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FEATURED Q&A

How Serious Are Guatemala's Anti-Corruption Efforts?



Guatemala's Congress blocked the swearing-in this month of crusading anti-graft magistrate Gloria Porras. // File Photo: Guatemalan Government.

Q Guatemala's Congress on April 13 blocked the swearing-in of magistrate Gloria Porras, despite her re-election to a five-year term on the country's Constitutional Court. Legislators cited a lawsuit related to her past rulings and alleged irregularities relating to her election, but Porras has said she has been targeted because of her history of fighting corruption and promoting Indigenous rights. What are the reasons behind lawmakers' refusal to seat Porras? How serious and effective are efforts by Guatemalan President Alejandro Giammattei and the country's Congress to fight corruption and impunity? Has corruption worsened in Guatemala since the 2019 expulsion of U.N. anti-graft panel CICIG?

A Alfonso José Quiñónez Lemus, Guatemala's ambassador to the United States: "It is important to note that Mrs. Porras was not the only one not sworn in. The people elected by the Guatemalan Bar Association were not either. The law allows for elections for the Constitutional Court by the University of San Carlos and the Bar Association to be contested if anomalies took place, and until those processes are resolved they cannot be sworn in. In the case of Mrs. Porras, the argument is that the law was not followed as it specifically states that the vote had to be secret, and it was conducted publicly. Furthermore, the law indicates that the person to be selected had to be a professor at the University of San Carlos, and Mrs. Porras was not. Based on these elements, a case was initiated, and the Constitutional Court issued an injunction ordering Congress not to swear her in until a decision on the complaint is rendered. Unfortunately, corruption was not eradicated."

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TODAY'S NEWS

POLITICAL

Killings of Former Colombian Rebels Could Hit 1,600 by 2024: Tribunal

Killings of former FARC rebels are happening at an alarming pace, said the country's transitional justice tribunal.

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ECONOMIC

Argentine Health Workers Shift Protest From Vaca Muerta

Health workers who had been blocking roads near Argentina's Vaca Muerta shale oil and gas deposit have moved their protest to other parts of Patagonia.

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POLITICAL

Biden Calls on Congress to Pass Reform of Immigration Laws

In his first address to a joint session of the U.S. Congress, U.S. President Joe Biden called on lawmakers to pass a comprehensive immigration reform package.

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Biden // Photo: White House.

POLITICAL NEWS

Killings of Ex-Rebels in Colombia May Reach 1,600 by 2024

Killings of former Revolutionary Armed Forces of Colombia rebels could reach 1,600 by the end of 2024 if current trends continue, the country's transitional justice tribunal said Wednesday, Reuters reported. Some ex-FARC members are in a "critical" situation in 10 municipalities, the tribunal said. Since Colombia's government signed its peace accord with the FARC in 2016, 271 former rebels have been killed, it added. Ex-combatants who have assumed roles as community leaders are particularly vulnerable to attack, with 20 percent of those murdered exercising roles of leadership in economic projects, cooperatives or crop substitution programs. "This pattern shows how leadership positions assumed by some re-integrated persons during their transition to civil life are related to the causes of their victimization," the tribunal said. Colombia's government blames the violence on criminal groups and rebels who have rejected the peace accords. In a Q&A published March 11, Gwen Burnyeat, a junior research fellow at the University of Oxford, said the government bears blame. "The killings of human rights activists and former FARC combatants in Colombia are partly due to the Duque government's lackluster implementation of the 2016 peace agreement, especially those strategies envisaged to prevent targeted violence," she said. Political polarization over the peace accords is helping to fuel the violence, Burnyeat added. However, Colombia's ambassador to the United States, Francisco Santos Calderón, defended the government's efforts in the same issue of the Advisor. "The government is taking an integral approach to protecting communities and human rights defenders, working decisively on peace implementation (including rural development and victims' reparation) while combating and dismantling these criminal organizations through law enforcement (security, territorial control and justice)," he said.

Biden Calls on U.S. Congress to Pass Immigration Reform

In his first address to a joint session of Congress, U.S. President Joe Biden called Wednesday night on lawmakers to pass a comprehensive immigration reform package. "If you believe we need a secure border, pass it, because it has a lot of money for high-tech border security. If you believe in a pathway to citizenship, pass it. There's over 11 million undocumented folks, the vast majority here overstayed visas. Pass it. We can actually—if you actually want to solve the problem, I have sent a bill to you, take a close look at it," he said. Biden also called on Congress to "get at the root of the problem of why people are fleeing particularly to our southern border from Guatemala, Honduras, El Salvador." He added, "The violence. The corruption. The gangs. The political instability. Hunger. Hurricanes. Earthquakes. Natural disasters." Biden also urged lawmakers to "pass legislation this year to finally secure protection for Dreamers," people who were brought illegally to the United States as children. He also called for "permanent protection for immigrants who are here on temporary protective status who came from countries beset by man-made and natural-made violence and disaster. As well as a pathway to citizenship for farmworkers who put food on our tables."

ECONOMIC NEWS

Argentine Health Workers Shift Protest From Vaca Muerta

Health workers who had been blocking roads near Argentina's Vaca Muerta shale oil and gas deposit have shifted the protests to other parts of the Patagonia region, they said on Wednesday, Reuters reported. The roadblocks over the past three weeks affected oil and natural gas

NEWS BRIEFS

Ecuador's Constitutional Court Decriminalizes Abortion in Cases of Rape

Ecuador's Constitutional Court on Wednesday voted 7-2 in favor of decriminalizing abortion in instances of rape, a landmark decision in the traditionally Catholic nation, BBC News reported. In response to a petition from women's rights groups, the court voted to declare two articles of the penal code relating to abortion unconstitutional. In Latin America, pregnancy terminations are fully legal only in Argentina, Uruguay, Cuba, Guyana and parts of Mexico.

At Least 21 Killed in Road Collision in Haiti

At least 21 people were killed and 30 others were injured when a minibus crashed into a bus in Haiti on Wednesday, authorities said, the Associated Press reported. The collision happened in the eastern coastal town of Archaie, northwest of Port-au-Prince. According to witnesses, the minibus driver tried to pass a car when it hit the bus head-on, authorities said.

Brazil's Banco Modal Reportedly Raises \$220 Million in IPO

Brazil's Banco Modal has raised 1.17 reais (\$220 million) in its initial public offering, Reuters reported Wednesday, citing an unnamed source with knowledge of the matter. Banco Modal priced the units on offer at 20.01 reais apiece, below the original proposed range of 24.30 to 32.82 reais per unit. Each of the units consists of one common share and two preferred shares. The bank sold only one allotment of the units and raised the offering size by 15 percent to 58.7 million shares, according to the source. Several Brazilian companies have postponed initial public offerings this month because of lackluster demand from investors. Some IPOs that have proceeded were priced below their original ranges.

production and left the area without power as fuel trucks were prevented from entering production areas, the wire service reported. Health workers, including doctors, nurses, orderlies and other hospital staff, are demanding greater compensation for working high-risk jobs during the Covid-19 pandemic as the South American nation continues to see rising infections.

BUSINESS NEWS

Banco Santander México Posts 39% Decline in Profit

Banco Santander's Mexico unit on Wednesday posted net income of 3.28 billion pesos (about \$164 million) for the first quarter of the year, a decline of 39.4 percent year-on-year and down 40.2 percent from the previous quarter. A drop in loan volumes, mainly in corporates, reflected the annual decrease, in line with market trends and soft demand conditions, and a higher base during the first quarter of 2020, the bank said in a statement. Mortgages and auto loans maintained a solid performance, with Santander México growing above market. Likewise, individual demand deposits continued to expand at 23.5 percent year-over-year, the fourth consecutive quarter with demand deposits from individuals growing by more than 20 percent, the bank said. "We continued to advance on our strategic initiatives, while closing the quarter with a strong balance sheet and ample liquidity, despite the pandemic continuing to weigh on our results," Héctor Grisi, Banco Santander México's executive president and chief executive officer, said in a statement. "We have fully absorbed the negative impact of the pandemic, mainly in consumer loans, credit cards and SMEs and we are well positioned to support our customers on the recovery path ahead," he added. Despite what he called a solid performance, Grisi said the Mexican market is no longer the second largest for Santander outside Spain, with the top two global markets now being Brazil and the United States, Milenio reported.

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ed during CICIG's 12-year tenure; it continues to be an issue. Upon taking office, President Giammattei created the Presidential Commission Against Corruption (PCAC), recognizing that it is of the utmost importance to continue fighting corruption. The PCAC aims to prevent and combat corruption in the executive branch through investigations and the promotion of effectiveness, efficiency, transparency, accountability and public information. Results of the investigations are presented to the office of the attorney general so criminal cases can be initiated, or to the comptroller general for administrative procedures. So far, the PCAC has received 245 corruption alerts, 104 of which are under investigation, 36 presented to the office of the attorney general, 15 criminal complaints presented to the courts, and two to the comptroller general for administrative procedures. The PCAC has received financial support from the U.S. government."

A **Adriana Beltrán, director of the Citizen Security Program at the Washington Office on Latin America:** "Judge Gloria Porras has been a pivotal figure protecting the independence of the judiciary, human rights and democracy in Guatemala. The obstruction of her swearing-in is in direct retaliation to her efforts to uphold the rule of law. Her rulings have drawn the ire of corrupt elites and illicit networks, and like other independent judges, Porras has been the target of threats, harassment and many attempts to remove her from the bench. The numerous attacks against her carry much more weight than that of one judge's career. They are part of a systematic effort by powerful political and economic elites and illicit groups to get rid of those who have led the fight against corruption and co-opt the justice system in order to protect their interests and avoid accountability for their misdeeds. The efforts of these corrupt networks led to the expulsion of CICIG in 2019, paving the way for further backsliding and weakening rule of

law. They have sought to manipulate the judicial selection process and silence the courageous judges, prosecutors and civil society leaders striving to build an effective, fair justice system. The Constitutional Court has been a primary target as it is one of the few

“The obstruction of her swearing-in is in direct retaliation to her efforts to uphold the rule of law.”

— Adriana Beltrán

institutions defending the rule of law. But it is not the only target. While a recent Constitutional Court ruling provided guidelines for choosing capable, suitable and honorable people to sit on Guatemala's highest courts, corrupt networks have delayed the selection of Supreme Court and Appellate Court magistrates for more than a year. Given how corruption and weak rule of law fuels the insecurity and economic inequities that drive migration, the Biden administration should make supporting reformers like Porras a central tenet of its foreign policy toward Central America. Those promoting greater accountability, human rights and rule of law in Guatemala need international support in order to ensure safety and prosperity for all Guatemalans."

A **Kathryn Klaas, program manager of the Migration, Remittances and Development Program at the Inter-American Dialogue:**

"Congress' refusal to swear in Porras is part of a larger strategy to ensure impunity and limit transparency. Porras' record on judicial independence and corruption made her a target for groups looking to influence the bench. However, after the 'Parallel Commissions' case revealed a scheme to manipulate the selection of Supreme Court

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and Appellate Court judges, her vote to suspend Congress from selecting these magistrates likely intensified efforts to block or delay her appointment. Rather than fight corruption, members of Congress have used institutional channels to advance impunity for corrupt and illicit activities as well as crimes against humanity. Two months after CICIG's expulsion, Guatemala's Congress passed a second round of approvals to reform the National Reconciliation Law. This law would have granted amnesty to those convicted of human rights crimes during the internal armed conflict. The approval process continued, despite an order from the Inter-American Court of Human Rights, until Guatemala's Constitutional Court voted to detain the process in February. Gloria Porras was one of the magistrates who voted in favor of halting the reforms. The 2021 national budget is another example. With approval from Congress and the president, the budget reduced funding for the judiciary and introduced loopholes that may enable corruption. CICIG's expulsion has hampered efforts to block these discretionary actions and has further undermined judicial independence. Corruption cases are advancing more slowly, partly due to a lack of resources, but also because judges and public defenders are intimidated or paid to delay legal proceedings."

A **Ursula Indacochea, director of the Judicial Independence Program at the Due Process of Law Foundation:** "The blocking of the swearing-in of Judge Gloria Porras on April 13 is an example of a pattern that has become widespread in Guatemala: the use of legal measures as acts of intimidation and retaliation against judges, prosecutors and other high-ranking officials who have played a relevant role in the fight against

corruption. In addition, this action had very specific purposes: to prevent her from acquiring the judicial immunity that she had until the last day of her previous term, and which would protect her from the beginning

“ This strategy sends a terrible intimidating message to others who have managed to resist the pressures of corrupt groups...”

— Ursula Indacochea

of her new term. This immunity protects judges from being arrested and criminally investigated if a procedure to lift this guarantee (called 'derecho de antejuicio') is not previously followed. Those who seek to stop her swearing-in, rather than neutralize her vote in the court (which would now be a minority), sought to generate conditions for her arrest. Considering what she represents in the country, this strategy sends a terrible intimidating message to others who have managed to resist the pressures of corrupt groups: high-risk judges, members of the Special Prosecutor's Office against Impunity, the National Ombudsman and, of course, human rights defenders. A fact that perhaps goes unnoticed is that many of these actions come from civil society organizations or individuals directly or indirectly linked to corrupt elites: foundations, law firms, fraudulent universities and even judicial associations. Spaces for citizen participation have also been co-opted, and their recovery must be part of any serious effort to cut this pattern."

The Advisor welcomes comments on its Q&A section. Readers can write editor Gene Kuleta at gkuleta@thedialogue.org.

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