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Theresa Reinold

The Causes And Effects of Hybrid Anti-impunity Commissions: Outline of a Research Agenda

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The Causes and Effects of Hybrid Anti-impunity Commissions: Outline of a Research Agenda

Theresa Reinold

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Preface

The fight against impunity in Guatemala made international headlines, when then President Morales terminated the UN-backed International Commission Against Impunity in Guatemala (CICIG) in 2019 under protest of UN Secretary-General Guterres. The very successful commission, which had already brought down a president, had started to investigate President Morales' inner circle and family members. While former US administrations, which provided much of the commission's funding, had supported the commission's work, the Trump administration turned on it and tacitly supported the decision to end the mandate.

CICIG and similar commissions set up after its model in other Latin American countries have received little attention in the literature to date. To address this gap, we are pleased to present a new Global Cooperation Research Paper, titled 'The Causes and Effects of Hybrid Anti-impunity Commissions: Outline of a Research Agenda'. In her paper, Theresa Reinold, junior professor of global and transnational cooperation research at the University of Duisburg-Essen, proposes a new research agenda for these so far understudied hybrid commissions. This agenda should focus on the effects such commissions have on local justice systems as well as on the factors that contribute to their establishment and subsequent success or failure. Apart from a welcome contribution to the wider literature on hybridity, her analysis of four hybrid anti-impunity commissions in Guatemala, Honduras, El Salvador and Ecuador provides a helpful starting point for a broader and more systematic comparative analysis on why and how these commissions come into being, and why they succeed or fail.

Patricia Rinck (Editorial Board)

The Causes and Effects of Hybrid Anti-impunity Commissions: Outline of a Research Agenda

1 Introduction

Hybridity is *en vogue*. In a number of issue-areas in global governance, hybrid solutions – which involve both international and domestic actors in the exercise of governance functions – have been experimented with in order to address the dilemma created by the export of Western templates of good governance, democracy, the rule of law, etc. to non-Western contexts. Hybrid arrangements entail lower sovereignty costs than purely international mechanisms, have more local legitimacy and are more attuned to local contexts – at least this is as far as the theory goes. The latest manifestation of this global trend towards hybridity are hybrid anti-impunity commissions which have begun to proliferate in Latin America in the past decade or so, and which are likely to produce ripple-effects beyond the continent. Certain parts of Latin America, such as the Northern Triangle, act as ideal laboratories for examining the effects of this new hybrid actor, because the problem of state capture by organized crime and corrupt actors is pervasive and impunity is rampant (WOLA 2015: 2, 8).

Interestingly, though, the new hybrid anti-impunity commissions are barely known outside specialist circles and remain largely under-researched. This is somewhat surprising, given that some of them have been credited with producing 'transcendental results' (WOLA 2015: 27) and are considered to be particularly promising models worth replicating in other states (Hudson and Taylor 2010: 54). Their prototype was deployed in Guatemala, where the Comision Internacional Contra la Impunidad en Guatemala (CICIG) recently had to terminate its mandate after more than a decade of successful work. On CICIG's website, it is emphasized that the commission is 'unprecedented among UN or other international efforts to promote accountability and strengthen the rule of law. It has many of the attributes of an international prosecutor, but it operates under Guatemalan law, in the Guatemalan courts, and it follows Guatemalan criminal procedure'.[1] While CICIG did assume some of the sovereign prerogatives traditionally seen as falling within the *domaine réservé* of the host state, compared to international or hybrid criminal tribunals, CICIG entailed significantly lower sovereignty costs. Another difference between hybrid anti-impunity commissions such as CICIG

[1] https://www.cicig.org/history//index.php?page=about. (last accessed on 25 March 2020).

and hybrid criminal tribunals is that the former does not use international law and international judges to fight impunity, but seeks to build a culture of the rule of law from within the host state's legal system. In light of CICIG's successes, citizens in neighboring Honduras, El Salvador, and Ecuador successfully demanded that their governments replicate the CICIG experience in their respective jurisdictions, resulting in each of these countries putting a different spin on 'their' version of CICIG. Worldwide, about a dozen countries have contemplated setting up a similar mechanism (WOLA 2015: 29).

Hybrid anti-impunity commissions are embedded in a complex web of inter-organizational relations, interacting (and sometimes competing) with both actors from the local/state- and global levels, including local justice operators, governments, but also their sending organization such as the United Nations or the Organization of American States. As such, these commissions and their inter-organizational relations provide instructive examples of governance arrangements under conditions of polycentricity, which are fluid, complex, and often lack a clear order of precedence. However, the factors responsible for the genesis, consolidation and decay of these commissions remain largely under-researched and undertheorized. Equally understudied are the medium- to long-term effects of these hybrids on a variety of outcomes, including the rule of law, democracy, and sovereignty. While a number of useful policy briefs have been written about CICIG and its 'replicas' (see, e.g., Call 2018; Call 2019a; Call and Hallock 2020; International Crisis Group 2016; Open Society Justice Initiative 2016; WOLA 2015), hardly any research has been carried out that addresses the broader implications of the emergence of this type of hybrid actor for peace and conflict research. This contribution therefore discusses the state of the art on hybrid anti-impunity commissions and locates these emerging actors in the scholarship on hybridity in global governance. I will subsequently describe the outlines of a research agenda on these new hybrid commissions, arguing that, on the one hand, the *effects* of these mechanisms require further scrutiny – how do hybrid anti-impunity commissions shape a variety of possible outcomes including the rule of law, statehood, sovereignty, democracy, and the like? On the other hand, we should investigate the factors that contribute to the establishment, successes, and failures of these hybrids, thus treating them as outcomes to be explained.

In the following, I will briefly review the debate about hybridity in global governance before providing an overview of the genesis and evolution of the four Latin American anti-impunity commissions. I will then outline an agenda for future research addressing these commissions.

2 The Hybrid Turn in Global Governance

In recent years, there has been a surge in scholarly interest in the notion of hybridity (see, e.g., Lemay-Hebert and Freedman 2017; Millar 2014; Peterson 2012). The notion of hybridity has actually been studied in a variety of (sub-) disciplines, including anthropology and sociology, as well as in peace and conflict studies and the literature on transitional justice. Hybrid governance solutions occupy the middle of a continuum at the ends of which we have either purely internal, i.e. national, or purely external forms of governance, respectively. Conceptualizations of hybridity abound. Levi-Faur, for instance, distinguishes four forms of hybridity, of which the fourth, multi-level regulation, is relevant for the purposes of this paper (2011: 10–11). Multi-level regulation means that actors from different layers of governance are involved in the exercise of governance tasks. Mac Ginty in turn describes hybridity as a dynamic 'process of social negotiation, conflict, and coalescence that can be found in all societies and social interactions. As such, there is nothing mysterious or unusual about the concept. Yet it is accelerated in contexts of transitions and internationally supported governance interventions. These societies are prone to peculiar distortions with the inflow of external resources, pressures, ideas, and norms resulting in hybrid political orders that are often a mix of traditional and imported forms of governance. Hybridity is not the grafting together of two discrete entities to produce a third entity. Instead, it is a more complex and fluid process of interchange that assumes that actors, norms, and practices have been previously hybridized' (2013: 446–447). In a similar vein, Bargués-Pedreny and Randazzo understand hybridity as a state of affairs describing the interaction of external and domestic actors in peacebuilding: 'The nature of this interaction ranges from cases of compliance or submission – in which international actors enforce their will or, on the contrary, in which local agents resist and reject external mechanisms of governance – to more cooperative encounters' (2018: 1546). Hybridity is often viewed as an emancipatory tool in that it implies receptiveness to domestic norms and traditions and opens space for the involvement of local actors in governance tasks. At the same time, however, those who highlight the emancipatory potential of hybridity also caution against romanticizing the local. While hybridity is a response to the shortcomings of purely external forms of intervention, one that brings local needs, norms, and practices to the fore, this does not mean that 'every idea that comes from domestic actors is venerated. Studies on hybridity are cautious not to trace a simplistic binary in which local actors are equated with having positive values and qualities for peace, in contrast to irreverent, domineering and interest-driven international partners' (Ibid.: 1546). Despite this caveat, the voluminous literature on hybrid peacebuilding (see, e.g., Forsyth et al. 2017; Mac Ginty 2013; Mac Ginty 2010; Mac Ginty and Richmond 2016; Nadaradjah and Rampton 2015) tends to focus mainly on critiquing the liberal peace paradigm and offering normatively more ap-

pealing alternatives. The main thrust of this scholarship is thus on normative and conceptual issues rather than on investigating the actual effects of hybridization in a methodologically rigorous and comparative fashion, in order to discern if hybrid solutions are really more conducive to peacebuilding (and a host of other desirable outcomes such as reconciliation, human rights, the rule of law, democratization, etc.) than externally imposed arrangements or purely domestic solutions.

Another manifestation of hybridity in global governance that is a cognate of the commissions investigated in this research paper is the phenomenon of hybrid criminal tribunals, which have proliferated globally in the past couple of decades (see, e.g., Carolan 2008; Cohen 2007; Cruvellier 2009; Dickinson 2003; Fichtelberg 2015; Higonnet 2005/2006; Horovitz 2013; Katzenstein 2003; McAuliffe 2011; Nouwen 2006; Raub 2009). In contrast to the hybrid peace literature, the literature on hybrid criminal tribunals does address the empirically observable impact of hybrid tribunals on host state structures in more detail. Hybrid tribunals were born partly out of the realization that 'a purely international process that largely bypasses the local population does little to help build local capacity. An international court staffed by foreigners, or even a local justice system operated exclusively by the UN transitional administration, cannot hope to train local actors in necessary skills' (Dickinson 2003: 304). International criminal tribunals are often perceived as quick fixes that temporarily replace local mechanisms in the prosecution of the most senior perpetrators of atrocity crimes yet tend to leave domestic structures largely unchanged and fail to empower local actors to handle future prosecutions themselves. Hybrid criminal tribunals, by contrast, seek to leave a more lasting imprint upon the justice systems of their host states.

A pivotal issue in the debate about hybrid criminal tribunals has therefore been the concept of 'legacy', which can be defined as 'a hybrid court's lasting impact on bolstering the rule of law in a particular society, by conducting effective trials to contribute to ending impunity, while also strengthening domestic judicial capacity' (Office of the United Nations High Commissioner for Human Rights 2008: 4–5). Apart from strengthening human resources and physical infrastructure, initiating legal reform, etc., legacy should 'encompass a shift in terms of trust in the legal system as a viable avenue for dealing with future conflicts and ongoing violations of human rights' (Ibid.: 6), which has been called the 'demonstration effect' of hybrid tribunals (Ibid.: 17). It thus hoped that hybrid tribunals contribute to the emergence of a general culture of the rule of law, in that citizens develop a reasonable expectation that their daily lives will, as a general rule, be governed by the law, and not by the whims of politics, clientelistic networks, etc., and that not even the most powerful are exempt from this rule.

Now, even though the importance of legacy is widely recognized by scholars and practitioners of hybrid justice, actual successes, 'although not entirely ab-

sent, have been few' (Ibid.: 5). While it is generally acknowledged that hybrid tribunals ought to invest in capacity-building, the devil is in the details, as the Office of the United Nations High Commissioner points out in a stocktaking of the performance of various hybrid tribunals in terms of legacy: 'In Kosovo and Timor-Leste, the introduction of hybrid capacities was very much in response to the immediate challenges and needs on the ground, as opposed to being part of a strategic and long-term international intervention. In Cambodia and Sierra Leone, legacy initiatives face the political complications of introducing international capacities into existing domestic legal systems. In Sierra Leone, legacy has also been hampered by pressures to conduct trials within a certain time frame and allocation of resources. In Cambodia, it remains to be seen whether the addition of international personnel will be sufficient to withstand the political interference evident in the domestic justice system' (2008: 5). The Sierra Leonean hybrid, for instance, one of the best researched hybrid tribunals, had established a Legacy Working Group, which carried out needs assessments for local institutions and offered training to local staff. However, observers conclude that these initiatives have had only a marginal impact on the Sierra Leonean justice system (Cruvellier 2009: 3; Horovitz 2013: 365). Analysts have attributed this to a variety of factors including 'lack of clear political support to prioritize legacy; pressure to fulfill the court's primary mandate expeditiously; inadequate planning; the failure of the court and the national legal system to bridge the gaps between them; and the continued reliance on international staff in key posts' (Cruvellier 2009: 3). Especially the latter factor has been considered critical in explaining the lack of empowerment of local actors (Ibid.: 31). Other hybrid tribunals have fared better in this regard, especially the War Crimes Chamber of the Court of Bosnia and Herzegovina, where locals have played a much greater role (Ibid.: 32). As Alejandro Chehtman points out, whether or not domestic structures will be strengthened by the intervention of hybrid mechanisms largely depends on political will, careful planning, and proper incentives to engage in close collaboration between externals and locals (2013: 320). Rather than having internationals lecture local judges and prosecutors, or having locals simply observe how their international counterparts work, the most effective way to bolster domestic capacity turned out to be close on-the-job collaboration between nationals and internationals (Ibid.: 311).

In sum, the literature on hybridity in global governance has generated some tentative assumptions regarding the interaction between hybrids and their host states. Yet these remain based on limited, case-specific evidence and have not yielded broader theoretical generalizations. What is more, the existing literature on hybridity in global governance has largely ignored the emergence of the new hybrid actors that are the subjects of this paper, even though insights from this field of research could potentially illuminate the workings of hybridity in other issue-areas of global governance. Therefore, in the remainder of this research paper, I will trace the genesis of the new hybrids in Latin

America and sketch the outlines of a research agenda that would address the origins and effects of this new actor in global governance.

3 Hybrid Anti-impunity Commissions: CICIG, MACCIH, CICIES, and CEICCE

Anti-impunity commissions are a new sub-type of hybrid actor, the functioning of which very much reflects the above-mentioned dynamics of 'social negotiation, conflict, and coalescence' (Mac Ginty 2013: 446). In contrast to other forms of hybrid governance such as hybrid criminal tribunals, anti-impunity commissions are characterized by moderate levels of delegation, lower sovereignty costs, and a deep enmeshment of the hybrid in the host state's domestic structures. The prototype of this new hybrid actor was established in Guatemala, where CICIG was created in 2006 pursuant to an agreement between the United Nations (UN) and the Guatemalan government. When the commission was forced to terminate its work thirteen years later, this was not because it was so ineffective but because it was so effective: when it began investigating corruption charges against then-president Morales' inner circle and later Morales himself, the latter first sought to obstruct CICIG's work and subsequently decided not to renew its mandate. CICIG had thus become a victim of its own success. Its quantifiable achievements are impressive indeed: CICIG achieved a 25% reduction in impunity and investigated over 200 cases that led to charges against more than 160 high-level government officials including former and incumbent presidents, a vice president, former ministers, former police chiefs, army representatives, politicians, businessmen, drug-traffickers, etc. (Transparency International Defence and Security 2017: 8). Survey data indicate high rates of public approval of CICIG in particular, with CICIG becoming the most trusted institution in Guatemala (Zamora 2019: 586); at the same time, public trust in the justice system in general increased by ten percent during CICIG's period of operation (Ibid.).

CICIG's mandate had a unique focus on strengthening investigations and prosecutions *as well as* contributing to the reform of the judicial system. On the one hand, CICIG was mandated to investigate and (co-)prosecute illegal security apparatuses and clandestine security organizations (CIACS) that have infiltrated all sectors of the Guatemalan state (Comision Internacional Contra la Impunidad en Guatemala 2006). It was authorized to initiate investigations on its own but needed the cooperation of Guatemalan authorities for prosecutions, which it was allowed to join as a private prosecutor (Ibid.). This combination of prerogatives was unusual and represented a concession to sovereignty concerns voiced by the Guatemalan Constitutional Court, which stripped away the independent prosecutorial powers CICIG was originally

intended to enjoy. Even with this more limited mandate, the establishment of CICIG entailed certain sovereignty costs for Guatemala. The exercise of both investigatory and prosecutorial powers under national law by a hybrid commission was a first in the history of anti-corruption initiatives (Krylova 2018: 96). CICIG moreover had the authority to identify civil servants who had committed administrative offences and participate in disciplinary proceedings against them. Crucially, in terms of longer-term structural reform, CICIG was empowered to initiate legislative proposals for combating impunity.

While CICIG produced solid results in the first years of its existence, its task seemed Sisyphean: 'As late as 2014, it did not seem to matter how many cases CICIG and the Office of the Public Prosecutor mounted against corrupt presidents, ministers, military officers, government employees, mayors, members of Congress, police, judges, or lawyers … the temporary vacuums would be filled by new actors eager to bend the country's deeply ingrained clientelistic structures and practices to their benefit' (Open Society Justice Initiative 2016: 39). This changed in 2015, when CICIG's investigations triggered a political earthquake which offered 'Guatemala its best hope for change in 20 years' (Ibid.). CICIG and the ministerio publico (MP) had exposed two massive corruption scandals (called *La Linea* and the IGSS – Guatemalan Institute of Social Security – scandal) which implicated high-level officials from president Molina's inner circle, including vice president Baldetti – and later Molina himself. The revelations triggered large-scale street protests which became known as the 'Guatemalan Spring'. Baldetti eventually resigned and was later arrested. Further investigations produced incriminating evidence that Baldetti and Molina themselves were the ringleaders of *La Linea*. Molina was ultimately forced to step down as well and was stripped of his immunity. He was subsequently arrested and is still awaiting trial. The democratic awakening triggered by CICIG's investigations is widely seen as one of the commission's most important achievements: 'Its signal legacy is demonstrating to a jaded Guatemalan citizenry that the most powerful people in the country can be held to account for criminal behavior. Interview after interview, including of legislative and civil society opponents of CICIG, highlighted this achievement by the international mission. The mission also demonstrated that, given the political space, national judicial institutions could work' (Call and Hallock 2020: 65).

It is too early, however, to assess the long-term effects of CICIG's work. Upon leaving Guatemala last fall, the commission recognized that its efforts had not been sufficient to transform the state. CICIG had almost gotten to the nucleus of the CIACS that had captured the state yet also stressed that lasting change was inhibited by the vested interests of powerful segments of society – a 'mafia coalition' of politicians, business leaders, and private individuals 'willing to sacrifice Guatemala's present and future to guarantee impunity' (quoted in The Guardian 2019). With a new president – who is said to be involved with those criminal networks that CICIG was hired to dismantle in the first place

(and who was once himself under investigation by CICIG) – the current political climate has become rather hostile (Burt and Estrada 2020).

Just like in Guatemala, the Mission to Support the Fight against Corruption and Impunity in Honduras (MACCIH) was created as a result of civil society pressure. In 2014, the discovery of a massive corruption scheme involving the Honduran Social Security Institute caused popular outrage, with tens of thousands of protesters demanding the resignation of president Hernandez and the establishment of a Honduran variant of CICIG. While CICIG was established pursuant to an agreement between the Guatemalan government and the UN, MACCIH came into existence through an accord between Honduras and the secretary general of the Organization of American States (OAS). It began operations in 2016 and terminated its work four years later, after president Hernandez refused to extend its mandate (Organization of American States 2020). And just like CICIG, MACCIH had become a victim of its own success, because its anti-corruption investigations had gotten in the way of the country's powerful, including Hernandez and members of the legislature, who were investigated by the attorney general with the support of MACCIH and voted to shut down the commission in 2019 (Avalos and Robbins 2020). Yet despite persistent attacks, MACCIH still produced solid results during its brief lifespan. It assisted in the prosecution of 133 people and 14 cases (Organization of American States 2020), notably in the high-profile investigations against former first lady Bonilla de Lobo, who was ultimately convicted of fraud and embezzlement and sentenced to 58 years in prison (Reuters 2019). Just like CICIG, MACCIH thus demonstrated to the Honduran citizenry that even the most powerful were not above the law (Chamorro 2020).

Whereas CICIG was mandated to investigate (yet not prosecute) independently, MACCIH depended for both investigations and prosecutions on the cooperation of its Honduran partners. Article 3 of the agreement establishing MACCIH provides for the Mission's 'active collaboration' with Honduran authorities on corruption cases, authorizing it to 'accompany, assist, supervise, and evaluate' state institutions investigating and prosecuting corruption (Organization of American States 2016). Stripping MACCIH of its powers to co-prosecute cases was likely a concession to the Honduran government fearing a commission with teeth (Zamora 2019: 593–594).

In comparison to its Guatemalan counterpart, MACCIH is generally – 'perhaps unfairly' – seen as less successful (Call 2019a: 2). However, one should also keep in mind that MACCIH was a rather short-lived institution and that CICIG was equally considered a disappointment in the first years of its existence: 'Ultimately, MACCIH started off strong despite a somewhat weaker mandate. It took some months to get up and running, then helped draft important laws that won passage ... It worked with the Public Ministry to secure the convictions of twelve individuals, including two ex-vice ministers and a magistrate of the Judicial Council, in its first two years' (Ibid.: 38–39). Over-

all, both CICIG and MACCIH have been much more successful than initially anticipated (Ibid.: 8).

Further ripple effects of CICIG's work could be observed in El Salvador, which recently agreed to the establishment of a CICIG-offshoot (Renteria 2019) after Nayib Bukele was elected president and made good on its campaign promise to establish an anti-corruption mission inspired by the models of CICIG and MACCIH (Call 2019a: 2). With three of his presidential predecessors investigated for corruption allegations, the issue of corruption featured prominently in Bukele's electoral campaign and apparently struck a nerve with many voters (Foster 2020). The International Commission Against Impunity in El Salvador (CICIES) was therefore established in order to 'support, strengthen and actively collaborate with the institutions of the Republic of El Salvador charged with preventing, investigating and punishing acts of corruption and other related crimes, including crimes related to public finances, illicit enrichment, money laundering, and national and transnational organized crime' (Organization of American States 2019). The exact scope of its mandate, however, is yet to be defined. Observers believe that CICIES will entail insignificant sovereignty costs in that it is probably merely a technical advisory mission rather than a mission with investigatory or (co)prosecutorial powers (Chamorro 2020). Like MACCIH and unlike CICIG, CICIES was created pursuant to an agreement (or rather a number of agreements) between the OAS and El Salvador. There is considerable confusion about CICIES' actual powers, owing to the fact that president Bukele is said to have rushed the creation of CICIES in order to make good on its campaign promise to establish a hybrid commission within the first 100 days of his tenure (Quintanilla and Caceres 2020). Yet, as observers point out, it will take quite some time before CICIES will begin its actual work (Call 2019b). Regarding the scope of its mandate, a recent commentary concludes that CICIES, 'as it currently stands, will act more as a technical advisor than as a commission dedicated to investigating corruption cases' (Quintanilla and Caceres 2020). Apparently, CICIES' mandate is limited to identifying corruption offenses committed by the executive including the ministries, notifying the MP and offering technical advice to the MP and other institutions (Ibid.). The main hurdle to giving CICIES investigatory powers similar to CICIG's or MACCIH's – as Bukele had promised during his campaign – is article 193 of the Salvadoran constitution, which confers exclusive investigatory and prosecutorial powers upon the attorney general's office (Ibid.). This, however, stands in contradiction to article 6.1.1 of CICIES' agreement with the Salvadoran presidency, according to which CICIES will provide 'technical assistance, accompaniment, and active collaboration in the investigation, criminal prosecution, and punishment of acts of corruption just as in the dismantling of networks of corruption' (quoted in Ibid.). This, analysts have pointed out, is not only at odds with the agreement concluded between CICIES and the attorney general's office, but, more importantly, is incompatible with the Salvadoran constitution (Ibid.).

If CICIES were thus to be given teeth, this would have to occur through a legislative process addressing these constitutional hurdles, yet none of the accords establishing CICIES contain measures aimed at overcoming this constitutional roadblock (Ibid.).

A fourth hybrid commission is currently being established in Ecuador and to date, very little is known about this new body. Last year, president Lenin Moreno made good on one of his central campaign promises and announced the creation of the Comision de los Expertos Internacionales Contra la Corrupcion en Ecuador (CEICCE) via executive decree (Presidencia de la Republica de Ecuador 2019). Like CICIG (and unlike MACCIH and CICIES) CEICCE was established pursuant to an agreement between the UN and the host state. Compared to CICIG and MACCIH, CEICCE's ambitions are more modest: just like CICIES, CEICCE will not have investigatory powers but is envisaged as an expert commission, which is tasked to provide advice to the judicial organs of the state of Ecuador. It shall conclude bilateral contracts with local institutions in charge of preventing, investigating and sanctioning acts of corruption in order to 'assist and fortify' them (Ibid.). CEICCE shall moreover receive complaints and propose public policies aimed at fighting corruption. Creating CEICCE via presidential decree certainly accelerated the process yet also cast doubt on the autonomy of the commission from the executive. Additionally, analysts fear that the commission might be dissolved with the same ease it was created (Pozas 2019). Compared to CICIG, the most complete model of the four anti-impunity commissions, CEICCE has only weak competencies and does not require a significant concession of sovereign privileges from its host state (Ibid.).

In sum, each of the replicas put its own spin on the CICIG prototype, which had the most far-reaching powers compared to the other hybrids. At the same time, CICIG was the most successful Latin American hybrid (so far). In the following section, a research agenda focusing on the impact of these commissions will be outlined, which should take into account, inter alia, the question of how the degree of delegation of sovereign prerogatives – which varies widely among CICIG, MACCIH, CICIES, and CEICCE – affects their performance.

4 Hybrid Anti-impunity Commissions as Causes

Hybrid anti-impunity commissions are purportedly established to strengthen national justice systems and consolidate the rule of law. To what extent they actually have this effect remains unclear, however. Two sets of questions in particular require further research: to begin with, how does the level of delegation affect a hybrid's impact upon host state structures, especially the justice

system? And secondly, how does this impact vary in the short-, medium-, and long-term? Put differently, what confluence of factors is required to achieve a longer-term transformation of the local justice system?

The existing literature offers only limited insights into these questions. Shared-sovereignty arrangements – of which the new hybrids are a sub-type – 'involve the engagement of external actors in some of the domestic authority structures of the target state' (Krasner 2004: 108), yet unfortunately these mechanisms remain largely 'underanalyzed and undertheorized' (Matanock 2014: 2). What remains poorly understood, for instance, is how the depth of delegation affects the provision of public goods. Whereas international and hybrid criminal tribunals involve deep delegation, anti-impunity commissions require only partial delegation and consequently entail comparatively lower sovereignty costs. Does that make them less successful in promoting the rule of law than more intrusive arrangements? In order to answer this question, two types of comparative case studies should be carried out: one involving variation *across* different categories of sovereignty-infringing institutions, for instance studies comparing hybrid criminal tribunals on the one hand to hybrid anti-impunity commissions on the other hand. Another type of comparative study could explore the effects of variation *within* a specific category of institutions, contrasting hybrid anti-impunity commissions that involve moderate levels of delegation to those requiring only shallow delegation. Can we simply assume that the more delegation, the better? And does this generalization hold not only for hybrid actors of the same category, but also across categories of hybrid actors? It does seem intuitively plausible to expect the depth of delegation to be positively correlated with a consolidation of the rule of law, in that actors with greater competencies and responsibilities should have a more significant impact on public goods provision in the host state than actors with lesser powers that depend upon the (often wavering) cooperation of local authorities (Matanock 2014: 3).[2] On this view, the 'external actor is most effective when reestablishing the rules through its own structures, rather than having to work within the state's structure' (Ibid.: 6).

Now, even a cursory glance at the performance of hybrid anti-impunity commissions suggests that the deterministic assumption about the greater effectiveness of arrangements involving full rather than partial delegation does not hold. Future research thus needs to address the complexities of this causal relationship in more detail. In the following, I will merely adduce some preliminary evidence from the cases of CICIG and MACCIH to cast doubt on the argument about the effectiveness of full delegation and demonstrate the need for more nuance. The main problem with full delegation is that it is unlikely to transform host state structures in the long-term. Hybrid arrangements such as CICIG and MACCIH, by contrast, which shared tasks and responsibilities with local actors, had strong incentives to empower the latter to make coop-

[2] Provided the former are equipped with the necessary resources of course.

eration more effective. CICIG and MACCIH thus turned a seeming weakness into an asset: as they were highly dependent upon cooperation with their local counterparts, they carefully built alliances and ensured that their collaboration partners would be trustworthy, untarnished by corruption allegations, and possessed the necessary skills and resources for effective investigations and prosecutions. Ultimately, local Guatemalan and Honduran authorities were the ones that made the final decisions. Since neither CICIG nor MACCIH had the powers to overrule poorly made decisions, they had to pre-empt bad decision-making by putting in place staff and infrastructure that would ensure that sound decisions were made. CICIG therefore launched reforms that led to the establishment of specialized high-risk tribunals (Tribunals de Mayor Riesgo) as well as of a special unit within the MP (the Fiscalia Especial Contra la Impunidad, FECI), which were 'central to its judicial successes and represented a strategic foothold in the judicial system where citizens could have confidence that corruption had not penetrated' (Call and Hallock 2020: 66). FECI staff were selected and vetted by CICIG and the attorney general and enjoyed a privileged position inside the MP in that they worked on a confidential basis and separately from the rest of the ministry (Open Society Justice Initiative 2016: 100). The collaboration between CICIG and FECI staff has been considered the commission's 'most effective capacity-building work' (Ibid.: 102). New staff were trained-on-the-job rather than through seminars and workshops, and knowledge was thus effectively transferred. CICIG also contributed to the establishment of the Criminal Analysis Division as well as the creation of new group-oriented methods of investigation, which enabled the prosecution of entire criminal networks rather than individual suspects. This, together with other reform initiatives launched by CICIG such as the introduction of wiretapping, witness protection programs, plea bargaining provisions, etc. significantly strengthened local investigatory and prosecutorial capacities.

Overall CICIG's presence has helped fortify core judicial structures such as the MP and the courts, which, according to one observer, have 'reestablished themselves as strong, independent institutions' (Zamora 2019: 589–590). The hope is that because CICIG created islands of trained and committed personnel within each institution it cooperated with, this will have a spillover effect onto the legal system as a whole (Hudson and Taylor 2010: 70–71). Similar trends could be observed as a result of MACCIH's work in Honduras. MACCIH initiated the creation of specialized anti-corruption infrastructure within the local legal system such as specialized court chambers – which were much more effective than regular courts – and a special prosecutorial unit within the MP, the Unidad Fiscal Especial Contra la Impunidad y la Corrupción (UFECIC, akin to the Guatemalan FECI), which were key to the mission's success (Chamorro 2020). MACCIH screened and trained UFECIC staff and selected cases for investigation, thus seeking to create an island of committed staff untarnished by corruption within the MP. It was just this island that

became the main sticking point in negotiations over the extension of MACCIH's mandate: 'MACCIH endured a troubled tenure, but nonetheless forged an increasingly promising alliance with UFECIC ... Accountability for high-level corruption, however incipient and fragile, was apparently not well received by some in Tegucigalpa. As MACCIH's mandate came up for renewal, negotiations between the Honduran government and the OAS centered on the mission's relationship with UFECIC and its ability to continue supporting criminal investigations, which the government sought to discontinue. The OAS apparently balked at this demand, and with negotiations at a stalemate, MACCIH'S mandate was allowed to expire' (Camilleri and Christie 2020). Both MACCHI and CICIG thus demonstrated that local institutions – with appropriate backing and insulation from political interference – can and do deliver in the fight against impunity. At the same time, however, it remains unclear to what extent the local capacities they created will survive in the long run. Will FECI or UFECIC, for instance, be able to stand on their own two feet, or does the departure of the hybrid commissions also signal the end of their local collaborators? Future research investigating the effects of the new hybrids on a variety of outcomes should thus differentiate between short-, medium-, and long-term effects.

The most certain inferences can be made with regard to short-term effects, where hybrid anti-impunity commissions were rather successful in strengthening the rule of law in their host states. As discussed above, this was likely due to the fact that they involved only moderate levels of delegation, which forced them to strengthen local structures rather than circumvent them. A quick glance at another hybrid mechanism outside of Latin American bears this assumption out: in Kosovo, the EULEX mission (2008–2020) operated almost in parallel to CICIG in Guatemala, yet was equipped with more far-reaching competencies and thus entailed a significant concession of sovereign prerogatives. Compared to CICIG, however, EULEX yielded only disappointing results. EULEX is the largest and most ambitious civilian mission under the EU's Common Security and Defence Policy (CSDP), combining executive functions with a mandate for justice sector reform and capacity-building. Just like CICIG and MACCIH, EULEX is fully integrated into the local legal system; yet in contrast to its Latin American counterparts, EULEX enjoys a broad set of prerogatives. Its powers are specified as follows: EULEX shall, *inter alia*, 'monitor, mentor and advise the competent Kosovo institutions on all areas related to the wider rule of law … whilst retaining certain executive responsibilities'; promote the rule of law, public order and security – if necessary through overruling or reversing decisions taken by local authorities; ensure that local authorities operate in an unbiased manner; and ensure that cases of grave human rights violations, organized crime, corruption and other offenses are 'properly investigated, prosecuted, adjudicated and enforced' – if necessary by international investigators, prosecutors and judges operating alongside or independently of their local counterparts (European Union

2008). EULEX is moreover tasked with mentoring, monitoring and advising (MMA) local authorities (EULEX 2010). In terms of impact on the rule of law, EULEX's intervention has yielded disappointing results. The European Court of Auditors found EULEX's performance to be largely unsatisfactory, 'particularly with regard to organised crime and corruption' (2012: 6). The auditors criticized that since EULEX judges and prosecutors also carry out executive functions, they have less time left for capacity-building (Ibid.: 16, 19). Even though MMA measures had somewhat strengthened the capacities of local justice operators, the latter were still not capable of dealing with complex cases involving organized crime, corruption, or war crimes (Ibid.: 19). Overall, the audit concludes, 'EU assistance to Kosovo in the field of the rule of law has not been sufficiently effective. Assistance has made only a modest contribution to building the capacity of the Kosovo police and little progress has been made in the fight against organised crime' (Ibid.: 35).[3] In contrast to CICIG or MACCIH, EULEX had the privilege of simply circumventing or overruling corrupt or incompetent local partners. Consequently, EULEX did not make sufficient efforts at building local capacity because from a short-term perspective it was easier to bypass dysfunctional local mechanisms than to substantially transform them.

In sum, then, even a cursory glance at the legacy of different hybrids indicates that the simplistic assumption about a unilinear relationship between the depth of delegation and success of the mission does not hold. The hybrids discussed in this article range from deep delegation (EULEX) to moderate or partial delegation (CICIG) to shallow delegation (MACCIH) to no delegation at all (CEICCE and CICIES, based on what is currently known about their mandate). While CEICCE and CICIES are nascent institutions whose effects cannot be assessed yet, a comparison of EULEX, CICIG, and MACCIH suggests that deep delegation does not produce a greater impact on the rule of law; on the contrary, sharing responsibilities and competencies more evenly among externals and locals actually contributes to peer-learning and thus capacity-building, which will probably make advances in the rule of law more sustainable in the medium-to-long term. But again, this hypothesis would require further research. While we now know that deep delegation has its drawbacks, this of course does not imply that the less delegation, the better. While CICIES and CEICCE – the two hybrid commissions displaying the lowest levels of delegation – have not established a track record yet and thus their impact cannot be assessed at the moment, it seems unlikely that these

[3] A number of policy briefs evaluating EULEX's track record are equally pessimistic. One report concludes that instead of empowering the local judiciary, 'a certain dependence has paradoxically been generated, with the Kosovar judges submitting to their international colleagues' (Llaudes and Andrada 2015). Another report echoes this criticism: 'EULEX has overwhelmingly exercised its executive functions and has failed to sufficiently design local-majority panels in serious and complex criminal cases ... This is an unfortunate legacy given that local participation and ownership are necessary for developing an experienced and professional Kosovo judicial culture' (Welski 2014).

actors will leave a major imprint upon the justice systems of El Salvador and Ecuador, respectively. Providing technical advice and receiving complaints about malfeasance will hardly be sufficient to change endemic practices of corruption and a deeply-ingrained culture of impunity. Rather, it seems that a mandate to investigate and (co-)prosecute cases of corruption and organized crime – and hence a medium-level of delegation – would have been desirable for these commissions. However, more research is necessary in order to identify the optimal level of delegation for these kinds of contexts.

5 Hybrid Anti-impunity Commissions as Outcomes

The preceding section discussed the *effects* of hybrid anti-impunity commissions, thus treating them as causes producing outcomes. Of course it would be equally possible to study these commissions as outcomes themselves, and ask, for instance, which factors have led to their establishment, consolidation, and decline. Obviously, these actors do not operate in isolation from their political context, and the recent expulsion of both CICIG and MACCIH – despite (or rather because of) their strong performance – suggests that we need to look at their organizational environment in order to understand why they thrive and why they fail. This organizational environment comprises a host of potentially relevant factors, which can each be associated with different approaches in International Relations (IR) theory.

The first question that arises in this context is why governments that are themselves often repressive, corrupt, and/or involved with organized crime would establish anti-impunity commissions in the first place. Commitment to international norms (or lack thereof) has been extensively debated in the discipline of International Relations. IR-realists paint a rather bleak picture: as the international system is anarchic and dominated by a logic of self-help (Waltz 1979: 107, 111), accepting the constraints of international law is seen as imprudent and potentially suicidal. Realists therefore have difficulties accounting for governments' commitment to international norms. IR-liberals and constructivists in turn are better equipped to solve the puzzle of why sovereigns would accept constraints on their power when signing international treaties. Liberalism assumes that governmental commitment to international norms is the result of domestic pressure (Moravcsik 2000). Constructivism proposes that governments become socialized into law-abiding behavior by a coalition of transnational advocacy networks and rights-protecting governments (Risse et al. 1999). On this view, commitment to certain norms – which may initially be a tactical response to outside or domestic pressure – over time leads to attitude change and thus norm internalization.

Emily Hafner-Burton et al. in their study of repressive governments' ratification patterns challenge this argument, however, pointing out that a number of studies have actually refuted the constructivist approach. Instead, the authors maintain that 'many repressors commit to the regime without any apparent intention of changing their human rights practices' (2008: 121). Hafner-Burton et al. therefore propose an alternative account inspired by sociological institutionalism. Sociological institutionalists submit that organizations cannot be understood in isolation from their institutional environment (Parsons 1956), and that organizations mimic other organizations whom they view as successful and in so doing hope to ensure their own survival (DiMaggio and Powell 1983: 152). By becoming isomorphic with their institutional environment, organizations seek legitimacy, status, etc. as members of an organizational field (Meyer and Rowan 1977: 347ff). Emulation does not imply norm internalization, however, which explains why organizations frequently fail to comply with the standards they have set for themselves. The 'decoupling' of organizational practice from structural elements allows the organization 'to maintain standardized, legitimating, formal structures while their activities vary in response to practical considerations' (Ibid.: 357). According to sociological institutionalists, global scripts prescribing standards of human rights, good governance, the rule of law, etc. define and legitimate the policies of nation-states and other actors 'in virtually all of the domains of rationalized social life' (Meyer et al. 1997: 145). In line with the basic tenets of sociological institutionalism, Hafner-Burton et al. therefore posit that subscribing to international standards of good governance, democracy, human rights, etc. 'creates opportunities for rights-violating governments to display low-cost legitimating commitments to world norms' (2008: 115), even when they have neither the capacity nor the intention to actually implement those norms (Ibid.: 126). Yet embracing these norms at least on paper has 'great legitimating value for nation-states. The subscribing sovereign gains, or claims, legitimacy in the eyes of superior sovereigns, peers, internal and external competitors, and internal subordinate groups and interests. And the price for this commodity is low, as enforcement is often little called into question' (Ibid.: 116).

In sum, even though the new hybrids do not figure in the IR-theoretical literature reviewed above, the latter's assumptions could be fruitfully applied to the study of anti-impunity commissions. In the following, I will use the example of CICIG (as it is the most well-researched of the four anti-impunity commissions) to subject the assumptions put forward by the different IR-theories to a preliminary test. The results indicate that parsimonious theories seeking to identify a single explanatory variable – or at least to narrow multiple causal influences down to a single level of analysis – cannot account for the spread of the new hybrids. Rather, it seems that the proliferation we are currently witnessing is due to a confluence of factors from different levels of analysis.

The initial impetus for the creation of CICIG actually came from civil society, which, in 2002, had suggested the creation of an international commission to

investigate threats emanating from the remnants of the Guatemalan military's counterinsurgency intelligence networks that had survived the country's long-running civil war and were threatening human rights in present-day Guatemala (Open Society Justice Initiative 2016: 4). When the United Nations got involved in the discussion, it suggested a beefed-up commission which would have the powers to both investigate and prosecute under Guatemalan law, 'because it saw broader, and graver, menaces to state stability from rapidly growing national and transnational organized crime groups overwhelming frail, and often-compromised, state institutions' (Ibid.). Alfonso Portillo, then-President of Guatemala, thus signed an accord providing for the creation of an 'International Commission Against Illegal Security Groups and Clandestine Security Organizations' (CICIACS), which was rejected by both Congress and the Constitutional Court, however (Ibid.). President Portillo's decision to cede part of the state's sovereign prerogatives to CICIACS was allegedly primarily motivated by the administration's desire to enhance its legitimacy. Portillo was well aware of the country's poor image and the importance of mending fences with core allies such as the US and the UN (Dudley 2018: 33). Portillo had come to power with the help of the old military guard, including General Efrain Rios Montt, who had committed atrocities during the civil war (Montt would be later convicted of genocide), and thus the Portillo administration had 'exceptionally little credibility in the human rights field and only limited support among the educated middle class or the press' (Mersky and Roht-Arriaza 2007: 11). Some presidential staff members had a background in human rights and advised Portillo that in order to legitimate his administration internationally, he should position himself as a champion of human rights (Ibid.). For Portillo, supporting the CICIACS initiative was thus a seemingly 'low-cost gesture to the international community and human rights NGOs' (Open Society Justice Initiative 2016: 29).

In 2004, Portillo was succeeded by Oscar Berger. Whereas Berger himself was seemingly rather indifferent, his deputy Eduardo Stein, who was said to be 'politically independent and forward thinking' (Dudley 2018: 34), became increasingly concerned with organized crime in Guatemala and lobbied persistently for a CICIACS successor organization. Stein and Interior Minister Carlos Vielman became critical proponents of the proposal for what would later become CICIG. They lobbied important domestic players and also traveled to Washington, D.C., to persuade the US to throw its full force behind the proposal (Ibid.: 35). The presence of Vielman – a conservative politician who would later be accused of extrajudicial killings – was helpful to persuade the traditional business elites to endorse the establishment of an anti-impunity commission, although their motivations remain unclear: 'There is some dispute about whether they saw the CICIG as a possible tool to use against their bureaucratic and emerging elite rivals … Stein, however, disputed this assertion. He said the elites close to the government took a more hands-off approach. They may not have thought the proposal was good, but they did

not think it would affect them in any significant way. And in the best-case scenario, they thought that they might benefit' (Ibid.). Stein also involved members of civil society, legal experts, as well as the head of the president's human rights council, Frank la Rue, in exploring options for the establishment of an anti-impunity commission that would pass the constitutional and political hurdles CICIACS had not been able to overcome (Open Society Justice Initiative 2016: 33).

The modified proposal establishing CICIACS successor organization CICIG still encountered domestic resistance but was approved in late 2007 due to a confluence of factors (Ibid.: 17). President Berger had stalled on CICIG and only forwarded the CICIG agreement to Congress for ratification when a political scandal over the slaying of three El Salvadoran members of the Central American Parliament (Parlacen) and their driver, who were on their way to Guatemala City, shook the country (Ibid.: 36). While the murder in and of itself was shocking, its aftermath was politically even more consequential, as a number of Guatemalan police officers who had been arrested for the crime were subsequently executed inside a maximum-security prison, which suggested the infiltration of the national police by criminal networks (Ibid.). The scandal prompted Berger to send the CICIG proposal to the Congress foreign affairs committee, which, despite a favorable ruling by the Constitutional Court, rejected the CICIG agreement as being in violation of the constitution. This caused another political uproar, especially because at least one of the Congressmen on the foreign affairs committee who had voted against the CICIG agreement was apparently linked to organized crime. The public outrage created by the apparent infiltration of state structures by criminal agents ultimately shamed Congress into approving the CICIG agreement (Ibid.: 37).

While domestic dynamics were thus crucial in the establishment of CICIG, external factors also played a role. CICIG was strongly promoted (and funded) by a number of European states and – most critically – the United States: 'These states were instrumental in lobbying the Guatemalan government for approval of the CICIG agreement, ensuring strong support in the UN General Assembly and Secretariat, and moving to CICIG's defense when the Commission came under attack in Guatemala. The Commission could not have functioned without this political support' (Ibid.: 104). Support from these countries proved to be vital at every critical juncture CICIG faced. 'The most decisive pressure' came from the US (Ibid.: 77): 'Narcotrafficking and illegal migration had been American priorities in Guatemala for two decades, and CICIG, in conjunction with the Office of the Public Prosecutor under Claudia Paz y Paz, and now under Thelma Aldana, had proved effective allies in the arrest and extradition of major drug traffickers ... The U.S. leverage was a new Central American assistance program, the Alliance for the Prosperity of the Northern Triangle of Central America, offering some $1 billion in aid for security, good governance, and economic growth programs to address the causes of migration' (Ibid.: 79). Yet despite increasing pressure from all sides,

president Molina remained adamant in his opposition to CICIG, not knowing that soon thereafter the Guatemalan Spring would propel CICIG to fame and himself to prison.

Despite its stellar successes in resolving the *La Linea* scandal and bringing down a corrupt president and his deputy, CICIG continued to face domestic pressures that would ultimately lead to its downfall. When CICIG began investigating corruption charges against Molina's successor Jimmy Morales' inner circle and later Morales himself, the latter first sought to obstruct CICIG's work and subsequently decided not to renew its mandate. This time, however, corruption won the day, and CICIG had to terminate its mandate in 2019 after many years of successful work. How was this possible? A major factor was that in contrast to its predecessors, the Trump administration had little interest in supporting CICIG, and thus a window of opportunity opened up for domestic proponents of impunity to rid themselves of the commission. Trump, adopting a 'transactional' approach to foreign policy – making short-term cost-benefit-calculations rather than adopting a longer-term principled approach – had decided to sacrifice the goal of anti-impunity in return for political favors by the Guatemalan government, more specifically Morales' promise to move Guatemala's embassy in Israel to Jerusalem and cooperate on migration issues (Camilleri and Christie 2020).

Domestically, the population at large continued to strongly support CICIG: thousands protested against Morales' decision to expel CICIG and several candidates for the presidential office in Guatemala's 2019 elections pledged support for a renewal of CICIG's mandate, but none of them received enough votes to participate in the runoff election last August. 'There is a high level of support for CICIG. But people did not manage to translate that into clear political party positions,' Jose Carlos Sanabria, a researcher at the Association for Research and Social Studies, observed (quoted in Cuffe 2019). The Trump administration's 'tacit green light' to expel CICIG (Cuffe 2019) and wavering domestic support thus ultimately sealed the deal and led to the demise of the most successful anti-impunity commission so far. Overall then, a confluence of factors from the domestic and international levels led to both CICIG's rise and decline.

Now, how do the different IR-theories discussed earlier fare in explaining the rise and decline of the new hybrid commissions? As a cursory analysis of the genesis, evolution, and demise of CICIG demonstrates, the classical, billiard-ball model proposed by neo-realism is of little help in understanding why these new actors have emerged. While coercive or utilitarian compliance as a result of external pressure (mainly coming from the US) did play a decisive role – which would support a rational choice-based explanation – it was not the only relevant factor in the equation. Rather, domestic variables played a critical role in conjunction with external factors. Therefore, in order to understand the rise and decline of the new hybrid commissions, parsimonious

theories will not do. Rather, theoretical approaches combining factors from different levels of analysis seem to be best suited to explain why these commissions have emerged and why they are being killed off.

As regards the *genesis* of the new hybrids, at first glance, a sociological institutionalist explanation focusing on legitimacy-seeking behavior of governments with dubious credentials seems to have a certain explanatory power, as president Portillo apparently viewed the creation of an anti-impunity commission as a low-cost legitimating maneuver to rehabilitate his administration in the eyes of the international community. However, upon closer inspection it turns out that an exclusive focus on systemic influences as proposed by sociological institutionalism cannot fully solve the puzzle of CICIG's creation, as the initial impulse for its establishment came from domestic civil society, which sociological institutionalism does not take into account.

The genesis of CICIG moreover demonstrates that states are not monolithic blocks or black boxes, as IR-realism would have it. Instead, one must disaggregate state actors and explore how the different players within the government (and other state agencies) ally with other actors in the pursuit of their goals. In the Berger administration, for instance, the influence of an indifferent president was counteracted by the lobbying of his deputy Stein and interior minister Vielman, who strategically allied with civil society actors, legal experts, etc. to bring CICIG to life even against significant domestic pressure from Congress and others. The importance of these 'compliance constituencies' to the survival of the new hybrid commissions cannot be underestimated. The Guatemalan Spring, triggered by CICIG's revelation of the *La Linea* scandal, demonstrates the political clout of these compliance constituencies, which corroborates IR-theoretical approaches such as constructivism or liberalism that stress the salience of domestic civil society.

This, however, does not imply that external factors such as coercive pressures applied by powerful states were insignificant to the fate of CICIG. Instead, support from donor countries, especially the US, was vital at every critical juncture CICIG faced. The importance of external coercion became particularly obvious when the Trump administration decided to withdraw its support for CICIG in return for political favors by the Morales administration, thereby sealing CICIG's fate. While counterfactual reasoning is always fraught with uncertainty, it seems plausible to assume that had the Trump administration thrown its full weight behind the embattled commission instead of giving Morales a green light to expel it, CICIG would have survived longer. Continuing domestic support for CICIG was thus not sufficient to prevent the termination of its mandate, as this support could not be translated into clear political party positions. A theoretical approach focusing primarily on domestic variables such as liberalism thus seems equally ill-equipped to understand the successes and failures of CICIG.

In sum, then, a cursory analysis of the factors that were salient during CICIG's life span shows that its establishment, consolidation and decay was caused by a confluence of variables from the sub-systemic and systemic levels of analysis, requiring a complex theoretical approach such as constructivism, which looks at how different (domestic and international) elements of the compliance constituency interact. Further research should explore this interaction in more detail, especially with a view to testing the causal linkages outlined above across cases of new hybrids such as CEICCE and CICIES, once these have been in operation for a sufficient period of time.

6 Conclusion

Earlier on, I argued that we are witnessing a hybrid turn in global governance, a trend which has manifested itself *inter alia* in the emergence of the new anti-impunity commissions that have proliferated in Latin America over the past one-and-a-half decades. As these new hybrids are extremely understudied, the goal of this contribution was to map a research agenda that would address the rise and decline of these commissions. Future research should focus on generating broader theoretical propositions addressing why these commissions emerge in the first place, why they succeed, and why they fail. Currently, we have only case-specific and anecdotal evidence; more systematic and comparative analysis is thus required in order to arrive at theoretical generalizations that would help us to make sense of the hybrid turn. As the different hybrid commissions surveyed in this research paper were born (and died) at different points in time and varied in terms of the length of their life-span – with CICIG surviving for about a decade and a half, which allowed it to mature into a consolidated institution; MACCIH being initiated about a decade later and terminated after a rather short life-span of not even five years; and CICIES and CEICCE just having been launched recently – inter-institutional comparisons should yield interesting insights not only into the dynamics of diffusion but also into the short-, medium-, and long-term effects of these new hybrid commissions.

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Abstract

In a variety of issue-areas in global governance, hybrid solutions have been experimented with in order to address the dilemma created by the export of Western templates of good governance, democracy, the rule of law, etc. to non-Western contexts. The latest manifestation of this global trend towards hybridity are hybrid anti-impunity commissions which have begun to proliferate in Latin America, and which are likely to produce ripple-effects beyond the continent. Their prototype, the Comision Internacional Contra la Impunidad en Guatemala (CICIG), was deployed in Guatemala; later, variants of CICIG were created in Honduras, El Salvador, and Ecuador. However, the new hybrids remain largely underresearched. This contribution therefore discusses the state of art and outlines a research agenda on these new hybrid commissions, arguing that, on the one hand, the effects of these mechanisms require further scrutiny – how do hybrid anti-impunity commissions shape a variety of possible outcomes including the rule of law, statehood, sovereignty, democracy, and the like? On the other hand, we should investigate the factors that contribute to the establishment, successes, and failures of these hybrids, thus treating them as outcomes to be explained.

Keywords Hybridity; anti-impunity commissions; shared-sovereignty arrangements; International Commission against Impunity in Guatemala; Mission to Support the Fight against Corruption and Impunity in Honduras.

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