
RESOLUTION 1/17
HUMAN RIGHTS AND THE FIGHT AGAINST IMPUNITY AND CORRUPTION
September 12, 2017

The fight against corruption is inextricably linked to the exercise and enjoyment of human rights. Impunity fosters and perpetuates acts of corruption. Therefore, the establishment of effective mechanisms to eradicate corruption is an urgent obligation in order to achieve effective access to an independent and impartial justice and to guarantee human rights. In the context of the OAS, the fight against corruption plays an important role in the implementation of the fundamental commitments that the member States have made. As the Inter-American Charter states, “Essential elements of representative democracy include, inter alia, respect for human rights and [...] access to and the exercise of power in accordance with the rule of law [...] Transparency in government activities, probity, responsible public administration on the part of governments, respect for social rights, and freedom of expression and of the press are essential components of the exercise of democracy.”

The Commission notes with concern how the scourge of corruption affects different countries in the region. The Commission thus reaffirms the importance of the fight against corruption to ensuring the effective enjoyment of human rights, especially economic, social, cultural and environmental rights, the effectiveness of which depends on public policies and budgets.

It is based on the importance of this fight and the commitments to protect human rights in the region that the IACHR decided to issue this resolution based on Article 41.b of the American Convention on Human Rights.

The situation unfolding in Guatemala in recent days exemplifies the importance of transparency in government activities and the necessity of subjecting the exercise of power to the rule of law. Several weeks after making its *in loco* visit to Guatemala to assess the human rights situation there, the IACHR learned of the decision of Guatemalan President Jimmy Morales on August 27, 2017, to declare Iván Velásquez—the head of the International Commission against Impunity in Guatemala (ICIG)¹—and order him expelled from the country.

The IACHR recognizes the crucial role of ICIG in the fight against corruption in Guatemala through the disbanding of criminal networks and organized crime structures together with the

¹ The ICIG is an independent and international body created in 2006 through an agreement between the United Nations and the Government of Guatemala. Its objective is to combat the impunity caused by illegal groups and clandestine security forces in the country, which gravely affect fundamental human rights. The mandate of the ICIG is comprised of the main objectives set forth in the establishing agreement, including: investigate the existence of illicit security forces and clandestine security organizations and their possible links to State and other entities and agents that violate civil and fundamental rights in Guatemala; collaborate with the State to disband clandestine security structures and illegal security groups, and promote the investigation, criminal prosecution and punishment of the crimes committed by the members of such groups; and make recommendations to the State of Guatemala regarding public policies to be adopted—including the necessary judicial and institutional reforms—to eradicate and prevent the re-emergence of clandestine security structures and illegal security forces. Agreement between the United Nations and the Government of Guatemala to Establish the International Commission against Impunity in Guatemala (ICIG), December 12, 2006.

Public Prosecutor's Office, as well as the support it provides in the form of training and supporting legal reforms to improve the efficiency of the justice system, in keeping with its mandate. Over the years, the investigations it has conducted reveal the alleged involvement of officials from all three branches of government and of other actors in the country in illicit acts of corruption, some of which are now the subject of criminal processes.

The IACHR observes that the decision to expel the head Commissioner of the ICIG was made days after another case of corruption was initiated and made public, again involving senior officials, including the President of the Republic himself. This decision casts doubt on the commitment that the Guatemalan government made to the IACHR regarding human rights and the need to fight corruption during its *in loco* visit.

The IACHR emphasizes that an independent and impartial judiciary is indispensable for effectively combating impunity and corruption. It underscores the important citizen oversight role played by judges, prosecutors, human rights defenders, citizen watchdogs, journalists, and the media in investigating and reporting corruption.

In this regard, it is particularly concerning that the IACHR received information during these weeks on threats toward and attacks on judges, prosecutors, journalists, media outlets, and human rights defenders related to the work they do investigating and disseminating information on these cases of corruption and the power groups behind the attack on the institutions of the justice system.

The IACHR notes that on August 29, 2017, the Court of Constitutionality of Guatemala granted the definitive *amparo* requested by the Human Right Ombudsman for Commissioner Iván Velásquez, thereby nullifying the decision made by the President of the Republic.² It also observes that the Supreme Court of Justice of Guatemala admitted a request to begin impeachment proceedings against the President of the Republic. On September 11, 2017, the Congress of the Republic voted against stripping the President of his immunity, which forecloses the possibility of continuing the investigation into the corruption allegations made against him.

The political crisis unleashed in the country after the President's pronouncement led to the resignation of several cabinet members and several officials who supported or cooperated with the IACHR's visit to Guatemala. Likewise, thousands of people participated in public demonstrations in response to the President's decision.

Following up on the human rights situation in the country, the Commission noted the consequences of corruption, which affects not only both the legitimacy of the governors and the rights of the persons governed, but also profoundly affected the national treasury, which is insufficient to meet the needs of citizens with regard to food, health, work, education, a dignified life, and justice. It likewise noted that corruption, impunity, organized crime, intolerance, political violence, and social exclusion of various sectors, present a serious danger of regression in the effectiveness of the rule of law and restrict the full enjoyment of the human rights that the American Convention recognizes for everyone. The consequences are particularly grave for the persons, groups and collectives historically excluded, in particular those who live in a situation of and in extreme poverty in the country.

² Court of Constitutionality, Case File 4182-2017, August 29, 2017.

Based on this the IACHR resolves:

1. To reaffirm the importance of the fight against corruption to combat impunity through a strengthened, independent and impartial judiciary.
2. To reaffirm the fundamental importance of the full exercise of the rights to freedom of expression and access to public information, as well as the rights to association and peaceful assembly, for the investigation and denunciation of corruption.
3. To call on the independent branches of government to act to guarantee the rule of law.
4. To urge the State of Guatemala to take the measures necessary to ensure compliance with the decision of the Constitutional Court and, consequently, to enable the ICIG's head Commissioner, Iván Velásquez, to continue to perform his work with the requisite guarantees.
5. To urge the State of Guatemala to also take the measures necessary to exercise its oversight duties with independence, autonomy, and due process guarantees with regard to investigations and ongoing processes.
6. To remind the State of Guatemala and the other member States of the Organization of their obligation to implement the necessary mechanisms to prevent, investigate and punish any form of corruption affecting the proper functioning of the justice system and the rule of law.
7. To urge States to fulfill their obligation to protect human rights defenders, whistleblowers, journalists, and media outlets, which face particular risk when they investigate and disseminate information on corruption.
8. To urge the State of Guatemala to prioritize among its measures to fight corruption, those intended to guarantee the rights of persons, groups and collectives in a greater situation of vulnerability, in particular those who live in poverty and extreme poverty.