



June 11, 2019

## Guatemala: Corruption, Uncertainty Mar June 2019 Elections

Guatemala is scheduled to hold 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 will likely lead many to question the outcome.

If none of the 19 presidential candidates wins the first round with more than 50% of the vote, the top two candidates will compete in a second round on August 11. 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.

### Guatemala 2019 Presidential Candidates: Determining Who Is 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, if necessary

**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 deceased 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.

In addition to Aldana and Ríos, 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.

Many experts agree that the presidency is former first lady Sandra Torres's to lose. Torres, who currently leads the polls, has been awaiting a decision from the Constitutional Court to determine whether the charges against her for illicit campaign financing warranted lifting her immunity from prosecution. The court was expected to decide Torres's case on May 15, 2019, but it postponed the decision because it lacked sufficient time to review Torres's case. The court has still not decided Torres's case, and she remains on the ballot.

Alejandro Giammattei of the right-wing Vamos party may be able to challenge Torres but would probably need the backing of others vying for second place to force a runoff. Many argue that Giammattei is too unpopular to rally enough support around his candidacy. 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 spent 10 months in prison but was acquitted in 2012 after the courts determined that the case against him lacked sufficient evidence.

### 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 party and personal 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 (OAS) or other organizations find that the elections are not free and fair, the new government could be seen as illegitimate. Depending on the severity of the findings, OAS responses could range from pressing Guatemala to strengthen the democratic process to urging they re-hold elections.

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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