

## Can Regional Governance Help Safeguard Guatemala's Democracy?

by Tiziano Breda

Guatemala's politics has recently been shaken by the victory of anti-corruption crusader Bernardo Arévalo de León,<sup>1</sup> which has brought fresh air of hope in a country ridden by high levels of poverty, corruption and criminal violence. The result fits with the wave of anti-incumbent victories in Latin America: it is the 16th country in the region where an opposition candidate has been elected president in the past five years, out of 17 elections.<sup>2</sup> But like or even more than in other countries, the electoral results are being contested by an astounded political and economic establishment unwilling to give its power away. Vicious attempts by judicial authorities to prevent Arévalo and his party's congressmembers from taking office have raised domestic and

international concerns that Guatemala may also join the growing list of Latin American countries experiencing setbacks in their democratic standards.<sup>3</sup> The Organization of American States (OAS), a virtually moribund regional body that has proven unable to solve political crises and has at times even exacerbated them, has come back to the fore as the political forum where to coordinate a regional response. Will the Guatemalan case revive the fortunes of the OAS and will international accompaniment be enough to safeguard democracy in the country?

### *An impunity-prone status quo*

Guatemala is the biggest country in Central America and with the largest economy. It is also, however, among the most unequal, with around half of the population below the poverty

<sup>1</sup> He is the son of Juan José Arévalo Bermejo, the revolutionary president who led the country's transition to democracy in 1945.

<sup>2</sup> Most of those candidates are leftist, which has made some believe the region is experiencing a second "pink tide". Casey Cagley, "The Anti-Incumbent Movement is Scrambling Politics in Latin America", in *Modern Diplomacy*, 18 August 2023, <https://moderndiplomacy.eu/?p=65495>.

<sup>3</sup> Economist, "Latin America Is Under Authoritarian Threat", in *The Economist*, 15 February 2023, <https://www.economist.com/graphic-detail/2023/02/15/latin-america-is-under-authoritarian-threat>.

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line and suffering from high rates of malnutrition, especially among indigenous people, which account for 40 per cent of its population.<sup>4</sup> It also hosted one of the most successful anti-corruption experiments in Latin America – the United Nations-backed International Commission against Impunity in Guatemala (CICIG, 2007–2019) – which contributed to dismantling over 70 criminal networks encrusted in the country's institutions involved in violence, drug trafficking and extortion activities. The zenith of this sweeping anti-corruption crusade was reached in 2015, when then-President Otto Pérez Molina eventually heeded the calls to resign by thousands of Guatemalans who protested in front of the presidential palace for months, after a CICIG-led investigation found him and his vice president involved in a large-scale corruption scheme involving the state customs.<sup>5</sup>

The lull, however, did not last long. Pérez Molina's successor, Jimmy Morales, a former comedian, turned his back on the CICIG after the latter started investigating his brother and his son, and eventually shut it down in 2019.<sup>6</sup> Since then, the country has experienced serious setbacks in its democratic institutions, as a coalition

<sup>4</sup> The chronic political and economic marginalisation of the Guatemalan indigenous population fuelled one of Latin America's longest civil wars, from 1960 to 1996.

<sup>5</sup> Nina Lakhani, "Guatemalan President's Downfall Marks Success for Corruption Investigators", in *The Guardian*, 9 September 2015, <https://www.theguardian.com/p/4c82y>.

<sup>6</sup> Tiziano Breda, "Curtain Falls on Guatemala's International Commission against Impunity", in *International Crisis Group Q&A*, 3 September 2019, <https://www.crisisgroup.org/node/11130>.

of political, economic and military elites (commonly dubbed as the Pact of Corrupts) scorched by CICIG-led investigations strived to re-establish an environment of impunity through the co-optation of the judiciary. The Attorney General Consuelo Porras, appointed by Morales and confirmed by his successor, the incumbent Alejandro Giammattei, turned out to be the most strenuous defender of these interests. Her office buried investigations into the president's alleged acceptance of bribes by Russian contractors, and instead persecuted prosecutors, judges and journalists who had championed anti-corruption efforts, leading more than 30 of them to flee the country and jailing others on abuses of power charges.<sup>7</sup>

### *The boomerang effect of a tilted electoral game*

In the run-up to the 2023 election, growing popular disenchantment with the political class morphed into an anti-system sentiment. Authorities reacted by excluding from the race a number of well-polling candidates for alleged irregularities in their or their parties' enrolment.

However, this strategy boomeranged, and channelled the protest vote to the only remaining candidate that was perceived as external to the system: Bernardo Arévalo de León, running

<sup>7</sup> Porras has been included by the US in a list of Central American corrupt actors, known as the Engel list. Jonathan Blitzer, "The Exile of Guatemala's Anti-Corruption Efforts", in *The New Yorker*, 29 April 2022, <https://www.newyorker.com/news/dispatch/the-exile-of-guatemalas-anti-corruption-efforts>.

on an anti-corruption ticket for a tiny party called *Semilla*. Arévalo, who was polling below 3 per cent before the first electoral round, not only made it to the second round, but then obliterated the other run-off contender, former first-lady Sandra Torres from the UNE party, in a landslide victory on 20 August with an over 20 points lead.<sup>8</sup> Arévalo's party also obtained 23 seats in the upcoming legislature, more than three times its 2019 performance. Overall, the Guatemalan election results align with a regional trend of anti-incumbent victories in recent years, although in this case the winner is a progressive champion of democracy, instead of an anti-system populist, as had happened in El Salvador, Costa Rica and elsewhere in the region.<sup>9</sup>

### *The legal fightback against change*

*Semilla*'s unexpected result prompted the reaction of those same forces that had tried to channel the vote toward less dangerous candidates and that now put up a number of legal challenges to undermine the credibility of the election and disqualify the president-elect's party. This strategy pivots around accusations of wrongdoings in the creation of *Semilla* that would erase its status as a legitimate party, and claims of fraud. Right after the first round, the Attorney General's office opened investigations into alleged irregularities (fake signatures) upon *Semilla*'s creation, aiming to strip it of its legal status; this was

<sup>8</sup> "Arevalo Wins Guatemala Presidency in Landslide amid Hopes for Change", in *Al Jazeera*, 21 August 2023, <https://aje.io/pl6weu>.

<sup>9</sup> Casey Cagley, "The Anti-Incumbent Movement is Scrambling Politics in Latin America", cit.

coupled with accusations of abuse of power directed to Supreme Electoral Tribunal's magistrates that certified the results.<sup>10</sup> As a result, while Arévalo has been confirmed as president-elect, the Congress has already proceeded to strip the *Semilla* deputies elected in the 2019 elections – including Arévalo himself – of their seats.<sup>11</sup>

In parallel, nine parties obtained by the Supreme Court, allegedly close to the incumbent executive, a ruling in favour of a recount of the votes of the first round, questioning the findings of national and international observation missions, which did not report any broad irregularities. The recount ended with the officialisation of the results in mid-July, eventually assigning a few more votes to *Semilla* than originally reported.<sup>12</sup> Yet, after the second round, Torres refused to concede and denounced a supposed fraud, despite the unequivocal margin separating her from Arévalo.<sup>13</sup>

<sup>10</sup> Sonia Pérez, "Guatemala: la Fiscalía General pide retirar la inmunidad de jueces del Tribunal Electoral", in *AP News*, 24 August 2023, <https://apnews.com/a202d19f741ed71be678d4cb9c0dd2e8>.

<sup>11</sup> "Guatemala Electoral Tribunal Temporarily Revokes Suspension of President-elect's Party", in *Reuters*, 3 September 2023, <http://reut.rs/45CEruU>.

<sup>12</sup> Evelyn Boche Ventura, "La Corte Suprema allana el camino para la oficialización de resultados electorales en Guatemala", in *El País*, 11 July 2023, <https://elpais.com/internacional/2023-07-11/la-corte-suprema-allana-el-camino-para-la-oficializacion-de-resultados-electorales-en-guatemala.html>.

<sup>13</sup> Sonia Pérez, "Candidate Who Lost Guatemala's Presidential Election Files Complaint Alleging Voter Fraud", in *AP News*, 26 August 2023, <https://apnews.com/888e42a2c17d11483926ee89c42d1e93>.

Recently, the Attorney General's office prosecutors even stormed the facilities where ballot boxes were stored, opening 160 of them, a move that electoral authorities considered illegal.<sup>14</sup>

After the prosecutors' raid, Arévalo has eventually decided to halt the transition until the Attorney General resigns and ceases the political persecution.

### *Domestic and international outcry*

The legal attempts to dismiss the will of change of Guatemalan voters have sparked a wave of public outcry in the country. It has also not gone unnoticed in the international arena.

The electoral observation missions of the OAS and the European Union repeatedly expressed their rejection of any attempt to defy the electorate's choice. The OAS Permanent Council discussed the situation in Guatemala and mandated the Secretary General to monitor the situation closely during the transition. The latter warned that the suspension of *Semilla* is a violation of the due process that Guatemala, being part of the Inter-American system, is mandated to respect.<sup>15</sup>

Strong public messaging also came from the US: government representatives, from President Biden to a bipartisan group of Congress members, have reiterated both privately

and publicly their concerns and called on Guatemalan judicial authorities to stop undermining the country's democracy.<sup>16</sup>

These domestic and international pressures may have contributed, together with the blatant arbitrariness of the judicial measures taken so far, to creating some fissures in the establishment. The Supreme Electoral Tribunal, an accomplice in the run-up to the election with the disqualification of candidates, has now turned into a strenuous defender of the election results and proceeded to officialise them despite the legal challenges and Torres's party's refusal to concede. At the political level, two ministers (Economy and Energy and Mining) resigned from their posts, while a few politicians from across the spectrum decried the obstructionism against *Semilla*. Most notably, a few private sector chambers and even the country's largest business confederation, known as CACIF, issued public statements in defence of the integrity of the vote and calling on institutions to let the electoral process come to completion.<sup>17</sup>

Against this backdrop, President Giammattei is believed to be playing a double game. In public, he has opened the door to Arévalo for an orderly transition, inviting OAS Secretary General Luis Almagro to oversee the process. At the same time, however, he

<sup>14</sup> "Guatemala: President-elect Arevalo Pauses Transition", in *Deutsche Welle*, 12 September 2023, <https://www.dw.com/en/a-66795218>.

<sup>15</sup> Organization of American States, *Statement from the OAS General Secretariat on the Situation in Guatemala*, 28 August 2023, [https://www.oas.org/en/media\\_center/press\\_release.asp?sCodigo=E-048/23](https://www.oas.org/en/media_center/press_release.asp?sCodigo=E-048/23).

<sup>16</sup> US Department of State, *Election Results in Guatemala*, 29 August 2023, <https://www.state.gov/election-results-in-guatemala>.

<sup>17</sup> Esdras Laz, "Sector Privado Organizado reafirma compromiso con la democracia", in *La Hora*, 5 September 2023, <https://lahora.gt/?p=656299>.

has remained silent on the apparent political persecution of *Semilla* by the judiciary and legislature.<sup>18</sup>

### *The need to keep Guatemala in the spotlight*

Notwithstanding, the remnants of the current political establishment appear to be eager to defy the public outcry within and without the country. The fate of Consuelo Porras, in particular, seems intrinsically linked to the preservation of the status quo by reducing as much as possible Arévalo's margin of action.

While Arévalo's victory seems hard to overturn at this stage, this cannot be ruled out completely until all claims of fraud are dismissed and the transition to the new administration is completed in January 2024. This would be a dismal scenario, which would likely lead Guatemala into the abyss of a full-blown coup d'état, with unpredictable consequences in terms of social turmoil and international isolation. At the same time, however, the legal cases against *Semilla* are likely to advance, unless they are denounced as political persecution by the widest array of sectors in the country. The suspension of the party would affect Arévalo's ability to set the legislative agenda, already quite limited from the start, having *Semilla* won only 23 out of the 160 seats.

Constant engagement of regional governments and statements from political and economic sectors should help prevent this. The task is particularly

delicate for the OAS, whose legitimacy has been tainted by its inability to craft a coordinated, principle-based response to some of the political and electoral crises that have affected the region in recent years, particularly Nicaragua, Venezuela and Bolivia. Critics have accused the body of approaching crises with an ideological bias: it has occasionally dismissed complaints of undemocratic moves in such countries as Brazil, El Salvador and Honduras when they were under conservative rule, while advancing allegations of fraud without solid evidence, which in turn fuelled tensions in Bolivia in 2019.<sup>19</sup> Guatemala offers an opportunity for the OAS to wash away the perception of being politically biased and reposition itself as the most suitable regional forum to handle the crises arising from violations of the principles enshrined in the Inter-American Democratic Charter.

To do so, however, concrete results are needed. Regional governments will have to agree on the reputational and diplomatic costs that the actors trying to overturn the election may encounter, and be prepared to enforce them. These may include scaling down cooperation with judicial authorities and, if Arévalo were eventually prevented from taking office, the activation of the democratic clause of the Inter-American Democratic Charter, which may lead to the suspension of Guatemala from the OAS. Additionally, they should coordinate closely with the EU and other partners to maintain

<sup>18</sup> Eric L. Olson, "The Guatemalan Surprise", in *Weekly Asado*, 8 September 2023, <https://www.wilsoncenter.org/blog-post/guatemalan-surprise>.

<sup>19</sup> Council of Foreign Relations, "The Organization of American States", in *CFR Backgrounders*, last updated on 19 October 2022, <https://www.cfr.org/node/7048>.

Guatemala in the spotlight and engage regularly with Guatemalan authorities to convey their commitment to the cause for democracy in the country. Intermittently monitoring the situation or simply paying lip service may not only keep judicial actions unscathed, thus setting a dangerous precedent in Guatemala's hardly-fought democracy, but also embolden corrupt actors across the Western Hemisphere to follow Porras's footsteps.

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