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Guatemala: Corruption, Uncertainty Mar August 2019 Elections

Guatemala held national elections for president, the entire 158-seat congress, 340 mayors, and other local posts on June 16, 2019. The list of candidates on the ballot was finalized one week before voting. Candidates were still being ruled ineligible—some due to corruption allegations—and appealing rulings in early June. Elements of the government allowed some candidates to run and impeded the registrations of others. Such uncertainty likely will lead many to question the outcome.

Since none of the 19 presidential candidates won the first round with more than 50% of the vote, the top two candidates will compete in a second round on August 11. The winner is due to be inaugurated in January 2020. Some 7.6 million Guatemalans have registered to vote in this year's elections.

Corruption is once again a primary concern for voters. In response to public outcry over past illegal campaign financing and other electoral crimes, Guatemala adopted electoral law reforms in 2016. Eleven of Guatemala's 27 parties face charges of illicit or unreported campaign financing, and several candidates face judicial proceedings. Twenty-four parties registered presidential candidates. Registered candidates have immunity from prosecution.

President Jimmy Morales will not be running for reelection, since the Guatemalan constitution limits presidents to one term. But Morales himself is being investigated for corruption and has taken actions that appear to have advantaged political parties and criminal organizations linked in corruption. The president fired some reformist officials, for example, and chose not to renew the International Commission against Impunity in Guatemala (CICIG), which helps Guatemalan institutions enforce campaign finance laws. Weakening reform and enforcement efforts could further enable drug cartels and other criminal organizations to continue financing politicians.

Results of First Round

The controversial disqualification of several candidates contributed to low voter turnout. On July 1, a recount confirmed that Sandra Torres of the center-left National Unity of Hope (UNE) party won 26% of the popular vote and Alejandro Giammattei of the right-wing Vamos party won just over 14%; they are to go to the second round. Torres lost in the second round in 2015, and a recent poll showed 30% of voters said they would never vote for her.

Torres, a longtime politician and former first lady, has been implicated in illegal campaign financing in the 2015 elections. Giammattei was the director of the penitentiary

system (2006-2008) during the Óscar Berger administration. Over the past 20 years, he has run for president four times with four different parties. In 2010, the CICIG and the attorney general's office charged him with participating in extrajudicial killings. He was acquitted in 2012 after the courts determined that the case against him lacked sufficient evidence.

UNE won the largest share of congressional seats, but with 44 out of 160 seats, it will still lack a majority. Fifteen parties split the other seats, indicating political gridlock is likely to continue and reform likely will be limited.

Guatemala 2019 Presidential Candidates: Determining Who Was Eligible

Guatemala's Supreme Electoral Tribunal (TSE) is an important part of Guatemala's democracy, as it organizes all electoral contests and enforces the country's electoral rules. Although it is an independent government institution, the TSE has been subject to political pressure and threats this year from multiple sources. According to various reports, political and business leaders have bribed and intimidated members of the TSE and other government offices and tribunals to influence the results of the elections. The TSE eliminated two of the three most popular candidates, Thelma Aldana and Zury Rios, from the race.

Guatemala 2019 Electoral Calendar

JANUARY 18: Supreme Electoral Tribunal (TSE) announces general elections

JANUARY 19: Start of candidate registration through the TSE's Citizen Registry

FEBRUARY 19: Last day for Guatemalans to register to vote

MARCH 17: Last day to register candidates

MARCH 18: Official start date for campaign

JUNE 14: End of campaign

JUNE 16: General elections

AUGUST 11: Runoff elections

Source: Supreme Electoral Tribunal.

Aldana, a former attorney general, is internationally renowned for pursuing corruption cases against wealthy and powerful business and political figures, including former presidents Otto Pérez Molina and Álvaro Colom. By many accounts, those opposed to her anti-corruption platform applied pressure to prevent her candidacy with the center-left Semilla Movement.

In March, members of other parties stalled Aldana's registration by pressuring a controller's office to invalidate her accounts certificate, an electoral requirement. Opponents alleged that Aldana stole government funds while serving as attorney general, a claim she denies. A judge filed an arrest warrant against her, but public prosecutors are investigating the judge for allegedly accepting millions of dollars in bribes in exchange for issuing the warrant. On April 1, the TSE blocked Aldana's registration, citing the arrest warrant and the invalid accounts certificate. Aldana appealed the TSE's decision, but the Constitutional Court upheld its ruling. Aldana remains in neighboring El Salvador, where she fled because of death threats.

The TSE also rejected Zury Ríos's registration, citing a constitutional prohibition against coup leaders and their relatives seeking public office. Ríos is the daughter of the late former coup leader Efraín Ríos Montt. On May 13, the Constitutional Court upheld the TSE's decision. Ríos has appealed to the Inter-American Court of Human Rights.

The Constitutional Court also withdrew Edwin Escobar's and Mauricio Radford's registration, allowing Attorney General María Consuelo Porras to investigate the latter's alleged electoral crimes. The TSE revoked Mario Estrada's candidacy after his arrest in April.

The Constitutional Court was expected to decide before the first round whether the charges against Torres for illicit campaign financing warranted lifting her immunity from prosecution, but it postponed the decision because it lacked sufficient time to review her case. The court still has not decided Torres's case, and she remains on the ballot.

Election Financing by Private, Criminal Organizations and Efforts to Stop It

The attorney general and the TSE, with CICIG's support, have investigated political parties, members of Congress, and the president for illicit campaign financing. Their work shows, says an April 2019 *New York Times* article, that "private groups have hijacked many of the state's functions to enrich themselves."

CICIG reported in 2015 that government contractors financed more than 50% of all political campaigns, business chambers financed about 25%, and organized crime—especially drug trafficking rings—financed the remaining 25%. CICIG also concluded that impunity for electoral crimes is 95-100%. Since 2016, the TSE has dissolved three major parties and suspended President Morales's party, the National Convergence Front (FCN-Nación), for campaign finance violations. The TSE suspended the cancellation process for FCN and five other parties in January 2019 for the duration of the electoral process.

Powerful criminal organizations have also been involved in the 2019 presidential election. U.S. authorities arrested Mario Estrada, a presidential candidate with ties to President Morales, on April 17, 2019, in Miami, Florida. The U.S. Department of Justice charged him with conspiracy to traffic drugs in exchange for campaign funding from Mexico's Sinaloa Cartel. He allegedly offered

the cartel cabinet positions and unrestricted transport of illicit drugs across Guatemala if he won.

Guatemala's 2019 electoral campaigns have included violence at all levels. According to U.S. officials, Estrada plotted to assassinate political opponents, including Thelma Aldana, to win the presidency. As of April 2, two mayoral candidates and one local candidate had been murdered. Other violence has included online hate speech, attacks, and death threats.

Congressional Concerns and Actions

Over the years, Congress has authorized assistance to Guatemala and placed conditions on it to address a range of concerns, including strengthening democratic institutions; good governance and respect for human rights; promoting equitable development; and curbing corruption, crime, and illegal migration.

The outcome of the June elections could heighten those concerns. For example, officials elected with help from vested interests could contribute to further corruption, draining public resources and abetting drug trafficking and other crimes. When CICIG's support ends in September, Guatemalan institutions may investigate and prosecute fewer such crimes. Related insecurity and violence could in turn contribute to additional emigration.

Questions about the election's legitimacy could raise concerns about further instability. If observers from the Organization of American States or other organizations find that the elections are not free and fair, the new government could be seen as illegitimate. If many citizens question the election's credibility, public confidence in the government likely will decline further, and protests and demands for political reform are likely to continue.

Some Members of the U.S. Congress have proposed bills to pressure Guatemala to strengthen democratic institutions and combat corruption. Options include imposing sanctions on Guatemalan officials or private citizens found guilty of corruption. Current bills include proposals to fund programs in FY2020 to strengthen the rule of law; combat corruption; defend human rights; counter violence, crime, and human smugglers; and address economic development, poverty, and the root causes of migration.

Finally, the House Appropriations Committee—reported version of the FY2020 foreign aid appropriations measure, H.R. 2839 (H.Rept. 116-78), would provide aid to Guatemala, including \$93 million for development, under the U.S. Strategy for Engagement in Central America. The bill would withhold portions of aid for the government until the Secretary of State certifies that it is taking steps to combat corruption; implement reforms to increase transparency; protect the right of political opposition parties, journalists, human rights defenders, and other civil society activists to operate without interference; and meet other goals.

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