

CHAPTER 2

The Coal-Case of Guatemala

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The coal-based power plant battle

At the end of 2013 a state-owned Chinese construction company and a small US electric power company started a legal (and in time, physical) fight with each other. The conflict was over the property rights to a \$900 million coal-based power plant in southern Guatemala. It represented the first big investment of a Chinese company in the country, which has a long political and economic tradition of bonds with the US. Panama, Costa Rica, El Salvador and Nicaragua had all begun to receive Chinese investment. Only Honduras and Guatemala had still remained “loyal” to the US area of interest in Central America. The coal-based power plant case was the first challenge to that historical hegemony.

In a way, it was a fight between China and the US on Guatemalan territory. But the fight was conducted by proxy, in local politics. Parallel politics (*para-política*) is a term coined by the American historian Robert Paxton to describe organizations or institutions that are “state-like” in their practice, but not a part of the government. In the Guatemalan case, key parallel networks, civil and military, licit and criminal, have a long history of using *para-política* to make their interests prevail. These networks act in the shadows, corrupting state institutions. In this sense

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para-política in Guatemala links these interest groups with brokers and public officials, distorting the public function of state institutions.

In the December 2011 general election, the Patriot Party (PP), savvy regarding this type of politics, made it all the way to the executive branch and achieved a majority in the National Congress (and was therefore able to appoint the highest positions in the the judiciary system).

When the crisis between the Chinese construction company and the US company exploded, local lawyers representing each side began activating their political contacts. Two opposing, opaque and parallel networks unfolded in 2014, both looking to displace the other in an escalating confrontation.

In 2007 the International Commission against Impunity in Guatemala (CICIG), a UN financed body mandated with investigating and prosecuting high-profile and *para-política* crimes, was created. The CICIG would then work hand in hand with the Public Prosecutor's Office (Ministerio Público, MP), supporting and enforcing their work. By the end of 2015, the CICIG and the MP presented a preliminary case against one of the networks, the one supported by the PP government.

The judicial case has since been stalled, mainly due to the strategy of frivolous litigation employed by the defence lawyers, where motions and lawsuits are made in bad faith, with the sole goal of prolonging the case while they wait for better political conditions.

In early 2016, with the first phase of the frivolous strategy in place, a series of documents containing a significant portion of the evidence (letters, call transcripts, documents, etc.) was leaked to Nómada, the digital newspaper where I was working at the time. Equipped with interviews, more legal documents and field visits, we could supply details to the case in a four-piece newspaper report.

The coal-case showed that judges, lawyers, public prosecutors, immigration officers, an ex US ambassador, high ranking politicians and the then president's son-in-law were involved in complex and illegal schemes aimed at inducing institutions into favoring Jaguar Energy, the US electric power company.

Jaguar Energy was a subsidiary of Ashmore Energy International Ltd. (ex-Enron). Enron had a long tradition of bribes and parallel politics in

Latin America and in the US, and an infamous account fraud scandal led them to file for bankruptcy in 2001. Ashmore Energy acquired part of Enron's business in 2006.

How to reveal the “counter-forces”?

After the coal-case, many more cases have piled up against other parts of the parallel networks aligned with the PP government, thanks to the work of the CICIG-MP. And that is perhaps the most significant result of the coal-based power plant case and the other cases that followed: they revealed exactly how these networks operate; the level of impunity their activities achieve; and how the networks have been able to retain power and perfect their strategic criminal schemes through various political parties since the democratic transition from military rule in 1985.

It was no coincidence that the main figures in the criminal networks, many now in jail, were key military personnel and businessmen from this transition process. They have molded and weakened public institutions for the last 30 years.

The work of the press through journalists' reports helped to deepen and provide a historical framework for the cases presented by the CICIG-MP. Both the press and CICIG-MP officials met aggressive responses from the political and economic groups they scrutinized. These responses included threats, intimidation, spurious demands, physical aggression, and in some cases murder. They targeted all the independent and corporate media and investigative journalists who were striving to reveal the nature of the parallel political networks.

One of the groups reacting aggressively to the UN institution CICIG, was a far-right organization which called itself the “Foundation Against Terrorism”, formed by retired military officials and sponsored by local big business. The organization's real interests were soon discovered: the group's ties with “illegal structures” were revealed by more CICIG-MP cases. It was disclosed, for example, that one of their members had a contract in the Supreme Court, attached to a magistrate accused of corruption; and another one was linked to massacres during the war in Guatemala. Other members were recently sent to jail for forming a criminal

structure within the prison system, where they managed payments of transfers between prisons and benefits inside the prison.

Death threats

One of the far-right politicians, part of the Foundation Against Terrorism, used his Facebook profile in May 2017 to accuse me, a journalist, of “being behind the attacks” (meaning the reports) against him, and stated that a criminal lawsuit would follow. A day later he wrote a column welcoming me to the “world of mortals” – an implicit death threat.

This was not the first time a member of Indymedia or Nómada has received threats or other kinds of intimidation. Guatemala has a long history of journalist repression, even though the trend has declined after the Peace Accords were signed in December 1996. In any case, that personal and collective experience has helped us become more prepared for attacks. So we activated a network of support including the UN, key embassies, and the Guatemalan ombudsman. All showed us public and private support, and counseled us, step by step, in how to protect ourselves. Social media support from our readers ensued, condemning the threats and backing up the work that we do. We received no further threats, and the tension did not escalate, thanks to this support.

Some features of the support we received, however, demonstrated that we are a fairly privileged part of the journalist community. The key network of support that we have developed was mainly built through years of working and living in Guatemala City, the country’s capital, with a significant history of centralized resources and urban functions. The embassies, key to human rights protection, are all located in Guatemala City. The city also, therefore, supports a concentration of rights protections, mainly for their middle class inhabitants, who are also some of the main actors in the recent massive mobilizations against corruption scandals.

In contrast, the rest of the country is mainly impoverished, not controlled directly by the central state but by local or regional groups, some linked to *narco* ringleaders. The position of local journalists, in such a situation, is very different from ours. Their relationship to the newspapers

in Guatemala City and our defense networks may be crucial to their security.

The assassination of three journalists in the southwest city of Suchitepéquez, and the subsequent ramifications, is a tragic example of what can happen without such defense networks.

The deepening of the political crisis

Journalists Luis Juárez Pichillá, Jorge De León Cabrera and Danilo López were murdered in April 2015 in Suchitepéquez. The murder case did not gain much attention until Guatemala City's newspapers started raising questions. A joint group of Guatemala City's journalists, in which *Nómada* was represented, started an investigation. The published report suggested that four mayors of the Patriot Party and LIDER, another party linked to criminal groups, were involved in the murders. Soon after the report was made public, the hitman and two policemen were captured.

But the case did not attract much attention in public opinion, and the four mayors were able to participate as candidates for Congress in the 2015 elections. The main suspect, Julio Antonio Juárez Ramírez, was in the first place for Suchitepéquez on the election list for the LIDER party. Besides being a mayor, he was also a local businessman who from 2005 to 2011 received \$15 million in state contracts. That helped him run for mayor and then for the National Congress. He was elected Congressman in September 2015.

Soon Juárez switched parties, moving to the official FCN-Nación, of President Jimmy Morales Cabrera. President Morales showed support for Juárez amid escalating criticism.

It was not until Donald Trump's application of the [Magnitsky Act](#) in December 2017 that the situation changed. Trump named 13 persons from around the globe linked to the "severity of human rights abuse and corruption". Among the accused was congressman and ex-mayor Julio Juárez. The next month, Juárez was arrested. He is now in jail awaiting trial for the murder of the journalists.

The case is important because it reveals, again, how the traditional relationship with the US can save the lives of journalists or impose pressure

to investigate repression cases. Paradoxically this happened parallel to their own para-political actions, defending their economic interests against the threat of Chinese competition. It was also important because of the Guatemalan president's support for Juárez and the present crisis.

In contrast, the CICIG has received little support from President Jimmy Morales (2016–2019), who has at least twice demanded (in vain) the expulsion of its commissioner, Colombian citizen Iván Velásquez. Morales is being investigated by the CICIG, accused of money laundering during the 2015 election campaign. His brother and son are part of another case and are now awaiting trial.

The implication of the country's President accentuates the opposition that the CICIG work met from 2015 onwards, as we saw above. Guatemala City's mayor, ex-president of Guatemala Álvaro Arzú Irigoyen, was also summoned for a pretrial hearing so the CICIG could investigate him. Arzú, more experienced than Morales, had taken over the reins of the CICIG opposition: his son was elected President of the National Congress (although he is the only elected member of his party) in January of 2018, and has made public threats saying that you either "hit or pay the press", to both national and international outcries. That all ended in April of 2018, when Arzú Irigoyen died of a heart attack while playing golf.

The present political situation, in which *para-política* style politicians shield themselves while they continue to run important institutions of the state, is a reminder that things will not change in an instant. The political and economic networks that created the coal-based power plant case, as well as many other implicated actors, continue to have power.

Attacks on journalists, thus, remain a threat to be prepared for.