

GUATEMALA 2021: RECONSOLIDATING IMPUNITY AND REVERSING DEMOCRACY

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ABSTRACT

The year 2021 marked the 25th anniversary of the signing of Guatemala's landmark peace accords. Yet celebrations of this historic achievement stood in sharp contrast to the year's alarming trends in the deterioration of democracy and the rule of law. Reviewing the events of 2021, this article uncovers two key patterns in Guatemalan politics, both evidence of democratic decline: 1) open assaults on judicial independence and breaches of the constitutional order, and 2) an escalation in the criminalization of government critics, particularly those on the frontlines of the anti-corruption struggle. It also takes stock of the most pernicious consequences of these patterns, including the abysmal Covid-19 response and the new opportunities for corruption amid resurgent impunity. Combined, these dynamics have also increased tensions within US-Guatemala relations as the Biden White House increasingly perceived the Guatemalan government as an unreliable partner in tackling the root causes of migration. In sum, 2021 was an inflection point in Guatemala's 25-year trajectory of peace—one that has steadily sent the country down an authoritarian path like many of its neighbors in the Western Hemisphere.

Keywords: Guatemala, corruption, democracy, US-Latin American relations

RESUMEN

El año 2021 marcó el 25^o aniversario de la firma de los históricos acuerdos de paz de Guatemala. Sin embargo, las celebraciones de este logro histórico contrastaron fuertemente con las alarmantes tendencias de deterioro de la democracia y el estado de derecho que se produjeron durante el año. Revisando los eventos de 2021, este artículo descubre dos patrones clave en la política guatemalteca, ambos evidencia del declive democrático: 1) ataques abiertos a la independencia judicial y violaciones del orden constitucional, y 2) una escalada en la criminalización de los críticos del gobierno, particularmente aquellos en la primera línea de la lucha anticorrupción. También hace un balance de las consecuencias más perniciosas de estos patrones, incluyendo la pésima respuesta de Covid-19 y las nuevas oportunidades de corrupción en medio de la resurgente impunidad. Combinadas, estas dinámicas también han aumentado las tensiones dentro de las relaciones entre EE.UU. y Guatemala, ya que la Casa Blanca de Biden percibió cada vez más al gobierno guatemalteco como un socio poco fiable a la hora de abordar las causas fundamentales de la migración. En resumen, el año 2021 fue un punto de inflexión en la trayectoria de 25 años de paz de Guatemala, que ha llevado al país a un camino autoritario como el de muchos de sus vecinos en el hemisferio occidental.

Palabras clave: Guatemala, corrupción, democracia, relaciones entre Estados Unidos y América Latina



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I. INTRODUCTION

On December 29, 2021, Guatemala celebrated 25 years since the signing of its peace accords, which ended nearly four decades of internal armed conflict. The anniversary marked a historic achievement. Though research shows that over half of civil wars initiated between 1945 and 2009 recurred after an initial end to the fighting (Walter 2011: 1), Guatemala has evaded the so-called “conflict trap,” preserving the political compromise and peace enshrined in the agreements. Building on the 1986 democratic opening and transition, by the mid-1990s, the coalition of leftist insurgent forces pursued political incorporation through formal party channels, abandoning the path of armed uprising. Meanwhile, government commitments to cut the military’s troop levels and budget and cement civilian political control have largely abided since the signing of the accords (Isaacs and Schwartz 2020).

Yet pronouncements from leading Guatemalan public figures to commemorate the 25th anniversary of peace tell a much bleaker story. To mark the occasion, the head of Guatemala’s independent Human Rights Ombudsman’s Office (PDH) Jordán Rodas declared that “the current government of Alejandro Giammattei is perpetrating a grave regression of the last 25 years. The Constitution has been transgressed repeatedly without consequences for those responsible; [...] the institutional framework of peace has been dismantled and the human rights violations over the last two years are without precedent since the signing of the Peace Accords.”¹ Former Guatemalan attorney general and presidential candidate Thelma Aldana, who received asylum in the United States in 2020 following violent threats and government criminalization, issued an equally damning, yet simpler statement via Twitter: “Today marks 25 years since the signing of the Peace Accords in Guatemala, which concluded the civil war. 25 years of the capture of the Guatemalan state.”²

Meanwhile, the actions of top Guatemalan authorities also betrayed cynicism toward the state of peace. The official ceremony held at the National Palace—the same place where the culminating “Accord for a Firm and Lasting Peace” was signed 25 years earlier—was missing three notable figures: Alejandro Giammattei, the President of the Republic; Allan Rodríguez, the President of Congress; and Silvia Valdés, the President of the Supreme Court (Pérez Marroquín 2021). The heads of Guatemala’s three branches of government were conspicuously absent from the official government commemoration of the peace.

The commentary and (non)actions of leading politicians and civil society actors provide a window into the acute political crisis that has seized Guatemala in its 25th year of peace. Despite the poor governance, high crime, and nagging inequalities that have characterized Guatemala’s last two and half decades, the

¹ Rodas’ tweet is available at: <https://twitter.com/JordanRodas/status/1476179815686447109/photo/1>

² Aldana’s tweet is available at: <https://twitter.com/ThelmaAldana/status/1476154464847474688>

year 2021 marked regressions in democracy and the rule of law that have been unparalleled during the peacetime period, allowing traditional political elites to dismantle institutional checks on their power and reconsolidate impunity. Events of 2019 and 2020 set the country on a path toward democratic deterioration. Following a smear campaign waged by previous president Jimmy Morales (2016-2020) (Brannum 2019), the late-2019 ouster of the UN-sponsored International Commission Against Impunity in Guatemala (CICIG), which collaborated with the Public Ministry (MP)³ to investigate and prosecute criminal networks within the state, threatened the country's fragile progress in curbing violence and impunity. By framing international support for the rule of law as a violation of national sovereignty, Morales, in partnership with Congressional and private sector allies, failed to renew the CICIG's mandate, putting in jeopardy a decade's worth of reform (Fuentes 2022).

But 2021 brought the decline in the struggle against corruption to new depths. Longstanding informal mechanisms facilitating the manipulation of judicial selection gave way to an open assault on constitutional procedures governing the country's highest courts. State authorities undertook a systematic campaign to criminalize leaders in the fight against impunity, including prosecutors, judges, and protestors—forcing some into exile while ensnaring others in costly legal proceedings, or even throwing them behind bars. This second year of the Covid-19 pandemic also provided new opportunities for government corruption, as the population suffered the consequences of state incompetence and a bungled vaccination effort.

By analyzing the events of 2021, this article examines the current inflection point in Guatemala's 25-year trajectory of peace—one that has increasingly sent the country down an authoritarian path like many of its neighbors in the Western Hemisphere. For most of Guatemala's post-conflict history, the political, economic, and military elites that maintained a stranglehold on power and used the state as a source of personal enrichment managed to do so within the strictures of procedural democracy. However, in 2021, government authorities and their allies made significant strides in dismantling the country's institutional architecture, which was remade following the transition to civilian rule in 1986.

To illustrate these developments, this article is organized into five parts. The first section examines how traditional political forces decimated judicial independence in Guatemala, culminating in a full-blown constitutional crisis when Congressional leaders refused to seat a magistrate-elect to the Constitutional Court. The second section discusses another key indicator of democratic decline: the criminalization of government opposition, particularly those exposing corruption. The third and fourth sections detail some important conse-

³ The Public Ministry (MP) is the equivalent of the Attorney General's Office. The head of the Public Ministry is the Attorney General.

quences of recent reversals in democracy and the rule of law: new opportunities for graft facilitated by the Covid-19 response and increased tensions with the United States government under the Biden administration. The concluding section briefly explores how these alarming trends may continue to evolve as the sitting government reaches the end of its tenure.

II. DESTRUCTION OF JUDICIAL INDEPENDENCE

Guatemala's judicial selection process has long been marred by opaque procedures and informal norms that permit powerful political and economic elites to influence nominations. Yet practices of judicial manipulation intensified in 2021 as members of Congress openly balked constitutional procedures—first by naming a Constitutional Court magistrate under investigation for influence-peddling, and later by refusing to seat another magistrate-elect known for her decisions against corrupt officials. In addition to highlighting the irregularities that have long characterized Guatemala's judicial selection process, these stunning developments signaled the near-complete destruction of judicial autonomy, an essential feature of democratic systems.

Key events of 2019 and 2020 precipitated this all-out assault on judicial institutions. In June 2019, Guatemala began the vetting and nominations process for its next slate of Supreme Court and appellate court judges, who are selected by so-called “postulation commissions” [*comisiones de postulación*]. The postulation commissions are comprised of law school deans, members of the Guatemalan Bar Association, and sitting judges, who together submit candidates to Congress. Despite legislation to make postulation commission decisions more transparent and merit-based, the process has long been subject to political horse-trading and external meddling. Political, economic, and criminal actors routinely seek to shape the pool of nominees and the Congressional selection process thereafter to secure courts that will protect their interests (Dudley 2014).

In countries with strong political party systems, it is easy to imagine these forms of judicial manipulation being wielded by the dominant political parties for partisan gain. However, amid Guatemala's unstable, underinstitutionalized, and clientelistic party system—what scholar Omar Sánchez has deemed a “party non-system”—the distinct political factions, which often only survive for one electoral cycle, have banded together to ensure the naming of judges that will shield them from possible sanctions for corrupt activities (Sánchez 2008; 2009). Save for a few outliers like the Semilla Party, which began as a social movement that mobilized following a series of high-profile corruption scandals in 2015 (Cabria 2015), the majority coalition in Congress remains strongly united in what critics have dubbed the “*Pacto de Corruptos*” [“Pact of the Corrupt”] (Schwartz 2019). This bloc not only includes President Giammattei's party Vamos, but also the centrist and right-wing parties Viva, Todos, Bien, Unión del Cambio Nacional (UCN), Valor, Podemos, Prosperidad Ciudadana

(PC), and Frente de la Convergencia Nacional (FCN-Nación), President Morales' party, which the Supreme Electoral Tribunal (TSE) ordered to disband due to campaign finance infractions (E. García 2021).⁴

In mid-2020, Guatemalan investigators exposed the extent to which this "*Pacto de Corruptos*" and its allies outside of government interfered in the judicial nominations and selection process in a case labeled "Parallel Commissions 2020." The Public Ministry's Special Prosecutor Against Impunity (FECI), the unit that worked with the CICIG and continued to take on high-level corruption cases after its departure, uncovered an illicit scheme to manipulate the selection of judicial nominees led by businessman and former presidential secretary Gustavo Alejos, who was already in pre-trial detention on corruption charges. In response to the revelations, which implicated five Supreme Court and 17 appellate court candidates, Guatemala's Constitutional Court suspended the nominations process, ordering that it be repeated with those that met the necessary academic and character-based criteria (Beltrán 2020). The ruling, however, prompted a fierce reaction from the judicial candidates and the members of Congress' dominant bloc, which sought to impeach the Constitutional Court magistrates that threw out the initial process.

This backdrop set the stage for the full-blown constitutional crisis that emerged in 2021 with the election of a new Constitutional Court magistrate. On January 28, a majority of Congressional deputies voted to seat Judge Mynor Moto to replace a magistrate that had passed away. Moto, a former criminal court judge, had ten pending charges against him, including for obstruction of justice due to his involvement in the "Parallel Commissions" case. Prior to his swearing in, the High-Risk Court—a product of CICIG-led judicial reforms—issued an arrest warrant for Moto, who remains a fugitive and has been formally barred from returning to the bench (Román and Pitán 2021). The episode, however, put on full display the collusion of powerful criminal interests, Congressional leaders, and lawyers' associations to coopt Guatemala's highest court and constrain judicial autonomy.

Efforts to retaliate against the Constitutional Court plunged Guatemala deeper into crisis when Congressional deputies refused to swear in magistrate-elect Gloria Porras, who was elected to her third five-year term. In the leadup to her reappointment, opponents of Porras, whose previous rulings were championed by anti-corruption and human rights activists, waged a sustained campaign to block her from the bench by filing more than 60 complaints and 13 petitions to remove her prosecutorial immunity (AP News 2021). Citing procedural irregularities in her election and open legal challenges, President of Congress Allan Rodríguez denied Porras and another magistrate the opportunity to be seated.

⁴ FCN-Nación has appealed the TSE's decision (Gramajo 2019).

Porras, who fled to the United States, argued that her removal represents “a direct threat to the authority of the Constitutional Court, which since Guatemala’s transition to democracy has played a pivotal role in solving high stakes controversies in a democratic, institutional manner” (Porras 2021). But despite outcry among domestic and international organizations, attempts to force Congress to seat her yielded little. In December 2021, Porras’ counterparts on the Constitutional Court rejected a legal challenge to the legislature’s actions lodged by the anti-corruption organization *Acción Ciudadana* (Cuevas 2021). The Court dismissed the argument for restoring Porras’ position, claiming that Congressional actions did not constitute an abuse of power. The decision leaves Porras with few options for returning to her post and illustrates how the latest judicial maneuverings have further compromised the Constitutional Court.

This deterioration of judicial independence had substantial negative consequences for the rule of law in 2021. Judges friendly to the political, economic, and criminal interests that worked behind the scenes to select them have supported legislative efforts to promote impunity. For example, in September 2021, the Constitutional Court unanimously upheld changes to the criminal code previously passed by Congress that would allow for the commutation of prison sentences of less than five years for certain corruption-related offenses. Opponents of the decision framed it as a blatant attempt to institutionalize impunity for political and judicial officials that use their positions for personal gain and yet another blow to the anti-corruption struggle (EFE 2021).

This deterioration in judicial independence has had noticeable effects on Guatemalans’ perceptions of key investigative and prosecutorial institutions and the court system. For example, Guatemala’s 2021 Americas Barometer report published by the Latin American Public Opinion Project (LAPOP) found marked declines in the public’s confidence in the Public Ministry (MP) and the Supreme Court. Trust in the MP plunged to 42 percent in 2021, after reaching over 50 percent in 2017 at the height of the CICIG’s activities. (Rodríguez, Lupu, and Zechmeister 2021: 75). Similarly, citizen trust in the Guatemalan Supreme Court declined to 31 percent in 2021, after reaching over 40 percent in 2017.

These trends further speak to the cynicism that has set in after a series of landmark protests in 2015, which ousted the government of former military general Otto Pérez Molina and Roxanna Baldetti (2012-2015) following CICIG and MP revelations of high-profile corruption scandals within the tax and customs administration, the National Civilian Police (PNC), the Guatemalan Social Security Institute (IGSS), and the Ministry of Energy and Mines (MEM), among other agencies (Schwartz 2021a: 1). If the official campaign to chip away at judicial independence and undermine the country’s constitutional order was also meant to foment disillusionment and resignation within Guatemalan society, there are worrying signs that it is working.

III. CRIMINALIZATION OF CORRUPTION FIGHTERS AND GOVERNMENT OPPOSITION

In addition to the further deterioration of judicial independence, a second key trend that intensified in 2021 is the criminalization of government critics, particularly those central to exposing graft among high-ranking officials. The government of Alejandro Giammattei, who was himself targeted by the CICIG and MP for orchestrating extrajudicial killings as director of the prison system in the early 2000s, systematically targeted investigators, prosecutors, and judges on the frontlines of combatting corruption. In addition, efforts to silence dissent took aim at local activists and ordinary Guatemalans protesting extractive projects and government malfeasance. The 2021 campaign of criminalization not only affected high-profile corruption fighters but government critics not in the spotlight and thus much more vulnerable.

Among the year's most notable attacks on public figures central to the struggle against impunity was the arrest of former tax authority head Juan Francisco Solórzano Foppa, who was accused of fraud and electoral crimes amid his efforts to form a new political party. On May 19, Foppa was pulled over by plains-clothed intelligence officers in an unmarked vehicle and subsequently arrested and imprisoned, finding himself in the same cell block as a gang leader he had previously prosecuted (Daniel 2021). As a basis for the indictment, lead prosecutor for the MP's Electoral Crimes Unit Rafael Curruchiche argued that documentation submitted by Foppa to create the Guatemalan Environmental Party was rife with irregularities, including the falsification of signatures from people "who don't know how to read or write," those whose personal identification numbers were inscribed incorrectly, and, in one case, an individual who was deceased (Pitán and Barrientos 2021). The capture order extended to a dozen other individuals, several of which had run in MP and CICIG circles with Foppa previously.

Domestic and international observers quickly billed the charges as retaliation for Foppa's previous anti-corruption crusade in partnership with the CICIG, as well as his opposition to the politicization of the state's investigative and prosecutorial entities. In addition to pursuing tax evasion charges against Guatemala's wealthiest business elites as head of the tax administration from 2016 to 2018, Foppa—along with other detained investigator Aníbal Argüello—was part of the team that broke open the landmark customs fraud case known as *La Línea* in 2015, which implicated former president Pérez Molina and set off an unprecedented anti-corruption movement in Guatemala (Schwartz 2021b). Under the Giammattei government, Foppa has also been a vocal critic of Attorney General Consuelo Porras, documenting the institutional weakening of the MP during her tenure (Solórzano Foppa 2021).

Though Foppa and the other detained officials were granted house arrest after a month behind bars, they still face trial on forgery charges. Far from an isolated act of political revenge, the case against Foppa began a string of criminal-

ization efforts seeking to send a message about the consequences of exposing government graft and challenging the culture of impunity.

In late July 2021, the leader of Guatemala's Special Prosecutor's Office Against Impunity (FECI), Juan Francisco Sandoval, fled to El Salvador after being fired for his "constant abuses and frequent outrages against the Public Ministry," according to a press release emitted by Attorney General Porras (Gamazo and Menchú 2021). Sandoval, who had been at the helm of the Feci for over three years, worked closely with the CICIG much like Foppa, helping expose some of the most pernicious criminal networks embedded in the Guatemalan state. Despite losing his key international partner in 2019, Sandoval pressed forward with numerous corruption probes targeting top Guatemalan officials, demonstrating that the anti-impunity campaign, while weakened, would not be deterred.

In a press conference at the Human Rights Ombudsman's Office (PDH) prior to his departure, Sandoval framed his dismissal as retaliation for his prosecutorial work and accused Porras of serving the powerful political and economic elites that had captured the state apparatus. According to him, the cover-ups orchestrated by Porras and others to protect corrupt officials included leaking sensitive information to the lawyers of the accused, delaying indictments against business leaders, and transferring corruption cases out of the Feci to prosecutors more likely to shelve them (Gamazo and Menchú 2021). The domestic and international reaction to Sandoval's firing was swift, with Guatemalans taking to the streets and diplomatic officials issuing strong rebukes against Porras and the Guatemalan government. Having received information that his life was in danger, Sandoval—after arriving at the Salvadoran border accompanied by Human Rights Ombudsman Rodas and Swedish Ambassador Hans Magnusson—promptly fled to the United States, where he remains in exile.

Meanwhile, Porras designated prosecutor Rafael Curruchiche to take over the Feci—a move that underscored government critics' fears that Sandoval's ouster was merely the first step in dismantling anti-impunity efforts. Curruchiche, who had overseen the Electoral Crimes Unit, was responsible for the charges filed against Foppa (Guatemala taps controversial prosecutor to replace fired graft-fighter 2021). Opponents also allege that Curruchiche overlooked accusations against former president Jimmy Morales (2016-2020) for campaign finance violations, failing to issue an arrest warrant despite the evidence (Reuters 2021). The pattern of criminalizing Guatemala's top corruption fighters is thus not only meant to silence them individually, but to ensure that ongoing efforts to expose government graft are brought to a halt.

The politically-motivated smear campaigns and legal threats faced by top prosecutors in 2021 also extended to judicial officials known for their tough stance against corruption and unwillingness to cave to external pressures. As part of CICIG-led reforms, Guatemala created a series of High-Risk Courts [*Juzgados de Mayor Riesgo*] comprised of the most competent judges who would hear

high-profile cases (Centro de Investigaciones Económicas Nacionales 2019). Since 2009, High-Risk Court judges have been subject to frequent harassment and defamation; however, these patterns escalated significantly in the CICIG's final years, with 57 administrative complaints, 33 criminal complaints, and 22 requests to remove judges' immunity issued between 2015 and 2018 (López and Saenz 2021).

Alongside heightened efforts to silence government critics and anti-corruption investigators, the criminalization of High-Risk Court judges has only intensified. The manipulation of Constitutional and Supreme Court selection procedures has further increased the risk that the politicized legal challenges might stick. For example, after facing years of threats and spying by judicial personnel, judge Erika Aifán, who was named a 2021 International Woman of Courage by the US State Department, came close to having her immunity removed when the Constitutional Court allowed a complaint against her to proceed (López and Saenz 2021). Ultimately, a Supreme Court decision in November overturned the ruling;⁵ however, the case illustrates how the compromised judicial system has increased the threats faced by authorities challenging the corrupt status quo.

Beyond those prominent figures seeking to uphold the rule of law, the campaign of criminalization waged by the Giammattei government and its allies has also extended to ordinary Guatemalans protesting graft, human rights abuses, and environmental injustice. Following 2020's uptick in abuses against human rights defenders, which included 1,004 reported attacks and 313 acts of criminalization (Unidad de Protección a Defensoras y Defensores de Derechos Humanos 2021), 2021 witnessed continued efforts to silence and repress those opposing government policies and actions.

Notably, in October 2021, Guatemalan riot police and other state security officers violently repressed demonstrators from the Maya Q'eqchi' communities of El Estor, Izabal, who were engaged in peaceful resistance against the foreign-owned Fenix nickel mine (Masek 2021). The protestors of El Estor have long opposed the mining operation, alleging that it is responsible for significant environmental and health detriments. In addition, the Fenix opponents contend that local communities were not properly consulted about the project as stipulated under international law. Following years in which their concerns went unheeded, in late October the Q'eqchi' communities set up road blockades to halt the mine's activities.

On October 23, a day after ordering state forces to violently disperse the demonstrators, President Giammattei declared a month-long state of siege (Barrientos Castañeda 2021), prompting state agents to raid the headquarters of

⁵ Aifán subsequently fled to El Salvador and then to Washington, DC on March 9, 2022 out of fear for her life, making her the fifteenth Guatemalan justice system operator to have sought refuge abroad in the span of 11 months (Sanz 2022).

local indigenous rights organizations and patrol the streets. The government deemed the state of siege necessary in light of “the armed individuals and groups that have engaged in acts of violence against security forces and the right to free movement for the area’s inhabitants” (Barrientos Castañeda 2021). Yet, the emergency decree also provided the Guatemalan government a chance to further disarticulate the Q’eqchi’ resistance movement and to surveil and sanction those involved. By the end of November, security forces had arrested 72 individuals and identified another 7,000 who were under investigation, according to then-Minister of the Interior Gendri Reyes (M. García 2021).

The state of siege in El Estor was followed by another instance of government criminalization against opposition demonstrators when on November 24, 2021, the home of political activist Nanci Sinto was surrounded by MP and police agents, who subsequently arrested her for the destruction of cultural heritage [*depredación de bienes culturales*]*—charges that stemmed from her participation in protests opposing the government’s 2021 budget proposal one year earlier (Vásquez 2021b). Sinto and fellow detainee Juan Francisco Monroy Gómez joined with hundreds of demonstrators on November 21, 2020 as the legislature sought to push through a budget resolution negotiated hastily behind closed doors, which would have slashed funding for the judicial system, public health and social protection programs, and the Human Rights Ombudsman’s Office (PDH), among others. The peaceful demonstrations escalated when a group of masked individuals entered and set fire to part of the Congressional building—an act that some suspect was orchestrated by authorities themselves to justify a harsher crackdown on the opposition movement (Gramajo 2020).*

During the protest, Sinto was beaten by police (Guerra and Calles 2021). Her arrest came after a year in which she claims to have faced persistent state surveillance. Though she is accused of graffitiing the walls of Congress, Sinto and her supporters allege that her arrest and indictment were, above all, a product of her political activism. As former national secretary of the youth wing of Winaq, a leftist political party with a base in the country’s indigenous communities, Sinto argued that the government “is repressing a form of organizing ourselves, and they want to put fear in us and punish us for demanding our rights” (Guerra and Calles 2021). Though Sinto was eventually released to house arrest, she is slated to face trial in 2022—yet another judicial process that civil society activists say is meant to demobilize civil society and demonstrate the dangers of challenging government predation (Pérez 2021).

IV. THE BOTCHED COVID-19 RESPONSE AND NEW SOURCES OF CORRUPTION

These two key manifestations of democratic decline unfolded amid the second year of the Covid-19 pandemic, which highlighted the deadly consequences of Guatemala’s weak political will and entrenched corruption. Like much of Latin

America, Guatemala experienced a brutal first wave of Covid-19 in Summer 2020, peaking at an average rate of 1,337 infections and 42 deaths per day by mid-July, according to data from the John Hopkins University Coronavirus Resource Center.⁶ These rates, however, paled in comparison to the infection and mortality figures that would emerge with the Delta variant wave in Fall 2021, which peaked at an average of nearly 4,000 cases and 66 deaths per day by late August and early September. By the end of the year, Guatemala had suffered just over 16,000 Covid-related fatalities since the pandemic's onset, with some 70 percent occurring in 2021 alone. The country's overall Covid-19 death rate stood at 97 per 100,000 people, the highest in Central America (Congressional Research Service 2022).

These troubling infection and fatality figures are in part due to Guatemala's laggard public health infrastructure and scant resources resulting from decades of government mismanagement and graft. In the words of former Minister of Health and current Congressional deputy Lucrecia Hernández Mack, "the Ministry [of Health and Welfare] is like someone who's chronically malnourished and has no resources or financing. On top of that, cases of corruption have left them with constant diarrhea. And if that wasn't enough, internal labor disputes have caused them to catch nosocomial pneumonia, a kind of pneumonia that can only be contracted in the hospital itself" (Hernández 2016).

According to OECD data from 2017, Guatemala had the sixth lowest level of healthcare expenditures per capita in all Latin America and the Caribbean at less than half the regional average (OECD 2020). For decades, patients, doctors, and civil society activists have decried the abysmal state of public hospitals and clinics, which routinely lack the most basic medical supplies even as the budgets of the Ministry of Public Health and Welfare (MSPAS) and the Institute of Social Security (IGSS) have grown (Hernández 2015). Moreover, as Jennifer Cyr and co-authors note, Guatemala's low levels of collaborative governance—the national government's ability "to design and coordinate policy" with other actors—no doubt hamper its capacity to mount quick and effective responses to public health crises (Cyr et al. 2021).

High-profile corruption cases uncovered in the CICIG's final years have also highlighted the links between public health deficiencies and predatory practices within the state. For instance, in May 2015, Guatemalan investigators arrested the entire board of the IGSS after exposing a bribery scheme in which Guatemalan authorities and external operators secured a \$15.3 million contract for renal dialysis regimens for the pharmaceutical company Droguería Pisa. The faulty drugs provided by Pisa led to the deaths of 13 social security recipients and sickened dozens more (Papadovassilakis 2021). Other investigations in MSPAS uncovered allegations related to the theft of medicines and the creation

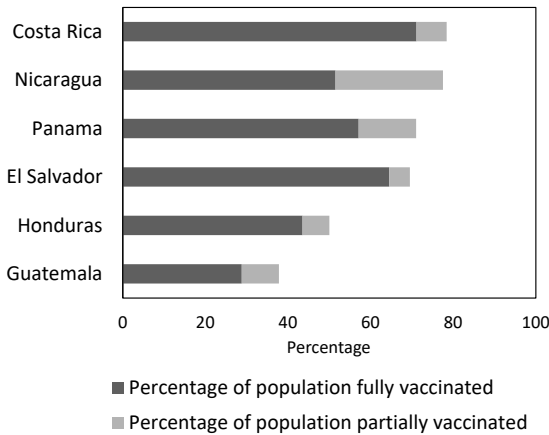
⁶ These data are available at: <https://coronavirus.jhu.edu/region/guatemala>

of so-called “*plazas fantasmas*”—phony jobs added to personnel rolls for the sole purpose of extracting a salary (Hernández 2016; Coronado and Cuevas 2020).

Given the longstanding weakness of and predatory practices within the public health system, it is little surprise that Guatemala grossly mismanaged its Covid-19 vaccination campaign once vaccines became available globally in early 2021. Despite being the third Latin American country to receive doses via the COVAX initiative (PAHO 2021), Guatemala’s vaccination campaign was laggard, with health officials only managing to fully inoculate less than 0.2 percent of the population three months after receiving the first shipments. Moreover, vaccination efforts exhibited clear urban and ethnic biases. The use of an online platform to schedule appointments excluded that 70 percent of the population that lacks internet access—groups overwhelmingly concentrated in the rural Mayan highlands of the country. Despite comprising roughly half of the overall population, Mayan Guatemalans represented only 16 percent of the vaccinated population (J. García 2021).

As illustrated in Figure 1, by year’s end Guatemala remained in last place in all Central America in the proportion of its population that had been fully vaccinated at less than 30 percent (Harrison, Horwitz, and Zissis 2022).

Figure 1. Vaccination Rates in Central America

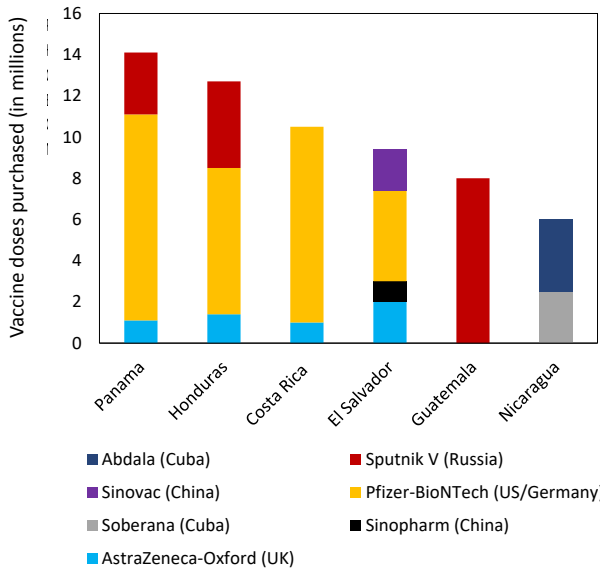


Data reported as of January 28, 2022 by Americas Society/Council of the Americas, available at: <https://www.as-coa.org/articles/timeline-tracking-latin-americas-road-vaccination>.

Guatemala is also an outlier when it comes to who the government contracted with to purchase vaccines (see Figure 2). Though the country received donations from COVAX, the United States, Israel, India, and Mexico, its own efforts to procure vaccines occurred exclusively through a deal with Human Vaccine LLC, a subsidiary of the Russian Direct Investment Fund (RDIF), which initially agreed to provide 16 million doses of the Russian-manufactured Sputnik V.

According to the Guatemalan daily *La Hora*, President Giammattei and Foreign Minister Pedro Brolo were responsible for advancing the negotiations with Human Vaccine and convinced public health officials to cease direct discussions with vaccine manufacturers like Johnson & Johnson in favor of the Russian option (Tzoc 2021). Meanwhile, two months after signing the agreement—and after the Guatemalan government had paid down half of the nearly \$160 million contract—only 150,000 of the 16 million doses had been delivered.

Figure 2. COVID-19 vaccines purchased by Central American governments



Data reported as of January 28, 2022 by Americas Society/Council of the Americas, available at: <https://www.as-coa.org/articles/timeline-tracking-latin-americas-road-vaccination>.

At the end of July 2021, after only 400,000 more doses had arrived, Guatemalan authorities renegotiated the deal. The government cancelled the 8 million doses it had not yet paid for and arranged for the nearly 7.5 million doses that it had already purchased to arrive by the end of 2021 (France 24 2021). But the damage was already done. On the cusp of the Delta wave, Guatemala was months behind on vaccine deliveries. The influence of the executive branch in negotiating the Sputnik V agreement behind closed doors also led many to speculate that the vaccine contract was another corrupt arrangement in which political elites had extracted bribes in exchange for a lucrative government contract (Matta 2021). In mid-2021, the MP’s Prosecutor against Corruption and the Comptroller General’s Office began investigating Minister of Health Amelia Flores for abuse of authority, non-compliance with her duties, and embezzlement. Anti-corruption organizations and others protesting the lack of vaccine access, however, demanded that Giammattei and Brolo be charged with

unlawful association, fraud, and misappropriation of funds as well (Vera 2021). Meanwhile, government officials like Flores have refused to hand over information on how the deal was negotiated (Cux García 2021). With the ouster of Sandoval and the dismantling of the FECI, it is unlikely that any investigation into illegalities in vaccine procurement will reach the highest levels of government.

The Sputnik V agreement was not the only Russia-involved deal that prompted allegations of Guatemalan government corruption. Prior to his departure, Sandoval detailed a slew of graft allegations involving Giammattei and his inner circle, including the delivery of “a carpet full of cash” to the president’s residence as part of a bribe to facilitate a port concession to a Russian-owned mining firm (Kitroeff 2021). The firm, Mayaniquel, which had secured licenses to operate a nickel mine in the rural department of Alta Verapaz, sought to lease land from the Santo Tomás Port Company to build its own terminal to warehouse and export nickel ore (Román 2021). Port company officials, however, were unaware of a formal proposal from the Russian firm.

Meanwhile, according to testimony from an individual who helped deliver the bribe, a mine representative coordinating the exchange remarked to another associate that, “with this [the bribe] that’s been handed over, we now have a clear path in the port” (Román 2021). Though MP officials opened a probe into the allegations in early September, Giammattei cannot be investigated unless Congress strips him of immunity (Al Jazeera 2021). With 2021’s increased erosion of judicial independence and criminalization of leading anti-corruption figures, there is little chance that government mismanagement and malfeasance will be subject to legal consequences.

V. INCREASED TENSIONS WITH THE UNITED STATES

Beyond facilitating greater corruption, Guatemala’s deepening democratic deterioration has aggravated tensions with the United States, which assumed a somewhat different tack toward the region following the inauguration of former vice president and foreign policy veteran Joe Biden at the beginning of the year. Under the previous administration of Donald Trump, US officials sought to strongarm the Guatemalan government into cracking down on undocumented migration from the region, threatening to withhold aid and effectively coercing Morales into signing a “safe third country” agreement that would force migrants who passed through Guatemala to seek asylum there instead of the United States. Meanwhile, the Trump White House turned a blind-eye to ongoing corruption, and Congressional Republicans froze assistance to the CIGIC under the pretext that it was being used as a tool of Russian president Vladimir Putin to persecute a family of Russian exiles that had fled to Guatemala (Schwartz 2018). Trump’s tenure thus reflected a significant undermining of Guatemala’s anti-corruption struggle.

Upon taking office, Biden, who had overseen diplomatic efforts in Central America as vice president, effected a clear rhetorical shift. While also preoccupied with the influx of Central American asylum seekers at the US-Mexico border, Biden administration officials were quick to frame policy solutions in terms of addressing the “root causes of migration,” key among them corruption and bad governance. On his first day in office, Biden sent an immigration bill to Congress, which recognized the need to “start from the source” by helping the governments of Guatemala, El Salvador, and Honduras tackle “the endemic corruption, violence, and poverty that causes people to flee their home countries” (The White House 2021). The bill proposed a four-year, \$4 billion interagency plan, which would largely be channeled through local organizations rather than corrupt governments to generate socioeconomic opportunities and deter migration. White House officials also floated the idea of creating a new regional anti-corruption task force to preserve previous progress following the ouster of the CICIG and similar OAS-backed missions in Honduras and El Salvador (Chappell 2021). Biden further signaled the importance of Central America’s anti-impunity struggle to his foreign policy agenda by tapping Vice President Kamala Harris, a former anti-corruption crusader herself, to lead diplomatic efforts on addressing the root causes of migration. Harris’ first foreign trip as vice president was to Mexico and Guatemala in early June 2021.

For an administration intent on strengthening development and the rule of law as antidotes to Central American migration, deepening cooperation with the Giammattei government in Guatemala was, in many ways, the most palatable of three unsavory options. Honduras was in the final year of the tenure of President Juan Orlando Hernández, whose brother Tony had just been convicted and sentenced to life in prison in a New York court for trafficking 185 tons of cocaine to the United States (US Attorney’s Office 2021). The trial brought to light what many had long known: that President Hernández provided cover for drug trafficking organizations in exchange for personal and campaign-related financial support (Palmer and Semple 2021). Meanwhile, El Salvador’s outsider millennial president Nayib Bukele, who now enjoyed a super-majority in Congress, had overseen a series of anti-democratic maneuvers, including the dismissal of the entire Supreme Court and the attorney general, who was investigating graft within his administration (BBC news 2021a).

Though Giammattei seemed like the best bet for deepening US cooperation in the region, Kamala Harris’ visit only provoked greater antipathy, setting the stage for increased tensions. Giammattei sought to divert attention from corruption allegations within his own administration and villainize US-allied officials seeking to strengthen the rule of law. In the leadup to Harris’ visit, Giammattei claimed that the FECCI and Sandoval, a key US ally who was fired three weeks later, was “biased” in the pursuit of corruption investigations. During the visit, Giammattei suggested drug trafficking, rather than government malfeasance, should be the real target of the anti-corruption campaign. During the press conference with Harris, he refused to directly answer questions about

whether he could be considered an “ally” in the fight against corruption, instead defensively asking how many corruption charges had been filed against him (Arroyo and Beauregard 2021).⁷

In addition, some of Harris’ own comments sparked ire among Guatemalan civil society activists, who questioned whether US policy would experience any meaningful change under the new White House. She drew criticism for remarks in a press conference at the National Palace in which she warned Guatemalan migrants, “Do not come. Do not come. The United States will continue to enforce our laws and secure our borders [...] If you come to our border, you will be turned back” (BBC news 2021b). Beyond contradicting the United States’ obligations to asylum seekers under international law, the comments signaled that the Biden administration’s policies toward Central American migration would include more of the same enforcement-based approach.

The Harris visit was emblematic of the souring of US-Guatemala relations throughout the rest of 2021. As part of US’ toughened stance against corruption in Central America, the predatory political elites deemed contributors to underdevelopment and undocumented migration in Guatemala faced new levels of ostracization and punishment. At the end of April, US Treasury Officials utilized the Global Magnitsky Human Rights Accountability Act to freeze the assets of several prominent Guatemalan political figures involved in the “Parallel Commissions” conspiracy to manipulate judicial nominations, including the main powerbroker Gustavo Alejos and Congressional deputy Felipe Alejos (U.S. Department of the Treasury 2021).

In July, the US State Department revoked the visas of 20 Guatemalans through the implementation of a new anti-corruption tool, the “Engel List.” Passed at the end of 2020 and named after chairman of the House Foreign Affairs Committee Eliot Engel, the Engel List sanctions individuals from El Salvador, Guatemala, and Honduras that engaged in corruption, sought to obstruct corruption investigations, or sought to undermine democracy. Among those placed on the list from Guatemala were two current Supreme Court justices, several members of Congress, and business elites (Bureau of Western Hemisphere Affairs 2021). On September 20, Attorney General Porras was also added to the list due to her “pattern of obstruction [that] included ordering prosecutors in Guatemala’s Public Ministry (MP) to ignore cases based on political considerations and actively undermining investigations carried out by the Special Prosecutor Against Impunity, including by firing its lead prosecutor, Juan Francisco Sandoval, and transferring and firing prosecutors who investigate corruption” (Blinken 2021). MP General Secretary Ángel Pineda was also added to the list for interfering in anti-corruption probes and leaking information to the accused (Blinken 2021).

⁷ Of course, no corruption charges have been filed against Giammattei during his presidency because he enjoys immunity from investigation as President of the Republic.

On December 9 and 10, the White House excluded Guatemala from its Democracy Summit, but that did not stop Giammattei from embarking on a US press tour days before to speak at conservative think tanks and declare Guatemala the “Pro-Life Capital” of Latin America (Summers 2021). During a conference organized by anti-abortion groups, Giammattei criticized the US approach to Guatemala, warning that “we can do a lot for the United States, but we’re not going to allow and no one can come and demand that we adopt things that go against our beliefs, our faith, and our laws no matter what it costs us, even if it’s an invitation to the White House” (Pérez Marroquín and Oliva 2021). In a December 8 interview with Fox News, Giammattei lamented the White House’s distance, chalking it up in part to ideological differences. He also drew a contrast between his own position vis-à-vis the Biden government and that of the left-leaning president of Honduras Xiomara Castro, who, in Giammattei’s words, prompted “great happiness” among US officials when she won the election in late November (Creitz 2021). Amid the criticism, Harris spoke with Giammattei in early 2022 (The White House 2022), yet the damage was already done. While the Biden administration may have seen Guatemala as its most promising ally in northern Central America in early 2021, by the end of the year it seemed to view Giammattei through the same lens as Bukele in El Salvador and Hernández in Honduras—as corrupt presidents with a penchant for undermining democratic institutions. Having steadily chipped away at the rule of law and bristled at the mere mention of government corruption, Giammattei has proven himself to be anything but an ally in the anti-corruption struggle.

VI. LOOKING AHEAD

In sum, Guatemala’s 25th year of peace was among its most tumultuous since the signing of the Peace Accords, revealing that the enduring end of armed conflict has not been accompanied by enduring advances in governance, the rule of law, and democratic institutions. Reviewing the events of 2021 unveils two alarming patterns in Guatemalan politics, both evidence of democratic decline: 1) open assaults on judicial independence and breaches of the constitutional order, and 2) an escalation in the criminalization of government critics, particularly those on the frontlines of the anti-corruption struggle. Among the most pernicious consequences of this democratic deterioration is the abysmal Covid-19 response, particularly the lagging vaccination campaign, and the new opportunities for corruption amid Guatemala’s resurgent impunity. The effects of this democratic decline also show up in Guatemalan public opinion. According to 2021 data from the Latin American Public Opinion Project (LAPOP), while over half of Guatemalans believe that democracy is the best system of government, only 38 percent reported being satisfied with democracy (Rodríguez, Lupu, and Zechmeister 2021: 79-81)

Looking ahead, the year 2022 does not bode well for reversing the patterns of democratic decline that deepened in 2021. The 2022 budget proposal nego-

tiated in Congress at the end of 2021 showed signs of internal horse-trading and corruption, according to economic experts (Vásquez 2021a). The election of Guatemala's new attorney general will also take place in 2022, a process that is likely to be marred by external interference within the postulation committee to ensure an impunity-friendly slate of candidates. Current attorney general Consuelo Porras is eligible for re-election and remains a frontrunner, though some speculated that she would not be Giammattei's choice because of her inclusion on the US State Department's Engel List (Pérez Marroquín and Montenegro 2022). Regardless, there is little doubt that the selected candidate will continue the course charted by Porras.

Looking even farther ahead to the general elections slated for 2023, there is little hope that any new political leadership committed to combatting impunity will manage to break through the "*Pacto de Corruptos*." In contrast to El Salvador and Nicaragua, we are unlikely to see increasing democratic deterioration in the form of a single populist president and party intent on dismantling institutional checks. But given Guatemala's extraordinary setbacks in judicial autonomy and the rule of law, the dominant pro-impunity political coalition will most likely wield the country's compromised legal institutions to sideline genuine opposition candidates and to secure the status quo.

Though Guatemala's democratic crisis is likely to deepen, the biggest question mark for 2022 remains the role of the United States. As the Biden administration and Congressional Democrats approach the year's mid-term elections, undocumented immigration will no doubt remain a central domestic political issue. And while the White House continued the heavy-handed enforcement actions pursued under previous administrations (Jaffe 2021), the plan for addressing migration's "root causes" remains vague, both in terms of implementation and efficacy.

To the extent that tackling government corruption and impunity remains a centerpiece of this policy agenda, it is not clear what leverage the US government has in the face of Guatemalan resistance. While it is unlikely that Guatemala's deepening political and economic ties with Russia or Taiwan could substitute for the United States' outsized influence, existing US sanctions have not reshaped the behavior of corrupt elites. In El Salvador, home to the self-proclaimed "world's coolest dictator" Nayib Bukele, anti-democratic machinations and defiance of US rebukes have had little domestic effect (El Faro 2021). If Giammattei and his allies are looking to their neighbors to gauge the consequences of undermining democracy, they are no doubt learning the wrong lessons.

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