success or failure of the interventions, but tries to identify the conformities or non-conformities in the presence of a major blocking factor such as strong elites (Bull, 2014), where civil society organizations try to push governments to change (Magen & Morlino, 2009).

Consequently, security governance interventions do not work in a linear way, but develop in complex scenarios as a result of external actors and internal interests, which in cases of institutional weakness have been identified as local elites (Bull, 2014) and their capacity to act as veto players (Lessa, et al., 2014, p. 84). Therefore we conceive governance interventions not in a binary dimension of appropriation or rejection in the local contexts, rather we expect highly contested positions with continuous cycles of ebb and flow in the acceptance of CICIG. We are aware of the complexity of norm diffusion processes due to different logics of norm translation into discourse, into law and into implementation (Zimmermann, 2014). Therefore, local processes not only influence if and how governance interventions can contribute to the provision of security; even the promotion of technical standards and procedures in judicial proceedings are ‘continually negotiated and renegotiated between differently motivated and differently situated actors internal and external to states’ (Grugel, 2005, p. 42), an insight drawn from the experience of democracy promotion programmes. Karstedt speaks of *modelling* in this case, which is defined as a process of observational learning through a process in which models are interpreted on a symbolical and conceptual level. It refers to learning and diffusion processes of certain policy models which are being exchanged within a global context (Karstedt, 2002).

According to this model, the research question is how external security governance interventions such as CICIG contribute to local security governance, i.e. in how far they are appropriated or rejected in the local context. The impact of those processes can be analysed through the actor constellations involved in these processes. Following Fuentes (2005) one can distinguish between order and rights coalitions. Order coalitions exclusively focus on solutions to security issues and mainly rely on the military sphere, framing their positions in terms of defence of national sovereignty. Rights coalitions are interested in the establishment of collectively binding rules and are based on transnational civil society networks in cooperation with like-minded states, the international community and human rights groups (Stanley, 2008).

## From civil war to organized crime – the story of impunity in Guatemala

Guatemala has to be considered an area of limited statehood with regard to its judicial capacities: The quality of judiciary investigation is poor; there is a shortage of lawyers and low effectiveness of rehabilitation as well as a general system overload in the judicial sphere (United Nations Development Program, 2009, p. 22; Briscoe, 2009, p. 10). According to figures presented by CICIG in 2013 (Bargent, *InsightCrime*, 2013, August 23) impunity rates have fallen from 93 per cent to 70 per cent over the first six years of its activity in a country, where at least 90 per cent of all cases remained unprocessed. For homicides the rate was even worse with only about 2 per cent of them ending in a conviction (WOLA, 2007, p. 7; United Nations Development Program, 2010, p. 210).

Impunity has a long history in Guatemala. During the brutal and long-lasting civil war which pitted a leftist guerrilla group against a fierce authoritarian government, law was applied arbitrarily. But even though the democratic opening and the peace accords signed after the war in 1996 included comprehensive reforms in the judicial sphere, their implementation has remained largely unsuccessful (Kurtenbach, 2008, p. 22; Gavigan, 2009, pp. 62ff; Briscoe, 2009, pp. 4f; Sieder, 2003, pp. 139ff). Another type of impunity emerged out of the lack of judicial measures to prosecute the crimes committed during the civil war which left about 200,000 dead, displaced more than one million and forced 250,000 to migrate beyond the border (Kurtenbach, 2008; International Crisis Group, 2010, p. 3; Mack, 2007, p. 55f).

In addition, the newly reformed judicial system faces another challenge in the surge in violent crime. The end of the civil war has not brought an end to violence in Guatemala, but has merely transformed it from direct political to diffuse criminal violence (United Nations Development Program, 2010, p. 194). Homicide rates, which range around 47 per 100,000 people, are even higher today than they were during the civil war (Brands, 2011, p. 237). A UNDP (2009) report named Guatemala as one of the most violent countries in one of the most violent regions in the world.

While drug trafficking has been present on Guatemalan territory since the 1970s, drug violence has escalated as large-scale operations were beginning to take place since 2003. Since Colombia and Mexico are taking a strong toll on organized crime, Central America is becoming a key region in the context of drug transit from South America to the United States. Beyond drug trafficking, other facets of organized crime such as human trafficking also flourish in Guatemala (International Crisis Group, 2010, p. 7; United Nations Development Program, 2010, p. 198f; Brands, 2011, p. 232).

The new type of impunity is closely connected to organized crime: it can be seen as the result of weak state capacities to deal with organized crime and judicial procedures in general. The state is lacking the judicial capacity to process the crimes committed in the context of organized crime. Impunity has become socially accepted as normal (United Nations Development Program,



2010, p. 193). Specific legal traditions impact as well on the system, having led to a de facto obstruction of justice, due to the ‘systematic misuse of exceptional procedures fostered by formalistic literal interpretations of legal statutes, lack of internal judicial independence, and reckless litigation strategies. Particularly, there is also an abusive misuse of constitutional remedies as a way for delaying and/or reversing adverse judicial decisions’, as has been identified by the NGO Impunity Watch (2013, p. 6).

Some of the most influential actors in the country in this new context of impunity are the so-called ‘hidden powers’ (Peacock, 2003; WOLA, 2007, p. 7f; Sieder, 2003, p. 149; Briscoe, 2009, 18; Kurtenbach, 2008, p. 36f). These ‘entrenched interests’ (Impunity Watch) can be defined as ‘an informal network of powerful individuals who use their positions and contacts in the public and private sectors to benefit economically from illegal activities and to avoid prosecution for any crimes they commit’ (Peacock, 2003, p. 2). Their continuity has been attributed to the unwillingness or incapacity of external actors to extract from them sufficient concessions in the peace agreement and its implementation (Call, 2012, p. 253).

Nowadays they have merged with actors more closely related to the growing activities of organized crime and drug trafficking. On the one hand, Mexican drug cartels are largely present in the country and control parts of the state forces or have successfully infiltrated them, contributing to corruption. They compete with smaller Guatemalan traffickers and are intimidating and killing those officials who refuse to cooperate. Especially the cartel Los Zetas has extended its control to Guatemala as it is being threatened by the anti-drug offensive in Mexico (International Crisis Group, 2014, pp. 15ff).

On the other hand, gang activities by violent youth gangs known as *Maras* are seen as a major cause of the growing insecurity in Central America, especially since they have become more closely connected to the Mexican drug cartels. In Guatemala, the *Maras* are estimated to have about 14,000 members which are largely operating outside state control. The repressive policies employed against them have not contributed to the alleviation of the problem but to its exacerbation (Thale & Falkenburger, 2006; Wolf, 2010). Due to this growing infiltration of Guatemala by organized crime, the alliances between corrupt business interests and armed groups – that led Amnesty International (2002, p. 14) to graphically depict Guatemala in 2002 as a ‘Corporate Mafia State’, a term encompassing “the unholy alliance” between traditional sectors of the oligarchy, some “new entrepreneurs”, elements of the police and military, and common criminals’ – have not dissolved, permitting the continuous playing between back and front stage in their political strategies (Bull, Castellacci, Kasahara, 2014).



## Designing a governance delegation agreement: from CICIACS to CICIG

As a result of the serious threat that criminal infiltration poses to the Guatemalan state, security has become a major national concern to which the Guatemalan government has started to react in the last decade (Azpuru, 2008, p. 218; Erbsen de Maldonado & Barahona M., 2010, p. 342; Azpuru, 2007, p. 153f). In this context of the continuing presence of clandestine criminal structures, the creation of a commission against impunity in Guatemala can be seen as one of the efforts to seek a remedy to the rampant situation of organized crime, violence and impunity (Isaacs, 2010, p. 114; United Nations Development Program, 2010, p. 216f; Monterosso Castillo, 2009, p. 49f).

This commission against impunity has its roots in a civil society initiative. Due to an upsurge of attacks against members of civil society organizations in 2000 and 2001, human rights organizations proposed an independent entity to carry out investigations and submit cases for investigation in order to dismantle clandestine structures operating in Guatemala: CICIACS (WOLA, 2007, p. 12, 2008, pp. 4ff; Castresana, 2004, pp. 107ff). The proposal for CICIACS was negotiated between the Guatemalan government, the Human Rights Ombudsman and human rights organizations. The negotiation of the CICIACS treaty also involved a large number of other actors such as international NGOs and expert groups as well as state institutions, most importantly the UN. An agreement to create CICIACS was signed on 13 March 2003 (WOLA, 2008, p. 7; Castresana, 2004, pp. 107ff; Seguridad en Democracia, 2004). However, when the CICIACS proposal was left to the incoming government of President Óscar Berger (2004-2008), the treaty was declared unconstitutional by the Guatemalan Constitutional Court (Granovsky-Larsen, 2007, pp. 25ff). Nevertheless, the CICIACS initiative created the provisions that would later lead to the installation of CICIG: When the security situation continued to worsen under President Óscar Berger, he sought civil society and international support to design a new commission. In direct cooperation with the UN, on 1 August 2007, the Guatemalan Congress approved an agreement between the UN and the Guatemalan government to establish CICIG, which gave this new instrument an important legitimacy input. Spanish judge Carlos Castresana was appointed as chief commissioner on 14 September<sup>2</sup> (Impunity Watch, et al., 2010, p. 17; CICIG, 2008; Donovan, 2008, pp. 115ff). Originally designed to run until 2009, a first decision to extend CICIG's mandate for another two years was taken in July 2009. Subsequent extensions were granted on four occasions, meaning that CICIG is operating until September 2017.

While initially supposed to possess a wider mandate than CICIACS, CICIG's prosecutorial functions were limited to reduce the possibility of a second rejection by the Constitutional Court (International Crisis Group, 2011, p. 5). CICIG thus has a more limited mandate than CICIACS and cannot initiate prosecutions on its own. NGOs therefore considered it to be a soft version of CICIACS (WOLA, 2008).

The installation of CICIG can be seen as a partial governance delegation agreement (Matanock, 2014, p. 606), a bargain within the Guatemalan society and its various factions, as well as a bargain between the national state and the international community (Schünemann, 2010, p. 19f). The adoption of CICIG was also pushed by the killing of Salvadorian members of the Central American parliament in Guatemala and the subsequent killings of their assassins. These events created a political mood favourable of the CICIG, which was finally approved by the Constitutional Court and the Guatemalan Congress (WOLA, 2008, p. 12f; Schünemann, 2010, p. 15f).

CICIG was established as an independent body which finances itself through voluntary contributions.<sup>3</sup> According to the agreement signed by the UN and the Guatemalan state, CICIG's mandate is to 'investigate the existence of illicit security forces and clandestine security organizations that commit crimes that affect the fundamental human rights of the citizens of Guatemala' (United Nations & State of Guatemala, 2006). The commission is supposed to strengthen the judicial capacity of Guatemalan state institutions through the promotion of individual prosecutions and institutional reform (CICIG, 2009, p. 1f). CICIG is not a mechanism of Transitional Justice, because it does not deal with accountability for past crimes; rather, it is supposed to strengthen state institutions to fight the current wave of organized crime. It is unique due to its hybrid nature: it is an international body embedded in the Guatemalan judicial structures. This creates local ownership, but also restrains it as it lacks independent prosecutorial powers. At the same time, this hybrid nature leads to constant negotiation processes between different political actors (Panner & Beltrán, 2010; Schünemann, 2010; International Crisis Group, 2011; Impunity Watch, et al., 2010; Hudson & Taylor, 2010; Donovan, 2008). This characteristic made the Commission dependent on critical junctures of political life in Guatemala and eroded the input legitimation, shifting its acceptance to the output side, i.e. the controversial evaluation of its impact.

CICIG has signed various cooperation treaties with state entities in Guatemala. The most important state entities for CICIG are the Public Prosecutor's Office, the National Civilian Police office and the Ministry of the Interior. One of the most important achievements has been the establishment of a special prosecutor's office in 2008 whose main task is to support investigative activities in very important and dangerous cases (CICIG, 2009, p. 3f; Schünemann, 2010, p. 22f). The proposal to install 'high risk' courts in order to protect more efficiently vulnerable judicial authorities has not been approved.

There have been numerous attempts to change legislation by CICIG (2012), but so far only six reform proposals have been approved: on arms control; strengthening criminal prosecutions; jurisdiction in high-risk criminal proceedings; the regulation of private security services. Furthermore, reforms to the Law against Organized Crime and – after a heated and lengthy debate – the Expropriation Law were approved. While CICIG has achieved some collaboration, the Guatemalan congress seems to be lacking willingness to implement

the other proposed reforms, in same way due to its internal fluctuant conditions of majority formation as consequence of party-switching (*transfuguismo*) (González, 2014, pp. 405ff.)

The investigation of cases is where CICIG has had the greatest impact. So far sentences have been announced in six cases. Among them were the prominent cases of Rodrigo Rosenberg, a lawyer who staged his own murder to accuse the president of murder (Calderón Bentin, 2014), and Alfonso Portillo, a former Guatemalan president accused of corruption and ties with organized crime (Comisión Internacional contra la Impunidad en Guatemala, 2009, 2010, 2011). However, specific selection criteria for the cases have not been set up, which leaves room for criticism on the transgression of its mandate, as well as the focus on high-impact cases not necessarily linked to organized crime (Schünemann, 2010, p. 26f). However, general evaluations recommend it is an example to follow, not only in other countries of Central America, but also in other parts of the world (WOLA, 2015).

With regard to CICIG's acceptance, there are problems with continuous state support. However, CICIG continues to receive support from the media and civil society (Schünemann, 2010, p. 22f) and considers its cooperation with the international community as one of the most important pillars of its work (CICIG, 2009, 2). The diplomatic representations in Guatemala City have assumed a very outspoken public support for CICIG and served as 'helpful fixers' in critical moments, offering, for example, the necessary financial resources for the operation of CICIG and protection for vulnerable witnesses.

### **Discourse and knowledge/power: critical discourse analysis**

Methodologically, our analysis of the CICIACS/CICIG-discourse in Guatemala is based on Critical Discourse Analysis (CDA) by Siegfried Jäger (2001). CDA deals with the relationship between discourse and knowledge and with the creative power of the discourse. In our investigation, we part from the hypothesis, that 'discourse analysis is not (only) about interpretations of something that already exists, ... but about the analysis of the production of reality which is performed by discourse' (Jäger, 2001, p. 36).

The tool of CDA is chosen because it can be used to show that the discourse about CICIACS/CICIG creates the public perception of the Commission, its background and mission as well as its effects. By examining the CICIACS/CICIG-discourse in Guatemala with analytical tools derived from CDA, patterns of appropriation and/or rejection can be identified and, thereby, generate knowledge on the interactions of a transnational security governance intervention with local power structures. For this purpose, several selected tools have to be taken into consideration. To get an impression of the temporal development of a discourse, specific discursive events can be identified. As discursive events we understand 'only those events ... which are especially emphasized politically ... and as such events they influence the direction and

quality of the discourse strand to which they belong' (Jäger, 2001, p. 48). This means that the importance of a discursive event does not necessarily go along with its importance in real life. The identification of discursive events can also be important for the analysis of discourse strands. Discourse strands, in this context, refer to 'thematically uniform discourse processes' (Jäger, 2001, p. 47). In our case, the CICIACS/CICIG discourse will be treated as the discourse strand. Furthermore, we are especially interested in discursive entanglements which exist when various topics are addressed or various references to other topics are made in one text. These characteristics can appear in different frequencies and intensities. By focusing on the topics that are related to CICIACS/CICIG, we gain information about characteristics that are attributed to the UN commission. Additionally, discursive events and entanglements can be identified by looking for different statements. Closely related with this tool is another important category: the ideological and normative position, i.e. the discourse position of an actor. The finding of such discourse positions and the classification of statements in the discourse that belong to certain positions will not only help us to identify the argumentation strategies of appropriation and rejection with regard to CICIACS/CICIG, but also the constellations of supporters and veto players or of particular aspects of its mission.

The corpus on which we base our investigation consists principally of 600 articles (columns, interviews, and reports) from the four biggest Guatemalan newspapers (*El Periódico*, *La Hora*, *Prensa Libre*, and *Siglo Veintiuno*) between 2006-2010, the treaties between the Republic of Guatemala and the United Nations to establish CICIACS and later CICIG, the recommendations of the Constitutional Court and Congressional Commissions (when accessible), and the Congress debate about the ratification of the CICIG agreement on 1 August 2007. Through those documents we are able to determine a representative qualitative spectrum of argumentation patterns which shows the complexity of appropriation and rejection mechanisms in the Guatemalan public discourse.

Our analysis therefore will not qualify the appropriateness of the different opinions and the veracity of the enunciated contents or delve into the specific elite (sub)group which is represented or addressed by the respective voices; our research interest is focused on the discourse over the openness and the rejection of the embedding of CICIG in the national (judicial) debate and system.

## **Appropriation and rejection mechanisms with regard to CICIACS/CICIG**

### *Recurrent Politicization*

Before entering the debate on the argumentation patterns concerning an installation of CICIACS or CICIG, we focus on an important aspect that is closely related with singular topics, but also an effective strategy itself: Politicization and discrediting the national or international counterpart. The discourse is

marked by a strong friend-enemy-dichotomy, which applies to supporters as well as to opponents; on both sides, one finds clear distinction marks of who belongs to the 'we' and who to the other side (Blos, 2013). The corresponding characterizations work through the entanglement of the respective actors with certain groups and interests. These actor constellations regarding veto players and supporters of CICIG can be interpreted as rights and order coalitions which form around this type of security governance intervention.

The attributes with which the supportive rights coalition describes the order coalition which are sceptical towards CICIG range from behaving like members of oppressive regimes from the past (Gutiérrez, *El Periódico*, 2004, February 19) over being linked to criminal structures (Albizures, *El Periódico*, 2004, April 14) to representing an either anti-communist or neocon ideology (Font, *El Periódico*, 2004, April 12; Editorial, *El Periódico*, 2004, August 6). Thus, veto players are portrayed as old (-fashioned) men whose attitude remains marked by the social order of past times (Gutiérrez, *El Periódico*, 2004, February 26). Similarly, the ideology-centred argumentation is based on references to the past by calling the order coalition a 'choir of neocons' (Font, *El Periódico*, 2004, April 12; Editorial, *El Periódico*, 2004, August 6). Their ideology is described as seeing 'Fidel Castro's beard in everyday soup', organizing the world in left and right and still thinking in categories like communists (Albizures, *El Periódico*, 2004, April 14).

The most important entanglement employed by the rights coalition to denounce their antagonists is their supposed relation with organized crime, clandestine security networks and/or illegal security forces (Dávila, *El Periódico*, 2006, December 13; Albizures, *El Periódico*, 2007, May 20; Zamora, *El Periódico*, 2007, May 22; Estrada, *El Periódico*, 2007, June 12; Acuña, Reyes, & Pérez, *El Periódico*, 2007, July 19; Editorial, *El Periódico*, 2007, July 19; Gereda, *El Periódico*, 2007, July 20). The common deduction is that those who do not share the enthusiasm for the commission must be linked to illegal security groups, clandestine security organizations and/or organized crime. Thereby, a dichotomy between 'us' (i.e. the honourable Guatemalans interested in the future of the society and 'them' (i.e. the order coalition which obeys personal economic and/or political interests) is established (Pérez, *El Periódico*, 2007, May 17; Albizures, *El Periódico*, 2007, May 20; Zamora, 2007, May 22; Estrada, 2007, June 12; Editorial, *El Periódico*, 2007, July 19; Font & Méndez, *El Periódico* 2007, July 19; Gereda, *El Periódico*, 2007, July 20; Editorial, *El Periódico*, 2007, August 2).

### *The issue of sovereignty and the shadows of the past 'intervention'*

In contrast to the order coalition, the rights coalition's criticism is seldom explicitly articulated. It appears mostly in the context of the nationalistic argumentation that refers to the sovereignty of Guatemala, rejecting the governance delegation and shared sovereignty arrangements in general. Sovereignty and

independence are presented as endangered by an installation of CICIACS/CICIG or any other international initiative. The central statement of the self-declared defenders of Guatemalan sovereignty is, in short, that Guatemala does not depend on international cooperation (Villagrán, *El Periódico*, 2004, March 27). On the other hand, the rights coalition portrays sovereignty as outdated. The sovereignty topic is related to illegal networks that challenge the authority of the national institutions. This expression is used in two different argumentation patterns by the rights coalition: either to claim that CICIG would not be a parallel structure next to the Guatemalan state, or to indicate the necessary installation of the Commission to fight the parallel structures/powers (Villagrán, *El Periódico*, 2007, March 2; Aguilera, *El Periódico*, 2007, May 21; Castellanos, *El Periódico*, 2007, June 7). In this context, it stands out that not only the sovereignty argument can be found in the supporters' as well as in the veto players' discourse, but also the term 'parallel structures', which is typical for the supporters' side (Estrada, *El Periódico*, 2007, July 3; Congreso de la República de Guatemala, 2007).

Another example for a theme existing on both sides is the accusation of weakening the institutions. The order coalition states that CICIG debilitates the existing (national) institutions that fight against impunity (Zapeta, *Siglo Veintiuno*, 2007, March 2). With these patterns of argumentation, CICIG opponents implicitly reject the intervention of foreign actors on Guatemalan territory. There is also a pattern that is explicitly anti-interventionist and principally attacks the UN organizations and the United States (Pérez Lara, *El Periódico*, 2007, July 27; Mérida, *El Periódico*, 2007, July 30; *El Periódico*, 2007, August 1; de la Torre, *Siglo Veintiuno*, 2007, August 5). Interestingly, one pattern of the anti-interventionist argumentation is exactly the same that the rights coalition employs toward their antagonists: While the latter claim that those who now oppose an intervention of international actors on other occasions welcome the presence of U.S. troops in Guatemala, the former argue now that those who before rejected 'yanqui imperialism' as the source of all evil now beg U.S. representatives to intervene (Mérida *El Periódico*, 2007, July 30). Another frequent claim made by the rights coalition to reject international interventions is the statement that Guatemala does not need any outside help (Mayora, *Siglo Veintiuno*, 2006, December 21; de la Torre, *Siglo Veintiuno*, 2007, August 5). But it is not only the predetermined role the international actors would play after the commission's installation that provokes resistance. The enduring international influence during the whole CICIACS/CICIG process is also object of severe criticism (Estrada & Pérez, *El Periódico*, 2007 August 2).

In this context, the strongest rejection pattern concentrates on a recent, ten-year lasting discursive event: the UN Mission MINUGUA (Misión de Verificación de las Naciones Unidas en Guatemala).<sup>4</sup> This mission is utilized to demonstrate the negative impacts of foreign actors in Guatemala (Zapeta, *Siglo Veintiuno*, 2007, March 2; Minondo, *El Periódico*, 2007, June 26; Gutiérrez, *El Periódico*, 2007, July 22; Pérez Lara, *El Periódico*, 2007, July 27). The end of



MINUGUA is considered the motive for establishing CICIACS to ensure that the United Nations could keep their influence in Guatemala (Editorial, *Siglo Veintiuno*, 2004, August 6). MINUGUA is characterized as an anti-military organ formed by ex-delinquents and terrorists from other countries and as a decadent organization whose employees had a living standard superior to the Guatemalans and did not help with anything (Pérez Lara, *El Periódico*, 2007, July 27; Minondo, *El Periódico*, 2007, June 26). Interestingly, some voices, which employ the nationalistic, anti-international argumentation, use a sarcastic and/or cynical tone to ridicule the CICIG. The implicit conclusion seems obvious: it does not make any sense inviting a new international entity to abolish the evil its predecessor had caused. According to this argumentation, CICIG is only a mutation of MINUGUA that aims to establish a new mafia cartel of the so-called internationalists (Zapeta, *Siglo Veintiuno*, 2007, March 2; Minondo, *El Periódico*, 2004, April 7). In a different manner, the order coalition refers to the responsibility of official actors related to their duties *ex officio*. They argue that the Guatemalan government of President Óscar Berger and Vice President Eduardo Stein tried to transfer its responsibilities to external actors due to their own incapacities (Valladares, *El Periódico*, 2007, March 6; de la Torre, *Siglo Veintiuno*, 2007, August 5). In this context, the internal armed conflict serves as a discursive event: During this period, civil authorities were too incompetent to confront the insurgency and therefore, delegated all power to the military. After the end of the civil war, the power was delegated to external actors. This is represented as a pattern of action by the national civil authorities who always try to escape their responsibility (Valladares, *El Periódico*, 2007, March 6). Establishing CICIG is seen as evidence for the incapacity of the national civil institutions in general and, in particular, for the failure of the Berger-Stein-government that tends to transfer its responsibility to other actors (de la Torre *Siglo Veintiuno*, 2007, August 5).

Rather openly and between the lines, the international community as a whole is presented as an enemy who has allies within Guatemala. Those allies try to please the international community by approving the commission (Minondo, *El Periódico*, 2004, February 25; Minondo, *El Periódico*, 2004, April 7). In this argumentation, the Guatemalans appear to be separated into the real Guatemalans that are described as ‘we Guatemalans’ and characterized as the defenders of the existing national institutions, and, on the other side the rights coalition is depicted as a servant of the international community for cooperating with it (Zapeta, *Siglo Veintiuno*, 2007, July 27). Just as in the case of the rights coalition, which makes a difference between those interested in the future of the Guatemalan society and those only interested in their own private benefit, this adverse argumentation claims to represent the genuine Guatemalan interests.



## Selection of personnel

In order to identify the appropriation and rejection mechanisms referring to the selection of personnel, we chose to analyse the debate around the most prominent case of intervention in personnel affairs. The mentioned case is the appointment of Conrado Reyes as chief public prosecutor and his displacement because of evidence for his involvement with criminal networks presented by CICIG's chief commissioner Carlos Castresana (2008-2010). This case represents an important discursive event in the general debate on CICIG's mission in Guatemala.<sup>5</sup>

Castresana and the CICIG received strong support by human rights groups (*Siglo Veintiuno*, 2010, June 7, I). Many actors from different sectors affirmed that they felt sorry for Castresana's withdrawal because of his good work. Among those are civil society representatives, human rights groups and politicians, such as President Álvaro Colom and ex vice president Eduardo Stein (*Siglo Veintiuno*, 2010, June 7, II; *Siglo Veintiuno*, 2010, June 9; Martínez, *Prensa Libre*, 2010, June 13). Reacting to Castresana's critique of missing support for CICIG by official entities, President Colom reiterates the importance of a close relationship with the international community in general and CICIG in particular (*Siglo Veintiuno*, 2010, June 7, II). Another pattern of appropriation can be seen in the affirmation that it is not only the responsibility of the CICIG to fight for establishing the rule of law in Guatemala, but of the Guatemalan people as a whole (Marroquin Godoy, *Siglo Veintiuno*, 2010, June 13; Martínez, *Prensa Libre*, 2010, June 13).

As Castresana's and CICIG's role in the affair about the chief public prosecutor is broadly acknowledged, criticism of the commissioner's operating methods does not arise until his accusation that Supreme Court member Roderico Pineda is linked to the assassins of Rodrigo Rosenberg (Perdomo, *Prensa Libre*, 2010, October 11; Jacobs, *Prensa Libre*, 2010, October 14; Minondo, *El Periódico*, 2010, October 20; Callejas Vargas, *Prensa Libre*, 2010, October 21). In this context, Castresana's style is criticized and the accusation called a false assumption (Jacobs, *Prensa Libre*, 2010, October 14). Subsequently, unsubstantiated accusations are presented as a characteristic of Castresana's working methods by the order coalition. Furthermore, the fact that the commissioner never apologizes for false accusations due to his feeling of superiority is criticized. Being corrupted by absolute power is then described as a general deficiency of international interventions, followed by the declaration that Castresana was not able to handle such absolute power (Jacobs, *Prensa Libre*, 2010, October 14). The argumentation finishes by questioning CICIG's reliability and credibility in general (Jacobs, *Prensa Libre*, 2010, October 14). The report, entitled 'Los jueces de la impunidad' (The judges of impunity), was presented by CICIG in November 2012 and names 18 judges of the Guatemalan judicial system which were suspected to have sentenced in favour of

the interests of criminal organizations; all the mentioned judges were absolved and CICIG could not sufficiently prove their misconduct in office.

### Legal reform proposals

The pattern of appropriation related to CICIG's law proposals begins by criticizing the delaying tactics of the different official powers including the President and Congress (*La Hora*, 2010, January 28; Cereser, *Prensa Libre*, 2010, August 16). The inactivity of Congress is criticized by the rights coalition who refers to the high murder rates in Guatemala and the urgent need to combat impunity by ratifying the corresponding laws (Cereser, *Prensa Libre*, 2010, August 16). In this context, congressmen who are against a rapid approbation of CICIG's legal initiatives are accused of being ignorant towards the real needs of the Guatemalan people (Cereser, *Prensa Libre*, 2010, August 16). A stronger version of this argument consists of attacking the order coalition because of its supposed links with organized crime and the so-called parallel powers (Martínez, *Prensa Libre*, 2010, November 1).

The role of Congress that blocks or at least delays the ratification process of CICIG's proposals is criticized by foreign political actors and international justice experts (Orantes, *Prensa Libre*, 2010, August 2) that cooperate with a national rights coalition. The international community – constituted by the CICIG, the Office of the UN High Commissioner for Human Rights (Oacnudh) (*Siglo Veintiuno*, 2010, August 24; *Siglo Veintiuno*, 2010, September 21; Cereser, *Prensa Libre*, 2010, November 20; Cereser & Ismatul, *Prensa Libre*, 2011, April 12), and the U.S., Spanish and French ambassadors (*Siglo Veintiuno*, 2010, July 14; Cereser, *Prensa Libre*, 2010, November 20) – is frequently mentioned in this context as interested in the approbation of the laws and thereby, as a witness for its relevance (*Siglo Veintiuno*, 2010, July 14; Cereser, *Prensa Libre*, 2010, November 20).

The most prominent and often cited figure in this context is U.S. ambassador Stephen McFarland (*Siglo Veintiuno*, 2010, July 14; *Siglo Veintiuno*, 2010, July 27; Martínez, *Prensa Libre*, 2010, November 1; Cereser, *Prensa Libre*, 2010, November 20). For example, he stressed the relevance of the Expropriation Law because of its power to cut the criminal networks' financial resources (Cereser, *Prensa Libre*, 2010, November 20). To underline the urgency of the situation, congressmen who supported the law affirmed that organized crime disposed of the same amount of financial resources as the state and that therefore, the growth of these networks has to be stopped (*Siglo Veintiuno*, 2010, July 27). In a further step, this argumentation stipulates that the institutions of criminal prosecution could use the financial resources confiscated from the members of criminal organizations to fund the security measures to combat exactly those criminal networks (*Siglo Veintiuno*, 2010, October 20).

With regard to rejection patterns, there are two mechanisms that, although contrary at first sight, actually function hand in hand with each other: one is the

well-known delaying pattern in Congress, while the other one pretends to support the immediate approval of the law proposal in its original version. To the first category belongs the statement that legal initiatives cannot be approved without examining if it violates any rights (*Siglo Veintiuno*, 2010, July 14). Especially CICIG's attempt of including goods that derive from corruption in the Expropriation Law provokes rejection by some congressmen who are afraid of the possibility to persecute opposition members politically (*Prensa Libre*, 2010, June 6; Cereser, *Prensa Libre*, 2010, November 20; *Prensa Libre*, 2010, August 6). Another argument used against the inclusion of corruption in the Expropriation Law affirms that corruption belongs to another legal initiative and that one should try not to mix different legal initiatives (*Prensa Libre*, 2010, August 6; *Siglo Veintiuno*, 2010, August 24; *Prensa Libre*, 2010, October 22). Another way of retarding the legislative process is the inclusion of large social or political sectors who request information and detailed explanation on law initiatives. This leads to a high number of meetings in which the responsible congressmen spend hours explaining the law before its approval in Congress, thus delaying it further (*Siglo Veintiuno*, 2010, September 21).

### **Prolongation of CICIG's mandate**

Frequently, the argumentation by the rights coalition in favour of a prolongation of CICIG's mandate begins by stating that the structures of organized crime still exist in national institutions (*La Hora*, 2009, April 22; *La Hora*, 2010, March 11; Rodríguez, *Prensa Libre*, 2010, August 3; Orozco, *La Hora*, 2011, December 3.). Therefore, it is too early to let CICIG go, because the Commission has not yet accomplished its mission and Guatemalans would not be able to combat impunity on their own (*La Hora*, 2009, April 22.). With allusion to Guatemalan author Augusto Monterroso's short story 'The Dinosaur' the metaphor that 'the dinosaur is still out there' is cited. This statement is further explained by adding that CICIG's presence is disquieting the dinosaur, because the commission represents the only threat to the power it has accumulated throughout the years (*La Hora*, 2009, April 22; Orozco, *La Hora*, 2011, March 12).

As a consequence of the missing political will and/or the missing capability of the national institutions to confront the parallel structures, another argument in favour of a prolonged stay of CICIG by the rights coalition is the necessity for Guatemalan civil society to cooperate with the UN commission. In this context the discursive entanglement with the topic of responsibility appears again (*La Hora*, 2009, September 1; *La Hora*, 2010, March 11; *La Hora*, 2010, December 21). The argumentation starts by stating that although CICIG was successful in its first period, it still lacks the broad support of the Guatemalan people. Guatemalans cannot rely on foreigners to combat impunity, but they have to recognize their own responsibility (*La Hora*, 2010, March 11). The establishment of the rule of law and the fight against impunity is represented as the

duty of every citizen. Related to this aspect is the traditional argument of constructing a state with a genuine rule of law where the law is applied to everyone. According to the rights coalition, the behaviour towards CICIG shows that society believes in a selective application of justice, because it receives both applause and critical comments from the same people depending on the respective case (*La Hora*, 2011, March 16).

CICIG's success is underlined by stating that thanks to CICIG, Guatemalans discovered that the mafia (who is largely responsible for the situation of impunity) is not invincible (Rodríguez, *Prensa Libre*, 2010, August 3). The singularity of CICIG's actions against organized crime is also illustrated with certain discursive events, such as the arrest of high officials from the Ministry of the Interior and the spectacular Rosenberg case (*Prensa Libre*, 2010, August 13; Tejada, *Prensa Libre*, 2015, March 5). Although CICIG's work is evaluated positively, there is an argument in favour of a prolongation of its mandate that urges another focus in its activities: the transfer of knowledge to national institutions (*Siglo Veintiuno*, 2010, December 21; Coralía Orantes, *Prensa Libre*, 2010, December 21; *La Hora*, 2010, December 21; Orozco, *La Hora*, 2011, March 12; Orantes, *Prensa Libre*, 2010, December 21).

The rejection patterns by the order coalition concerning a possible prolongation of CICIG's mandate are as diverse as the appropriation patterns. Some opponents of a prolongation had already been opponents of the ratification of the CICIG agreement. Another argument is the need for independence from international organizations. The order coalition emphasizes that an additional two years are more than enough to transfer knowledge to national institutions and to start becoming independent from international actors, because if not, the country would never be completely responsible for its own decisions (Orozco, *La Hora*, 2011, March 12). Other opposing actors doubt the usefulness of a prolongation of the mandate by denouncing that CICIG only combats the effects, but not the causes of the problem, i.e. the institutional weakness. Therefore, even a prolongation for 100 years would not make any sense (Contreras, *Prensa Libre*, 2010, August 14). Similarly, CICIG is represented as a useless instrument by arguing that it does not fulfil its mandate (Prete, *Prensa Libre*, 2010, November 13). According to this argumentation, CICIG's presence in Guatemala does not contribute to an improvement of the security situation, but quite the contrary (Prete, *Prensa Libre*, 2010, November 13). When the mandate of CICIG ended on September 2015 and the debates with respect to another two-year-term were on track in Guatemala, there was not much innovation of the arguments (Universidad Rafael Landívar, 2015).

## Conclusion

The research question we intended to answer in this paper is how the CICIACS/CICIG as an external governance intervention is appropriated or rejected by local discourses. First of all, the overall argumentation patterns of

the rights and order coalitions have been identified. On the one side, the rights coalition which cooperates with the international community and transnational civil society networks tries to discredit the veto players of CICIG by accusing them of having a relation with organized crime, clandestine security networks of the past and illegal security forces which represent anti-communist ideologies. On the other side, the order coalition uses a nationalistic argumentation to discredit their enemies. They refer to the sovereignty of Guatemala, reject international interventions and disapprove of the international community in general.

With regard to the potential installation of CICIACS/CICIG, four main themes could be identified. First of all, both rights and order coalitions adhere to concepts of the rule of law and sovereignty. However, the order coalition depicts the national sovereignty and the rule of law as endangered by the installation of an international body, thus referring to a concept of internal sovereignty. On the other hand, the rights coalitions uses the same argument to stipulate that CICIACS needs to be approved in order to strengthen the rule of law and combat crime, thereby implying an external notion of sovereignty. The installation of CICIG is seen as evidence for the failure of national civil institutions to grapple with the problem of organized crime and the subsequent transfer of responsibility to other (external) actors by the order coalition. The responsibility theme is also used by the rights coalition, but in a completely different context: a negative vote on CICIG is seen as irresponsible behaviour towards the Guatemalan people. The rights coalition alludes to the necessity for shared responsibility as Guatemalans are believed to be unable to combat impunity without external help. A third theme used by both coalitions is the reference to formal proceeding errors. The order coalition mainly insists on correct proceedings as a strategy to prevent or delay the CICIACS treaty. They stipulate the unconstitutionality of the CICIG agreement despite the favourable legal opinion of the Constitutional Court. The rights coalition uses the same topic to complain about the missing transparency in the approval process of CICIG.

With regard to CICIG's specific tasks, the selection of personnel is criticized by the order coalition, especially the strategies employed by the former CICIG commissioner Carlos Castresana. On the other side, Castresana received a great deal of approval from the rights coalition. Concerning the legal initiatives put forward by CICIG, the order coalition applies delaying patterns under the pretext that the initiative cannot be approved without examining if it violates any rights – or they support the immediate approval of the original version of a given law. The rights coalition on the other hand criticizes the delaying tactics of official powers and emphasizes the need to combat impunity by ratifying corresponding laws. In this context, the international community is also mentioned as a witness. Regarding the prolongation of CICIG's mandate, the supporters emphasize the responsibility of the Guatemalan people and the importance of international support since the criminal structures have not yet

been completely dismantled. The order coalition rejects a prolongation of CICIG and doubts its usefulness by emphasizing the need of independence from international organizations.

When interpreting the discourses of the rights and order coalitions with regard to CICIG, it becomes evident that the discourse is marked by a strong polarization on both sides. Surprisingly, both supporters and veto players share the same or similar topics – but with contradictory perspectives. Both of them comment on responsibility, the rule of law, sovereignty and formal proceeding errors, but come to different conclusions what is meant by those themes. In addition to that, the external discourse on security governance is reproduced in the local context. This internal reproduction has two dimensions: instead of adding their own point of view to this external security governance intervention by CICIG, the rights and order coalitions internally reproduce the external discourse on security governance without important local filters. On the other hand, the external governance intervention has also reproduced pre-existing local discourses and the internal polarization of opinions regarding state sovereignty, responsibility and external interventions such as the ‘infamous experience’ of MINUGUA. There has thus been virtually no real negotiation of external interventions.

In a more general sense, it is safe to say that CICIG is firmly established in Guatemala, which is also proven by the public perception of 65 per cent of approval by the Guatemalans (Velásquez, 2015) and the support for it by the massive mobilizations in 2015. Maybe CICIG has been living its high time with the resignation and arrest of the president and vice-president of the Pérez Molina government, but the unravelling of its web of corruption does not mean that other clandestine criminal networks will not continue to operate (Pérez, 2015). During the time of its operation CICIG has also passed through periods of high criticism and grim rejection, connected with the personalities of the three commissioners or the political dimensions that the cases attracted. However, up to now the temporal extensions of the mandate of CICIG in Guatemala show the operational and structural difficulties in order to contribute to local security governance: veto players continue to impose their interests, and the country may have now reached the stage of an ‘accountability impasse’ on its way to greater accountability (Lessa, et al., 2014, p. 84), where the international community continues to be the major force to challenge impunity.

Over the years the support of the diplomatic community in Guatemala City and the mobilization of human rights NGOs continues to be a critical factor for the Commission’s achievements, as can be seen in the arrest of numerous figures operating at the central node of criminalized political power, evidenced in the three recent cases – prisons, tax and customs service and social security, as well as financing of political parties. Some successful trials have been taking place, some individual judicial leaderships have emerged, but they have been displaced again due to the power of veto players. No generalized condition to overcome the force of criminal networks and ‘hidden powers’ has been creat-



ed. The credibility of CCIG has passed through major ups and downs due to its role in the most emblematic cases like the trials of the former president Alfonso Portillo and dictator Rios Montt, both cases where CICIG was actively participating in the trials. This is also true for the question whether or not the CICIG as a hybrid justice mechanism can be seen as a success model for justice reforms in other contexts (as announced by the OAS for Honduras) or whether it could be applied to regional formats in an effort to create a transnational design in the fight against impunity. On the one hand, this type of hybrid justice mechanism provides a possibility to ensure local capacity-building beyond transitional justice. On the other hand, such mechanisms like CICIG might also create new dependencies

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**Acknowledgements:** This research received support from the Collaborative Research Centre (SFB) 700 ‘Governance in areas of limited statehood’ funded by the German Research Foundation – Deutsche Forschungsgemeinschaft (DFG). The author would like to acknowledge support from the fellow team members on this project, especially Marianne Braig, Yvonne Blos and Johannes von Dungen.

## Notes

1. <http://www.sfb-governance.de/en/programm/index.html>
2. However, he was replaced by the former Costa Rican attorney general Francisco Dall’Anese Ruiz when he resigned in 2010 after president Álvaro Colom appointed Conrado Reyes as attorney general, who was accused by CICIG of having links to organized crime (see Chapter 6.3.1. for details). Dall’Anese was replaced in September 2013



- by the Columbian judge Iván Velásquez, known for his judicial fight against paramilitarism in his country. He is developing a new orientation to CICIG in terms of major inquiries into illegal financing for political campaigns and corruption in the customs sector (CICIG, 2014)
3. Its annual budget amounts to about 12 million U.S. dollars, depending on the composition and the contributions of the donor group, which has to be convened again for each two-year period of operation (European Parliament, 2013). The state of Guatemala provides the commission with office space and has committed itself to the security and protection of its staff (Comisión Internacional contra la Impunidad en Guatemala, 2008, p. 1).
  4. The United Nations Verification Mission in Guatemala – the peacekeeping mission within the larger civilian and humanitarian MINUGUA mission – was established by the Security Council in resolution 1094 (1997) on 20 January 1997 for a three-month period to verify agreement on the definitive ceasefire between the government of Guatemala and the *Unidad Revolucionaria Nacional Guatemalteca (URNG)*, which was signed at Oslo on 4 December 1996 (S/1996/1045 & Annex, see <http://www.un.org/en/peacekeeping/missions/past/minugua.html>). Verification functions under the Oslo agreement included observation of a formal cessation of hostilities, the separation of forces, and the demobilization of URNG combatants in assembly points specifically prepared for this purpose. For a critical review of MINUGUA see Stanley (2013).
  5. Closely related to this event was another important discursive event in the ongoing debate: Castresana's withdrawal as CICIG's head in June 2010 due to several offenses against him as well as relating to his private life. When he resigned at a press conference on 7 June 2010, Castresana said that the appointment of Conrado Reyes as chief public prosecutor was one of the reasons for his withdrawal (Coronado, *La Hora*, 2010, June 7; López & Contreras, *Prensa Libre*, 2010, June 7).

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