

Militarization of Citizen's Security: Guatemala

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Introduction

The militarization of national security we address in this report is not one in which the military leadership tries to grasp control of national security. This is a more versatile but not less damaging type of militarization. It involves constant military intervention in national security matters to weaken the civilian administration of security, particularly in the National Civilian Police (PNC). Advisers lead this process of internal weakening as well as military officials -on duty or retired- in the Ministry of the Interior and in civilian intelligence offices. The weakening efforts also occurred through the militarization of police practices and strategies.

The type of militarization in this report is not one in which the military leadership tries to control national security but one in which the military's constant intervention in national security matters lends itself to anomalous management of funds or responds to external economic or political interests and is promoted by them. It is not meant to safeguard the integrity of citizens or contribute to real solutions.

Greater military use in citizen security operations also responds to external economic or political interests. It is promoted by them and does not contribute to real solutions. These practices are so deeply ingrained in the country that we will not use the term "remilitarization" in this chapter because militarization never stopped.

The two situations that make militarization even more evident are (1) situations of social conflict due to border problems, opposition to extractivism (mining), and human rights violations related to monocultures (bananas, African palm) and land usurpation and evictions, among other reasons; and (2) peaks of insecurity due to gang or drug traffic related violence.

The history of the states of exception in the country, and the indiscriminate use of military force during the national armed conflict (1960-1996), shows that this measure does not solve the underlying problems. States of exception simply silence social demands; they do not solve any needs, especially the victim is criminalized. Moreover, results are usually short-term in the case of criminal violence or organized crime. The violence decreases during the state of exception only to come back later.

The current administration of President Alejandro Giammattei is the one that has used the most states of exception. While the average has been one per year in administrations over the past ten years, the current standard is three per year since the start of the administration in 2020. Four were mandated due to insecurity, delinquency, or organized crime, and the remaining three were due to social conflict. The inability to generate intelligence for prevention strategies, and to solve the underlying problems, feeds the need for the army to come in and reduce crime and social conflict—even if this is a short-term measure. That has been the tactic of civilian and military governments for the past 70 years. Since the 1950s, militarization is not an end in itself but a means of social control to defend national and foreign actors' economic and political interests, even at the expense of violating the human rights of vulnerable populations. Militarization is also a tool for accessing funds without any accountability.

In the 1950s, the Army bowed to the political (the narrative of the fight against communism) and economic interests (the agrarian reform and the land expropriation from Guatemala's *United Fruit*

Company during the administration of Jacobo Arbenz Guzmán, overthrown in 1954) by the United States, with whom Guatemala had an ongoing relationship of influence based on political alliances since the second decade of the twentieth century.

The army was involved in a professionalization and modernization process until the decade of the "democratic revolutionary governments" between 1944-1954 (Arévalo, 2021: 128). A key component was the blackmail against the Guatemalan military by the U.S. in April 1954, when the armies in Nicaragua and Honduras received weapons and equipment and conditioned aid to Guatemala to overthrow President Arbenz (seen as a dangerous communist in the region). By July of that year, the blackmail had worked, and his government had been overthrown.¹

Subsequent military administrations put Canadian mining companies' interests before indigenous communities' rights. El Estor, Izabal, is a prime example of that. This practice is currently held in that municipality and many others, using military and police resources to defend the interests of local and foreign companies, even when civilians govern the state. The government also uses state institutions to criminalize victims.

The signing of the Peace Accords in 1996, and the Agreement to Strengthen Civilian Power and the Role of the Army in a Democratic Society, sought precisely that strengthening. A clause in the agreement opened the door to the use of military forces when civilian forces were overwhelmed. The problem is that this is a normal occurrence in the country and that the agreement did not give rise to the legal reforms needed to strengthen Civilian authorities.

Militarization always contributes to undermining public institutions to the detriment of democracy. That includes the growing presence of retired military officers in public office. Although they look to satisfy their interests, they have also weakened civilian power. Their influence depends entirely on the Executive branch and on the political parties that include them in their lists of candidates for delegations in Congress. Moreover, due to a lack of action by the Executive branch and Congress, the weaknesses in the Civilian Service Law allow the placement of former military personnel in office, jobs for which they have no experience.

Scientist Bernardo Arévalo mentions that the military is not the only institution to blame but also civilian governments. "The fluctuation in the share of military participation in national security in the last 25 years can be better explained by the inconsistency and incoherence of civilian authorities than by sustained institutional pressure from the military" (Arévalo, 2021: 137). In some governments, it has been a calculated decision not to have a joint government with military leadership.

This chapter shows the current situation in the field, what factors have historically influenced militarization, and which are the most significant repercussions based on personal interviews, official documents, and bibliographic and newspaper research, as well as journalistic coverage since the mid-1990s. Inquiries were made to the Ministry of Defense, the Ministry of the Interior, the General Directorate of Civilian Intelligence (Digici), and the Secretariat of Strategic Intelligence (SIE), which did not respond to requests for interviews or information.

2. Legal Context

Laws relevant to the use of military forces in national security tasks:

Public Order Act of 1970→ This law governs all matters related to states of exception. This Act includes states of exception and the use of the military. It outlines that they can only be approved by a simple majority in Congress (half of the votes plus one) and can be mandated for a maximum of 30 days. The deadline can be extended only with congressional approval. Other provisions, such as the State of Prevention, only last 15 days and require approval from the Executive branch, including the cabinet.

The Political Constitution of the Republic of 1985→ Amended 1993) empowers the Army to participate in anti-narcotics operations. The Constitution allowed the Army to participate in national security tasks, fight drug trafficking and defend the environment (Aguilera, 1994: 80). Article 244 states that: "The Guatemalan Army is an institution destined to maintain (...) the integrity of the territory, peace and national security".

Military Law, Legislative Decree 72-90. It acknowledges the President as the Commander in Chief of the army and outlines that the military must follow the president's command per the Constitution. In addition, this law states that the military can participate in politics, or hold public office, only after being discharged for five years.

Government Agreement 90-96→ Approved on March 7, 1996, by the Council of Ministers and ten months before the signing of the Agreement on the Strengthening of Civilian Power and the Role of the Army in a Democratic Society. The agreement mentions in its first articles: "

"The Ministry of the Interior, through the national security forces, will prepare, execute and supervise the public security plans deemed necessary, with the support of the Guatemalan Army and its corresponding military units."

"The Ministry of Defense, through its Joint Chiefs of Staff, will collaborate and provide support in the fight against organized crime."

Agreement on Strengthening Civilian Power and the Role of the Army in a Democratic Society (AFPC)→ Signed on December 29, 1996, the agreement contained provisions regarding military participation in national security tasks:

"When the ordinary means for maintaining public order and national peace are exceeded, the President may use the army for said purpose."

Legislative Decree 40-2000→ Approved on 16 June 2000, this decree shields military participation in national security tasks, as mentioned in articles 1 and 2:

"The national security forces may be supported in their roles of preventing and combating organized crime and delinquency by the Guatemalan Army, when the security situation of the country calls for assistance, or when the ordinary means available to the national security forces are deemed insufficient." The decree empowers the Army to support civilian forces "throughout the country."

National Security System Legal Framework: Legislative Decree 18-2008

Its objective was to establish the necessary laws to comprehensively coordinate Guatemala's domestic, foreign, and intelligence security activities and to act preventively and efficiently in the

face of security threats, per the Constitution, human rights, and international treaties that Guatemala has ratified.

6076 Law Initiative or Law for the Strengthening of the National Security Forces and the

Army: On August 4, 2022, these initiatives received a favorable ruling from the Governance Commission in Congress and was delivered to the plenary for a vote. Its primary purpose is to regulate the use of force by the National Civilian Police and the Army in matters of public security, as well as the "levels of resistance and use of proportional force to neutralize an individual" in the most extreme cases. The initiative adds an article to the Criminal Code so that the police and soldiers can base their actions on self-defense or the defense of civilians. Another article was added to the Criminal Procedure Code to offer an alternative measure of house arrest for police and soldiers who face criminal proceedings for acts committed while on duty. By August 23, after the rejection from different Civilian society organizations, the governing board of Congress announced its decision to shelve the law instead of submitting it to a vote and approval of the plenary.

3. Guatemala: What is Happening on the Field?

In 2008, political scientist Gabriel Aguilera Peralta pointed out a contrast between Guatemala and the countries in the Northern Triangle and the rest of Central America (Aguilera, 2008: 129 and 130). In the postwar years, the security system reform made "the military submit itself to civilian power" in Nicaragua and a new "apolitical police force subject to civilian controls" in Panama. In Costa Rica, the security forces "fully recovered their civilian leaders." Aguilera could not have foreseen that, ten years later, in Nicaragua, the Sandinista government of Daniel Ortega would use state forces to exercise repressive violence against unarmed civilians at "deplorable levels," according to Amnesty International.

In Guatemala, El Salvador, and Honduras, the process was troublesome from the start. Aguilera mentions that criminal violence was growing "despite achieving a satisfactory reconversion of the military and their submission to civilian power." Aguilera's publication was from 2008 when Guatemala's homicide rate was steadily increasing until it began to decline in 2010. Meanwhile, Honduras was on its way to getting the highest homicide rate in the world in 2012.

In Guatemala, the Agreement for the Strengthening of Civilian Power did not work as a tool for "the effective structural transformation of Civilian-military relations" because civilian authorities failed to approve and implement the laws that would allow the success of this process (Arévalo, 2021: 132).

In 2008, National Security System Legal Framework was approved. The system would be in charge of integrating and coordinating any operation and strategy regarding domestic, foreign, and intelligence security. However, one of his shortcomings was that he did not revoke previous agreements and decrees on the matter, such as the 40-2000 and the Public Order Law of 1970, according to Mario Mérida, former director of Military Intelligence and former director of the PN in the 90s.ⁱⁱⁱ

The National Security System Legal Framework was insufficient to develop policies for sustainable structural changes. For example, when the administration of Álvaro Arzú (1996-2000) did not get citizens' approval to amend the Constitution in 1999, changes such as having civilian leaders in the

Ministry of Defense were abandoned. (Arévalo, 2021: 132). One of the reasons why he failed is that he did not accompany the consultation with an aggressive information campaign. As a result, many citizens went to the polls without knowing why they were voting, and the posing of the questions was so complicated that most people did not understand them.

In 2008, Aguilera proposed a series of changes that strengthening civilian power would bring to the region. However, this chapter explains why the stakeholders' objectives in Guatemala did not work.

STAKEHOLDERS	CONTENT
Military	Withdrawal from non-military tasks Submission to Civilian power Separation from national security Submission to Civilian justice Reduction of personnel and budget
Police	Civilian nature and withdrawal of military presence Professionalization and technification Efficiency and effectiveness Operating within human rights and the rule of law Availability of human and material resources Gender and ethnic sensitivity Oriented toward Community security Preventive policies
Justice	Criminal law reform Effective and efficient Public Prosecutors Criminal Investigation Capacity Reform and strengthening of the judiciary
Intelligence	Separation of police intelligence from military intelligence Civilian Strategic Intelligence Democratic controls

Source: Pensamiento Iberoamericano/Aguilera, 2008, page 130.

3.1 The Military: Personnel, Budget, and Influence

In 1996, the country had a military of 43,000, including soldiers, officers, and specialists. The commitment of the Peace Accords was a reduction of 33% (Rico, 1996). The Arzú administration returned a sizeable group of military officers to barracks or retirement.

Mérida (2022) mentioned, "The worst era for the armed forces was the Arzú administration, which purged the Army," "There was no modernization. The purge was done through voluntary discharge. They gave a few more pennies to those who left." The personnel reduction continued in the following administrations of Alfonso Portillo (2000-2004) and Óscar Berger (2004-2008).

Arzú and Portillo took an entire generation of generals and sent them into retirement to promote officers more akin to their interests. For example, Portillo intended to appoint General Otto Pérez Molina as his Minister of Defense, but Efraín Ríos Montt (also president of Congress) opposed it. So, the administration appointed a lower-ranking officer, forcing the retirement of at least 30 generals (because no officer can have a higher rank than the Minister of Defense). Once discharged, Pérez Molina set out to create his political party, the Patriotic Party, in 2001 (López, 2012) (López, 2016).

Arzú and Berger also reduced the army's budget. Berger even exceeded the goals set by the Peace Accords. In 2004, his administration's plan completed the cutback of 43 percent of the personnel (10 percent more than Arzú) and the reduction of 36 percent of the budget (Sagone, 2005). The dismissal of 5,983, including officers, specialists, and soldiers, meant the outlay of Q360 million (USD48 million). However, they were not mere "pennies," as Merida said. Under Arzú, 14,300 soldiers were discharged. By 2021, the number of army personnel was 21,000 (Expansión, 2022). That is, 50 percent of 1996 numbers and 17 percent more than the Peace Accords outlined.

These data explain why the goals of reducing the budget and personnel were exceeded in the case of Guatemala, according to the Central American Institute for Fiscal Studies (Icefi). This is why it is claimed that the budget alone does not show the degree of military influence in the country.

For example, in the administration of Alejandro Giammattei (2020-2024), there are eight retired military officers linked to military intelligence, corruption schemes, and even claims of human rights violations and acts against humanity. These same officers hold offices in the Vamos political party. Three work in the Ministry of Strategic Intelligence of the State (SIE)^{iv}, and others in the Technical Secretariat of the National Security Council (STCNS)^v and the Secretariat of Executive Coordination of the Presidency (SCEP).

"Old school members of the military still have a lot of power over some decisions of the army," says Francisco Jiménez^{vi}, former Minister of the Interior (2009) and former founding director of Digici (2007-2008). "This government has a lot of old-school military men, [and they pose] a risk that we will go into a process of militarization," adds Jiménez, who considers that it is still too risky to say for sure that there is a militarization of the national security.

At the beginning of his administration, Giammattei appointed retired General Edgar Leonel Godoy Samayoa as Minister of the Interior. Godoy was an associate of former President Arzú and was always close to the business elite. A week after the start of the administration in January 2020, they implemented states of prevention in three neighborhoods with high rates of gang activity. However, Godoy resigned for health reasons after four months in office. He was succeeded by civilian Oliverio García Rodas, removed five months later, and succeeded by another civilian: Gendri Reyes Mazariegos, a lawyer from the School of Carabineros de Chile (El Observador, 2020: 65).

Between 2020 and 2021, the fifth anti-drug vice minister was retired colonel Mario Adolfo Castañeda Serrano.^{vii} In 2021, Minister Reyes appointed lawyer and civilian Fernando Rodas De Leóns a successor to Castañeda. However, on January 26, 2022, four days after Reyes left the Ministry of the Interior, President Giammattei named retired General David Napoleón Barrientos Girón his successor. A month later, Barrientos began implementing joint operations of the PNC and soldiers in marginal areas to reduce crimes against life and property (Mingob, 2022).

The president also appointed retired Infantry Colonel Hector Francisco Castillo Alvarado as head of the Ministry of Administrative and Security Affairs of the Presidency (SAAS), despite the idea of closing 2003 the Presidential General Staff (EMP, an elite military body to protect the president and his family) and then forming the SAAS (Hemeroteca PL, 2015), was to create a security corps for the president made out entirely by civilians. (El Observador, 2020: 27, 29, 30, 43, 45, 48-60, 64).

Meanwhile, the reduction in the budget since the signing of Peace in 1996 was relatively fulfilled. The spending of the Ministry of Defence as a percentage of total public expenditure declined between 2000 and 2020, with some slight increases and fluctuations. However, in these two decades, the spending went from 6.41% to 2.83% of public spending. The same goes for Defense expenditures as a Gross Domestic Product (GDP) percentage, which declined from 0.92% to 0.48% (Expansión/Datosmacro.com, 2021). The most drastic cut occurred in 2004, with Berger, where the reduction of military spending was 50% more than the Peace Accords outlined (Arévalo, 2008).

The budget reduction goals for the Ministry of Defense were "overachieved," according to Ricardo Barrientos, a *senior* analyst at Icefi. Barrientos suggests that the devil is in the details and how the Ministry of Defense handles its spending nationally. Unfortunately, this is not evident in the budgetary information available to the public. Carlos Gossmann, another analyst at Icefi, points out that the defense budget did increase, but not at a faster rate than the budget of other ministries. However, it has one of the lowest budget execution percentages in the cabinet.^{viii}

There are some revealing details, as Barrientos points out. Between 2015 and 2017, the Ministry of Defense received an average annual allocation of Q70,444,267.50 (US9.3 million) for the army's participation in public security. The amount allocated rose each year and increased from 3.2% between 2014 and 2015 to 5.6% between 2015 and 2016, although it fell to 4.6% from 2016 to 2017. However, these figures amounted to 3.2% of the ministry's budget in 2014 and 2015, 3.5% in 2016, and 3.9% in 2017 (WOLA, 2020: 22). These increases took place at the end of the administration of the retired General Pérez Molina (incarcerated on September 3, 2015, for several corruption cases), and during the administration of Jimmy Morales (2016-2020), whose top advisers had ties to military intelligence (Barreto et al. 2018).

After these years, it is almost impossible to look for information in the budget because it is not adequately identified and is hidden under program names that include several items. It is like looking for a needle in a haystack, as shown in a 2021 budget and an Excel table showing the budgets of the last 12 years included in the annex.

A publication of the *Washington Office on Latin America* (WOLA) highlights the symbolic messages that Morales sent when he announced, in 2018, that he would not request the renewal of the mandate of the International Commission Against Impunity in Guatemala (CICIG). He made this announcement from his Presidential Office surrounded by military officers in camouflage uniforms; some even wore their berets from the Kaibil School. WOLA notes that it was reminiscent of General Ríos Montt's announcement of the coup d'état in March 1982. A similar group of military personnel also surrounded Ríos during the televised spot (Isacson, 2018). In 2018, the CICIG targeted several corrupt officials from the Morales administration, including the military.

Thirty-six years passed between one image and then another, and it was clear that the separation between the military and national security did not happen in theory or practice. The president also showcased his habit of resorting to the army for protection from a threat—even if that threat was the CICIG.

Historical Factors

The Army, which was in charge of citizen security during the armed conflict (1960-1996) to "crush the 'internal enemy,'" also had the constitutional task of "defending the [counter] revolution." This task legitimized their political participation and led to their politicization (Arévalo, 2021: 128).

The Army was combined with the State and its administration during decades of military regimes between 1954 and 1985, some de facto and others, in theory, the product of free elections (Galicia, 2015). By 2018, the CICIG had become undesirable for the army, a common enemy for civilians and military in positions of power who were not eager to be held accountable.

Until 1986, the Army followed the model of the National Security Doctrine: the military controlled social and political life in the country with authoritarian structures behind a democratic façade (Arévalo, 2021: 128). However, the transition to civilian governments led to the National Stability Thesis, whose author and strategist was General Héctor Alejandro Gramajo, the first Minister of Defense of the first civilian government in 1986 after decades of military regimes. The transition meant that "the army was simply yielding the administrative and political control of the country" to become a vital institution and gain legitimacy from the people (Rosada, 1999: 178, 179). These were ground rules where the dominant party in the Civilian-military coalition, the army, would delegate tasks to its subordinate partner, the Civilian authorities (Mares, 1998: 2, 3). President Vinicio Cerezo even admitted holding only 30% of the power (Arévalo, 2021: 130).

Without a process of effective subordination, the withdrawal of the military from politics only meant a return to the barracks from where they would continue to monitor the political scene while waiting for the next political crisis that required their intervention to come and "rescue" the nation (Arévalo, 2021: 129). But the Army was also the lifeline of the business elite when the executive branch's actions did not coincide with their economic and political interests. An example is the intervention of the Army during President Jorge Serrano Elías' self-coup d'état in May 1993, which forced Serrano from power.

In 1996, Arzú kept Air Force officers as leaders of the Presidential Staff (EMP), displacing infantry officers who were supposed to be promoted to leadership positions. However, the president did not want to be surrounded by officers who might have claims for human rights violations during the armed conflict. However, the Executive Branch approved the formation of the Anti-Kidnapping Command and the Anti-Narcotics Command of the EMP, with military officers from that unit. Unlike those from the National Civilian Police (PNC), these officers were not subject to civilian justice or participate in judicial proceedings in cases of kidnapping and drug trafficking. For example, no officer of the Anti-Kidnapping Command of the EMP was subject to a judicial process when there was a shootout between officers of this Command and investigators from the Criminal Investigation Service (SIC) of the PNC that year in the capital. The result of this shootout was one detective injured.

Until 1996, retired military officers could enter the former National Police (PN) automatically.^{ix} After the signing of the Peace, they had to take the three-month introductory course by the PNC. By 1998, it was clear that the PNC had severe shortcomings. A WOLA study (Byrne et al. 2000: 4, 6, 7, 32, 33, 52) revealed that one of the reasons is that almost 50% of the new police force was made up of former PNC officers. These officers had been PN and carried old practices from the armed conflict, which the new Police frowned upon. There is no data on how many former PN officers belonged to the army.

During the Portillo administration, losing at least thirty army officers who would have been promoted to generals indirectly impacted the PNC. Some sources say the maneuver took away the military's leadership and promoted other officers who, years later, ended up involved in corruption acts and, in some cases, imprisoned. These events influenced the quality of the military forces involved in citizen security tasks, some of whom held leadership positions in the PNC investigative agencies—supported by the ambiguous content of Decree 40-2000, which allowed the participation of the military in security tasks.

The impact of the discharged officers was relative because, since the late '80s, there were reports of military officers involved in drug trafficking and corruption.

The reduction of military forces was a double-edged sword. In the Berger administration, the cutback and withdrawal of the military from several areas of the country turned these regions into key drug trafficking corridors, particularly in Petén, because there was no civilian force capable of containing the criminal activities in those areas (Jiménez 2022; Lopez, 2011: 164, 165, 205, 210; Lopez, 2016).

In 2008, the Álvaro Colom administration increased the number of military troops in Petén to counter drug trafficking, but to no avail. A drug activity prosecutor said that the one thousand soldiers who patrolled the areas where most drug trafficking occurred were insufficient (Huitz, 2008). In 2021, Rubén Téllez, spokesperson for the Ministry of Defense, said 600 soldiers were assigned to Petén. Still, that same year the region remained a *hub* for the air trafficking of cocaine because of the vast distances each soldier had to cover (an average equivalent to at least a thousand soccer fields per soldier). According to Jiménez, the fact that drug-related landings continued to occur in the same regions (between 2019 and 2021) meant that there should be complicity with local authorities (López, 2021).

Although the Ministry of Defence is one of the ministries with the highest budget, this does not mean the army is better equipped for the tasks appointed to it by the civilian government. For example, according to Téllez, they do not have the necessary equipment to combat drug trafficking, such as tracking planes to force aircrafts loaded with cocaine to land in places controlled by the authorities. Helicopters cannot fulfill that role, and sometimes they are not even used to transport seized drugs or personnel.

During a seizure in Baja Verapaz on March 31, 2022 (160 kilometers north of Guatemala City), a group of soldiers had to walk seven hours carrying 1,065 kilos of drugs to take them out of a remote area and take them to the nearest military brigade. That seizure only happened because the aircraft crashed. In six landings between January and May, it was the only case where cocaine was seized. The others found the plane when the traffickers fled with the drugs. Arévalo points out that the military equipment is rudimentary and precariously maintained, particularly in remote areas of the country. He also mentioned that the military institution had been weakened [in its tasks] by its subordination to a corrupt political power (Arévalo, 2021: 139). One hundred twenty-six aircrafts linked to drug trafficking landed in the country between 2019 and June 2022; 118 have done so in the same six regions.

The degree of involvement by the army in domestic and foreign security is ambiguous and depends on political decisions, according to analyst Edgar Gutierrez. "Despite its controversial role in the armed conflict, the army remains one of the top-rated institutions by the people," Gutiérrez points out. "Politicians don't lose sight of that, but one root problem is that presidents have been inconsistent in dictating the missions and providing adequate means to the military." Hence, the military ended up distributing sacks of fertilizer during the Portillo administration or bags of food (the "Solidarity Bag") during the Colom administration (2008-2012).^x

Ambiguity in the military role prevails. Arévalo highlights how, in 2021, the Army Corps of Engineers had a program for the maintenance of neighborhood roads, the manufacture of desks in military workshops for state schools, cybercrime training for state lawyers with military intelligence, reforestation by military battalions, the distribution of state aid and the monitoring of river levels during the rainy season, among other tasks. "In other words, for any need that the civilian government wants to address through an obedient military force," explains Arévalo (Arévalo, 2021: 136). During the pandemic, army nurses were in charge of the Covid-19 vaccination.

The Arzú (1996-2000), Portillo (2000-2004), Berger (2004-2008), Colom (2008-2012), and subsequent administrations continued to appoint military officers (high and low) to key positions based on personal criteria and political alliances, but with little consideration for individual merit, and capacity for the job at hand. The Portillo administration continued with the joint patrolling between the military and the police and extended it to perimeter protection of the prisons (something that did not prevent escapes). None of these administrations demonstrated a coherent implementation of the Agreement for the Strengthening of Civilian Power, reflected in the ambiguity with which they handled the military issue (Arévalo, 2021: 130).

Military Cuts, and the Advance of Drug Trafficking

In the Berger (2004-2008) and Colom (2008-2012) administrations, the reduction of the Army that started with the Arzú administration and continued with Berger resulted in a double-edged sword.

In 2008, Aguilera wrote about how the widening gap between people and the state was exploited by the transnationalization of organized crime (Aguilera, 2008: 130). However, the military presence in the 80s and early 90s, when it had almost complete control over the country, did not prevent drug trafficking. (López, 2011: 149). This is in a context where prosecuting an officer for drug trafficking was a rarity.

We have the example of the failed attempts to prosecute and extradite Captain Carlos Ochoa Ruiz to the United States for drug trafficking in the early 90s. The attempts ended with the murder of the magistrate from the Constitutional Court who approved the extradition, Epaminondas González Dubón. The decision was reversed, and Ochoa was free until he was sent to prison in Guatemala after US authorities desisted from extraditing him.

Military presence was increased in drug trafficking corridors under Decree 40-2000 in 2008. However, the results didn't come. Again, the underlying problem was not addressed: the Army had been reduced without strengthening the PNC to face the threats posed by organized crime. By 2011, President Colom said that six out of ten homicides were drug-related. The president gave these

figures when the country's homicide rate was 46 per 100,000 inhabitants—one of the highest in the world after Honduras.

The PNC and the Attorney General's Office could not explain where the figures used by the president came from. He just used the numbers to justify the new military presence in some regions of the country. According to Jimenez, military surveillance extended to the Northern Transversal Strip during the Colom administration, a stretch from Huehuetenango's north to Alta Verapaz. This region became a corridor for Zetas in 2008.

The results of the states of exception could not support the claims of the President either. The two states of exception called in 2010 and 2011 in Alta Verapaz to control the presence of the Zetas only resulted in one hundred detentions and the seizure of firearms. Still, the perpetrators were not arrested (other factors in the year and the following government had more incidence). The excuse for the fight against illegal drugs allowed for an increase in the budget, but the justifications remained more political than technical.

"There was a request for a budget increase for the Army without any strategic planning criteria in defense," says Jimenez. He was Minister of the Interior for that administration after leading the Digici. The former official says the criterion was threats to the country that merited a budget increase. "There was never a technical reason," he adds. "It was a political response and a mechanism that Álvaro Colom used to gain support from the Army. At a meeting of the National Security Council, I told the Minister of Defense, 'I need you to give me evidence of the results whenever there is involvement by the army and states of emergency.' The only thing I got was a thousand excuses."

In the Berger and Colom administrations, military power and influence came with an element of impunity. In March 2011, Minister of Defense Abraham Valenzuela was one of two people who received a call from drug trafficker Juan Ortiz. Minutes after, he was arrested because the US requested his extradition. Valenzuela and the government gave no explanations, and the minister was dismissed seven months later. The Attorney General's Office never said he was under investigation.

In 2012, under a president who was former military (Pérez Molina, 2012-2015) and a Minister of the Interior (Mauricio López Bonilla), also former military, joint patrols resumed, and military detachments were deployed in urban areas to control delinquency and crime. However, according to Jiménez, fewer military forces were deployed than in Colom's previous administration, a civilian president.

In the new administration's first year, joint patrols returned to Mixco, a municipality adjacent to Guatemala's capital. As a result, Otto Pérez Leal, President Pérez Molina's son, won the mayor's office in this municipality. Also, between 2014 and 2015, the government set up a military detachment in the most populated area of the capital, zone 18, to combat gangs. The measure temporarily reduced murders, although, in the same period, crimes against property (theft and robberies) increased.

It was ironic that, in 1998, according to the testimony of a Mara Salvatrucha former gang member, an MS clique bought firearms from a high-ranking military officer who obtained them illegally.

Military force was employed to combat the MS and Barrio 18 (López, 2011). By 2017, there was at least one documented case of a soldier selling weapons to Barrio 18 (El Periódico, 2017).

About the Pérez Molina administration, Jiménez points out that the states of exception did not yield more significant results either. "López Bonilla made a big fuss about approving a state of exception, and what they achieved was recovering a stolen motorcycle."

The results of the joint patrols, to reduce extortion to public transporters, were short-lived. Then, in September 2015, Pérez Molina was arrested on several corruption claims. López Bonilla also followed him in July 2016 for corruption-related incidents. One year later, the US requested his extradition after accusing him of being involved in drug trafficking and Roxana Baldetti, Pérez Molina's vice president.

With the support of Congress, the Morales administration (2016-2020) decreed states of exception in areas with high rates of crime, drug trafficking, social conflict related to border problems, or pollution from mining activities. Morales used the Law of Public Order and States of Exception of 1970. By then, the army had been reduced by 50% compared to 1996. However, there were enough troops and officers (21,000) to implement the decrees. The military cutback did not prevent the Giammattei administration from decreeing seven states of exception; due to crime, drug trafficking, or social conflict within the first two and a half years. Every single form of exception had short-lived results.

Jimenez points out that the Ministry of Defense usually uses states of exception to fight corruption because there is less restriction on spending. However, the information available on this claim is limited. Even when requested through the Access to Information Act, a kind of FOIA in the United States, the ministry usually responds that it is classified information.

Arévalo, also a congressman (2020-2024), points out that attitudes such as the Army's reluctance to submit its expenses to the scrutiny of some parliamentary commissions underscore a fact: its subordination to civilian authorities (on paper) did not prevent its resistance to institutionalized forms of democratic civilian control. Another proof of this is the reluctance of the Ministry of Defense to give the PNC access to the registry of weapons that the Army has in its hold and use^{xi} and to register military firearms in the General Directorate for Firearms and Ammunition Control (Digecam), even though the military manages it.

Other Resources: The Case of Digecam

The share of economic and political power held by the military or former military is also significant in the case of Guatemala. One example is the Ministry of Defense's discretion in managing Digecam. This directorate issues licenses for possessing and carrying firearms and monitors the sale and importation of weapons and ammunition. However, there is no public information regarding the total income for paperwork handling.

The lack of control in the army regarding weapons and inside theft has also affected the availability of firearms on the black market. As a result, there are thousands of stolen weapons without anyone being held accountable by the justice system. This is a severe case considering that eight out of 10 homicides are committed with firearms. Only one issue, reported by the press in 2010, refers to the

theft of 26,994 weapons from military warehouses in 2007 during the Berger administration (El Periódico, 2010).

The Peace Accords outlined that the Digecam should go to civilian command through an office specialized in this subject matter within the Ministry of the Interior. However, no government has implemented the change in the last 26 years.

There is also no independently-available information about the Army Munitions Factory. The only information available about the manufacture of munitions is what the Ministry of Defence says about it. The same happens with the firearms registry, which is not even available to the PNC, although Tellez^{xiii} assures that it exists and that its control is strict.

Other sources of revenue to the Ministry of Defense come from the Ministry of the Interior as retribution for its services during the states of exception. WOLA identified these additional sources of revenue in a report until 2017. However, these expenses are no longer traceable in the budget because they are included in a transferred segment that provides for other items. The Ministry of Defense said nothing about the issue when asked about it.

Unofficially, Merida says he heard a "rumor" that the Army receives a contribution in fuel, not in cash, from the Ministry of the Interior to be used during the states of exception and joint operations with the Police. However, there is no official data to confirm or deny this. Nevertheless, Mérida observes that "there is more freedom to expand financial resources" during states of exception. "Remember, this is the problem when the government calls a state of exception. It leaves expenses open, which leads to mismanagement of resources," says the former official, in agreement with Jimenez.

3.2. The Police

The Arzú administration complied with the reduction of the Army but failed to comply with the reduction of the military involvement in national security tasks by using the EMP personnel. Its operations were ruled by Government Agreement 90-96 and the AFPC, in theory, but these operated outside the law. The PNC did receive greater technification with resources from the United States, the Spanish Guard, and the United Nations Mission for Guatemala (Minugua), among other sources. However, high-impact operations were usually led by EMP commandos. One example was high-profile drug trafficking cases and the kidnapping of members of the country's wealthiest families (IPS, 1997; Figueroa, 2012; Rico, 1997).

While Minugua stressed the importance of the PNC operating with full respect for human rights and the rule of law, with ethnic and gender sensitivity, and oriented towards prevention and community policing, there was a double standard for military officers. The members of the EMP were not accountable before the Civilian justice, let alone before the Minugua.

In Portillo's administration, the National Civilian Police Law was violated from the start because promotions were not applied based on the merits of the police career (FOSS, 2020: 18). In violation of the law, Minister of the Interior, Byron Barrientos, placed a lawyer and former congressman in the PNC General Directorate (Rudio Leccan Mérida), the directorate authorized the placement of military officers in the headquarters of the PNC investigation units. Likewise, during the first year of

the Portillo administration, the approval of Legislative Decree 40-2000 became a blank check for using military forces in citizen security and other tasks.

Despite the increase in the military presence in the PNC, the United States decertified the country due to the argument that a civilian force could not face the challenges presented by organized crime, such as drug trafficking. It was a motion of no confidence in its commitment to fight drug trafficking. There was also an element of corruption in the PNC that had nothing to do with the army's role but with poor preparation and evaluation of candidates for PNC agents and officers. In addition, the bad habits inherited from the armed conflict played a role when the PN acted with little or no observance of human rights. The weakening of the police forces was also directly related to historical and structural factors and a military culture that allocated more resources and professionalization to military personnel than police officers. (*Institutionality of Democratic Security*, 2004: 24).

Pérez Molina (2012-2015) appointed an even more significant number of retired military personnel to positions in the Ministry of Defense and strengthened military units that performed public security tasks. However, after Francisco Rivas, Morales' first Minister of the Interior (2016-2020), tried to modernize and professionalize the PNC, his successor, Enrique Degenhart, dismissed career police officers who achieved merit-based promotions and appointed like-minded people to his circle of trust.

The U.S. Alliance for Prosperity's plan to help the Northern Triangle invest in development and reduce migration included a component that mandated the elimination of joint patrols except for border and counternarcotics operations. Thus, in 2018, the Military Reserve for Public Security was demobilized (Arévalo, 2021: 134, 135). However, it was a symbolic gesture rather than a real one because that year, Morales announced the closure of the CICIG accompanied by high-ranking officers from the military and some civilian officials. Degenhart was among the officials.

Jiménez mentions that many advisers, such as Minister Barrientos (since July 2022), are retired military. This is normal, considering that Ministers will take their trusted people to work for them. However, this trend also does not consider preparation for the positions they will fill. In January 2021, under the administration of a civilian Minister (Gendri Reyes), about a dozen qualified investigators and analysts from the Community Violence Prevention Unit (UPCV) were dismissed, and the positions were filled with candidates for Congress from the official Vamos party. These people did not get a seat in Congress in the 2019 elections. According to one of the dismissed analysts, none of the military personnel hired had to experience in violence prevention.^{xiii}

Arévalo emphasizes that retired military personnel do not represent the institutional interests of the Guatemalan Army but their own personal and political interests (Arévalo, 2021: 137). According to Carlos Menocal,^{xiv} former Minister of the Interior (2010-2012), these interests and the clash between them have hindered results in intelligence and prevention in the SIE and the Digici.

Jimenez mentions that the PNC's "methods and procedures" have been altered to the liking of "old school" military men. These methods and procedures come from the armed conflict and the Cold War, where armies had a decisive political role in the country's steering. "Based on this, we can say that the security forces are militarized even if they are not military under following methods,

procedures, and a cultural and conceptual perspective that links them to old military methods," explains the former minister.^{xv} "If there is a process of militarization, this is it. That old scheme of the internal enemy' is being applied to the police endeavors."

Jimenez points out that there is a growing number of complaints from police officers regarding the increasing number of military or former military in leadership positions within the Ministry of the Interior. "Police officers say it is problematic because the military doesn't understand the culture and the police work," he adds. "Based on this evidence, I would say that there is a process of militarization."

The issue is severe during states of exception and regular police operations. For example, on November 21, 2020, with Minister Reyes in charge of the Ministry of the Interior, the PNC repressed a peaceful demonstration in the capital and several regions with such violence that it was reminiscent of the repression in the 80s. While a violent group of protesters set fire to part of Congress, documentary evidence shows that part of the fire started inside the building, where police officers were stationed before the riots.

Three hours after the fire was put out, police took to the streets to capture random people for damaging the building. Some people were just leaving their jobs. Earlier, the police threw tear gas at a crowd who had gathered to peacefully demonstrate against government corruption at Constitution Square. In the capital city, 46 people were captured, most of whom spent almost three days in a makeshift jail inside the courthouse before a judge dismissed the cases (Spain, 2021). Some were not imprisoned but were savagely attacked, such as photojournalist Carlos Sebastián, who was hit so hard in the head by a policeman using the grip of his gun, that he needed 15 stitches. In Quetzaltenango, a journalist recorded the case of two young men who were tased in the back of a police vehicle while being taken to the local police station.

"There is still passive resistance from many members of the PNC. These people do not come from the old PN and are trying to resist its culture. However, it is hard for them because they take orders to come from above," says Jiménez. "Here, the most serious problem I see is an institutional weakening, where an old military culture replaces the strength of police professionalization in security."

3.3. Justice

In the justice sector, Aguilera wrote that the peace process entailed changes in criminal law reform, an effective and efficient Public Defender's Office (MP) with criminal investigation capabilities, and the reform and strengthening of the Judicial Branch. The only thing that relates the militarization of citizen security with the judicial branch was the cases of kidnapping. Those cases in which military officers of the EMP Anti-Kidnapping Command participated in joint operations with the PNC during the second half of the 90s. They made seizures and arrests, but the PNC agents had to appear before a court to testify without mentioning the military's involvement.

It has not been documented how this affected the cases and the administration of justice. Still, it must have altered the judicial development of the processes in terms of the correct documentation of the facts. There was also another type of role played by the military. However, it remains unknown whether these were isolated events or a trend. For example, a department of investigations

assisted different prosecutors' offices, and an officer of the Kaibil Special Forces Brigade used to work for this department of studies.^{xvi}

The ex kaibil was legally hired as an investigator. However, after leaving the Public Defender's Office, he assured that he still obeyed the Ministry's Intelligence Directorate (D-2) and transferred information regarding cases of interest. The former military said that the D-2 worked with retired officers who could not be traced back to the Ministry of Defense. He said that these retired military officers performed various tasks, like surveillance of individuals and officials, collecting compromising information that would be useful for blackmail and illegal acts that could include manslaughter. He did not reveal whether other former Kaibiles were working in the Public Defender's Office.^{xvii} This was not a case of militarization of the Public Defender's Office but one of conflict of interests for nefarious purposes.

3.4. Intelligence

Aguilera wrote that the postwar changes needed in this area were separating the police from the military intelligence and transitioning towards civilian strategic intelligence with democratic controls. However, on the field, in Guatemala, this did not happen before the signing of peace and certainly did not happen after.

In 1996, Captain Julio Yon Rivera told anthropologist Jennifer Schirmer that the Central Intelligence Agency (CIA) had provided support to Guatemalan military intelligence between 1960 and 1990 but that the relationship was picked up by the *Drug Enforcement Administration* (DEA). In a 1998 publication, Schirmer wrote that "tremendous pressure from the DEA to combat drug trafficking continues to drag down G-2 (D-2) dangerously and Navy Intelligence (...) into the swamp from which the Peace Accords try to pull them out" (Schirmer, 1999: 279, 386, 390, 391, 438).

The Executive branch created the Anti-Narcotics Command of the EMP, made up of military officers of that unit who had close communication with members of the local DEA office (in Guatemala). In addition, a section chief in the Department of Anti-Narcotics Operations (DOAN), a unit of the PNC at the time, admitted to carrying out operations based on information from D-2, military intelligence.^{xviii} The Doan (now the General Underdirectorate of Anti-Narcotics Analysis and Information, SGAIA) had an operations headquarters that handled intelligence but worked closely with the D-2 and in cases of interest to the EMP's Anti-Narcotics Command. DOAN, and later SGAIA, also worked closely with the DEA.

In 2002, the National Intelligence System and the Security Advisory Council (CAS) helped create the Secretariat of Strategic Analysis, or SAE (Government of Guatemala, 2002), to generate civilian intelligence and take over the responsibilities that the EMP once had. Portillo's administration transformed the EMP into the SAAS to protect the President's family. However, by November 2020, the Executive branch wanted to shut down the SAAS and replace it with military personnel from the Presidential Guard (Del Águila, 2020). The reason for the replacement was austerity and honesty because the unit was linked to several cases of corruption, excess spending, and reduced accountability. Nevertheless, by 2022, the SAAS will remain operational.^{xix}

The Law of the General Directorate of Civilian Intelligence (Digici)^{xx} was created in 2005. The Law came into effect in 2008, according to press records. However, by 2021, the Homeland Security Affairs Committee in Congress determined that, in 13 years, the Digici had had no impact on crime prevention. In addition, Jiménez, also an analyst at the Institute of Education for Sustainable Development (Iepades), who helped create and direct the Digici, said he feared that the agency did not offer the Ministry of the Interior the strategic information necessary to stop crime (Redacción Prensa Libre, 2021).

The creation of the Framework Law of the National Security System in 2008 included, in article 24, the design of a National Intelligence System, to generate pre-emptive procedures through the coordination of "strategic, Civilian and military intelligence functions." The system would be coordinated by the SIE and put together by the Digici from the Ministry of the Interior and the Intelligence Directorate of the General Staff of National Defense. However, by December 2008, the head of the SIE, Manuel Galeano, admitted that, out of 125 people employed in the secretariat, only 13 delegates at the country level could produce intelligence. Furthermore, Galeano said that the SIE was dedicated only to "analyzing publications in the written media" to inform the president (Prensa Libre, 2008).

Almost 14 years later, the picture is not very different, both in the SIE and the Digici. "We don't see strategic intelligence, from Digici, being used to detect new drug trafficking routes, for example," says Merida. "There is no production of intelligence, which is a flaw in how security issues are handled."

3. Factors Affecting the Militarization of National Security

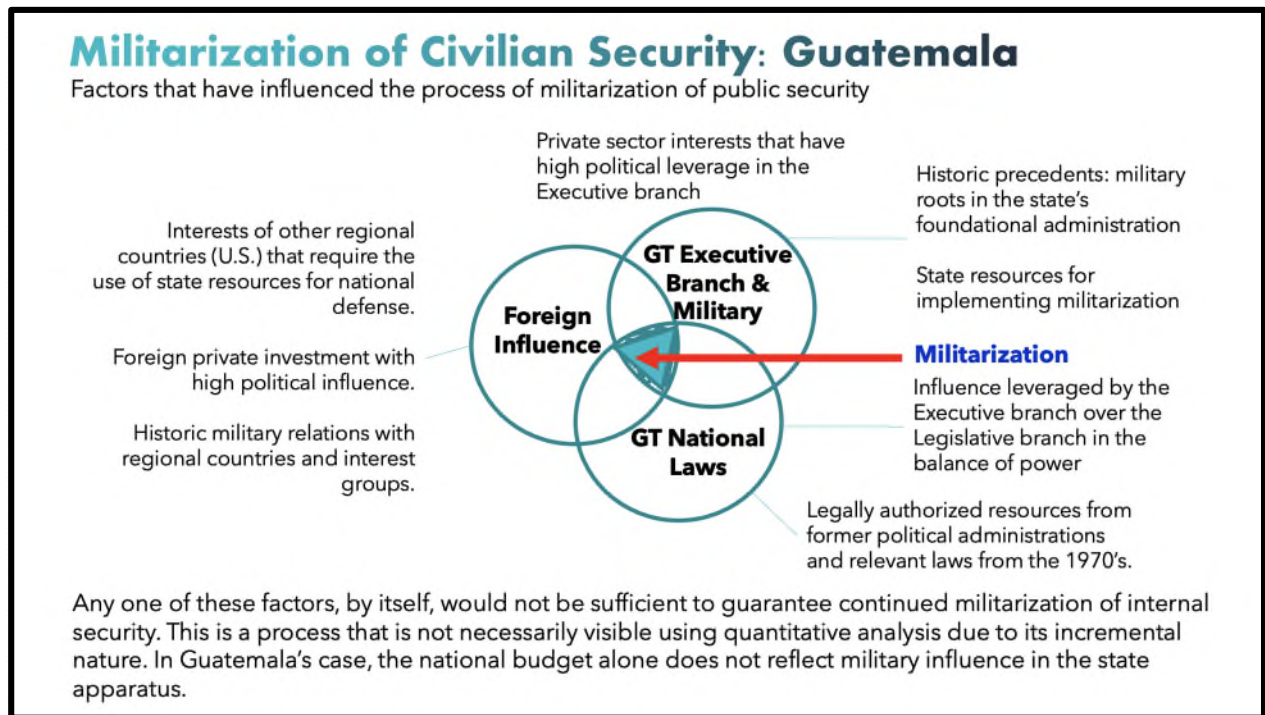
The militarization of citizen security forces, or an increase in the use of military forces to protect citizens from threats like common crime or organized crime, or situations of social conflict (together with the PNC), depends on several factors and conditions for each country.

"We always forget that crime is a social problem," warns Jimenez. "The problem is to think how to solve a social problem using the territorial occupation." The former official refers to using states of exception to solve this social problem. "It doesn't solve the problem, not even temporarily or in the short term."

Jiménez points out that a state of exception is necessary to solve border problems such as Sololá, where there is a mixture of "old-standing" conflicts between community groups and criminal groups organized around communities and where violence resulted in 13 homicides.

"The problem is that other tools do not accompany states of exception," says the former minister. They also allow the Ministry of Defense to make unnecessary expenditures that do not address medium and long-term objectives. "But nobody cares about that; they are interested only in the media moment," says Jiménez. "I've always thought that the state likes symbolic elements from time to time, and states of exception serve to send a symbolic message, 'we are in control of the country,' but that's not enough."

The lack of substantive solutions to security issues ensures that the PNC never reaches the level necessary to avoid depending on the Army to control violence and fight organized crime or handle social unrest or situations of social conflict.



4.1. Executive Branch and the Army

(a) Historical Background. A country where the army maintained control over the state and ran it during decades of military dictatorships, de facto governments, and fraudulent elections where the winning candidate was a member of the military has an army that is accustomed to participating in national security tasks, in addition to external security (border security, for example). Also, in this context, the military has prioritized resources (budget, money, training, equipment, etc.) over the civilian forces. In this regard, countries such as Guatemala will show a tendency to resort to military force:

- ✓ They find challenges in fighting crime and controlling situations of ungovernability.
- ✓ Calling the army is more effortless than training and equipping the police force.
- ✓ The country has a legal framework that allows the military's involvement in national security.

Historical factors, such as armed conflicts, left the military deeply rooted in the administration of the state. So much so that those roots survived the signing of Peace in December 1996.

Since the late 90s, to date, the message has been that the essential tasks in national security are performed by the army, such as controlling situations of social conflict (with states of exception) and

the fight against drug trafficking (in joint operations, or as in the late 90s, with the Anti-Narcotics Command of the EMP for intelligence-gathering purposes).

Because long-term solutions do not accompany military force, the need to continuously use military forces in national security tasks is a given.

(b) Alliances or Influence in Congress. Another critical factor in ensuring resources, if these are special expenses (as in a state of exception), is to legislate in favor of the militarization of security. Doing this guarantees the Executive branch has allies in Congress, through the official caucus, or related blocs, to endorse the use of military forces. But, again, this depends more on political alliances. However, the presence of retired military personnel in congressional caucuses is also essential, as well as having a presidential body of advisers who may have allies in the Legislature.

(c) Budgetary Resources to Implement the Militarization. Once the state has the resources to implement the militarization (troops, vehicles, weapons), as well as a historical legal framework (current laws) or conjunctural (new regulations with the support of Congress), it will have the ability to normalize the use of military forces to the detriment of civilian forces.

4.2. Legal Support and Legal Platform. A country where governments tend to militarize due to historical factors must have in place a legal framework that facilitates the process of militarization and the creation of new regulations that reinforce and validate the use of military force.

These laws result from a historical military-civilian symbiosis, where the military is the dominant party. This is the case of Guatemala, which has had decades of military governments from 1954 to 1986. The Public Order Act of 1970 is a result of said governments, and although it has been modified, it still is the legal basis for Congress to vote to approve a state of exception.

The government of Vinicio Cerezo Arévalo (1986-1991) was notorious for having a robust military presence and three coup attempts by military forces. Therefore, the watchword in moving from the National Security Doctrine to the National Stability Thesis was to surrender government control to civilians but maintain real authority behind the scenes. Therefore, it was no surprise that General Gramajo's thesis strategist was Cerezo's Minister of Defense (López, 2012: 37; Rosada, 1999: 178, 179; Schirmer, 386, 390, 391). That was the context for creating the Army's Law of Incorporation, Legislative Decree 72-90. The law was approved in 1990 and ruled all aspects of the army.

Previous laws also ruled the behavior of the Army in the following years, provided these laws served the arm's purposes. For example, the prior administration of Jorge Serrano Elías (1991-1993) was interrupted by the military at the behest of the business elite and Civilian society leaders. It was terminated by the interim government of Ramiro De León Carpio (1993-1996). This case shows that there is military autonomy and that the executive branch does not have complete control over the military. It also shows that the Army is not an indivisible or apolitical unit, as established by the Law of Incorporation of the Army. There were at least two factions: the military with Serrano and the group that wanted to oust him.

The Arzú administration (1996-2000) had at its disposal the military resources of the EMP. Before signing the peace agreement in December 1996, Arzú got the approval of the Governmental Agreement 90-96 that allowed the participation of the Army in national security tasks. Then, the Agreement on the Strengthening of Civilian Power (AFPC) and the Role of the Army in a

Democratic Society was signed as part of the Peace Accords in December 1996. However, the agreement included this exception: "When the ordinary means for the maintenance of public order and national peace are exceeded, the President may exceptionally make use of the army for this purpose."

The 90-96 agreement and the exception in the AFPC allowed the use of EMP commandos. Still, they had to carry out quasi-clandestine operations due to the military's reluctance to be accountable to civilian authorities. The operations were not reported in a judicial process, and the police sometimes had to answer for actions carried out by military officers.^{xxi} The Anti-Kidnapping Command also had the support of the private sector because it intervened in cases in which the victim was from an elite family.

In the Portillo administration (2000-2004), retired military personnel were advisors for the Executive branch in Congress (including Ríos Montt, who presided over it) and in the Ministry of the Interior, led by Byron Barrientos. Legislative Decree 40-2000 was born during this time.

The Ministry of the Interior appointed police chiefs without an actual career in policing. These people were military without any police training. They started working in the PNC detective corps, then the Criminal Investigation Service (SIC), according to the testimonies of some investigators.

During this administration, there were also military officers in the Ministry of Defense who committed acts of corruption, for which they were held accountable years later. The message was that the military was immune to the law that applied to civilians. Nevertheless, there were results until eight years after the CICIG arrived in the country. For example, in 2015, the First Chamber of Appeals of the Criminal Branch ordered proceedings against Enrique Ríos Sosa (son of Ríos Montt) and eight other military officers for the embezzlement of Q471 million from the Ministry of Defense in 2001, the second year of Portillo's administration (Vásquez, 2015). Ríos Sosa was detained until 2018. Portillo was not arrested until 2010 for another corruption case from which he was acquitted in 2011, only to be extradited to the US for money laundering in 2013. He was convicted in the U.S. and deported back to Guatemala in 2015. Military officers, his alleged accomplices were acquitted in Guatemala or never prosecuted.

From 2001 onwards, no new legislation was drafted. However, the current legislation, as well as the continued participation of the Army in national security and border tasks (particularly drug trafficking and undocumented migration, at the behest of the United States), was enough to validate increases in the budget, or at least to request it. The only exception in legislative matters is Initiative 6076, which, if approved by Congress, could lend itself to abuses by the PNC and the Army, which have occurred even without the approval of this law.

4.3. Influence and External Factors. The militarization of national security approved by the Executive branch is promoted and exploited by:

(a) State Stakeholders with Security Interests in Guatemala, such as the United States, drug trafficking, and undocumented migration, whose combat and control require Guatemalan state resources, which involves the use of police and military forces.

Guatemala, at the behest of the United States, has since at least 2013, created interagency task forces that combine the PNC and the Army to combat drug trafficking and crime. The focus areas are the border with Honduras, Mexico, and the southern coast. The task forces have received U.S. advice and cooperation, such as 148 J8 off-roader Jeeps.^{xxii}

The first was the Tecún Umán Task Force, created in 2013 during the Pérez Molina administration. The Chortí Inter-institutional Task Force followed it through Government Agreement 141-2014 and the Xinca, with Government Agreement 32-2016 (during the Morales administration). Other task forces, such as Maya and Kaminal, operated in the capital to combat gangs without U.S. support.

The government then consolidated the work teams into the Chortí Task Force, and a Pacific team, for maritime seizures. Since 2013, there has not been a way to measure the impact of task forces because data from seizures or detentions are not broken down by task forces. The government does not report on the specific results of the task forces.

Different administrations have also undertaken anti-narcotics actions using combined task forces to combat drug trafficking, like in Petén, since at least the 90s. Army-led anti-narcotics operations are sanctioned by the 1986 Constitution, amended in 1993, in addition to the Government Agreement 90-96 and Legislative Decree 40-2000.

The Chortí Task Force helped to contain a caravan of thousands of migrants from Honduras in January 2021, together with personnel from the PNC and the Army.

Jimenez notes that drug seizures are not the best method to rate the effectiveness of task forces. "There's no way to know their results," he says.

A source at the Attorney General's Office, who wants to remain anonymous, said that if the task forces served a purpose, it was not reducing drug trafficking.

According to Mérida, the task forces "should have a whole network of information along the border," which goes beyond the authorities in Honduras and El Salvador, "to have a much clearer understanding of the cross-border situation." In reality, there is no sign of that happening. Since 2018, the regions where drugs are most trafficked by land from Honduras, such as Chiquimula, have been the ones with the fewest seizures, according to PNC data.

Mérida mentions that units, such as the Guatemalan Navy Force, directly support U.S. anti-drug trafficking units. These units are the most efficient because the decision maker accompanies them: The U.S. "Information on the maritime issue is under control, with no possibility of being distorted. This is not the case when the Army comes in support of public security," says the retired colonel. However, measuring the efficiency Mérida talks about is nearly impossible because there has been a decrease in the seizure of sea-smuggled drugs; on the one hand, and on the other, some seizures done in international waters are not awarded to Guatemala but to the U.S.

(b) State Stakeholders with a Historical and Military Relationship with Guatemala and with security interests in the region. There is a historical pattern in matters of cooperation with military forces.

The political theory says that the U.S. bases its strategy on an erroneous premise: that every civilian government controls the military.

Since the armed conflict, or even before, the U.S. has had a historical relationship with the armed forces. For example, it provided resources to the Guatemalan military to contain the insurgent threat (except for a few years when aid was interrupted). Still, Guatemalan military officers graduated from the once-infamous School of the Americas.

In 1992, the U.S. Southern Command (USSOUTHCOM) Southern Scenario Strategy was designed to "strengthen democratic institutions, eliminate threats to regional security (domestic and foreign in each country) and enhance the role of the military in the democracies of Central and South America" (Loveman et al. 1997: 147-149). It was a strategy centered on counterinsurgency security structures, in the case of Guatemala and El Salvador, because the armed conflict in both countries was still ongoing (although it was in its final stages in El Salvador). In the process, security interests for the United States in the region—such as drug trafficking and undocumented migration—justified continuing to include the military as a key player in national security tasks.

By 1996, the Army's involvement in counternarcotics tasks was sponsored by the DEA, as was the case with the EMP's Anti-Narcotics Command, as Yon Rivera admitted to Schirmer. Some 17 years later, the State Department started pushing for the creation of Task Forces whose impact on reducing drug trafficking is unproven. Everything, in a context where the Executive branch holds no actual control over the Army.

In the context of U.S. foreign policy and regional security, since the armed conflict date, the U.S. has provided an external cultural environment that has impacted Guatemala's national security interests and approaches. This is a phenomenon that Ronald Jepperson and two other authors wrote about in the article "Norms, identity, and culture in national security" (Jepperson et al. 1996: 33-35).

The main impact has been the military's role in national security under the wrong premise by the U.S., According to J. Samuel Fitch. The flawed assumption is "to assume that a civilian government is the same as having civilian control over the armed forces ... [and] that military intervention in politics is a thing of the past." Fitch points out that the second mistake of the US is believing that, through modernization, "Latin America will overcome its traditional patterns of political behavior" and that professionalization will lead Latin American armies to abandon "traditional attitudes and adhere to the norms of Civilian-military relations like they do in American and in European democracies."

Fitch emphasizes that democratic consolidation in Latin America still depends on the "democratic control of the armed forces" and that that control is proportional to democratic the development in the country (Gutiérrez, 1998: 41; Fitch, 1998: 1). Arévalo stresses that the responsibility lies particularly within the civilian authorities. "The subordination of the armed forces in Latin America has been harmed more by the lack of civilian control than by any active military resistance," says Arévalo. However, he clarifies that this "is not exclusive to Guatemala" (Arévalo, 2021: 139).

The mistake of thinking that "military intervention in politics" is something of the past applies to all governments from 2000 to date (especially in the case of Pérez Molina).^{xxiii} In the Portillo administration (2000-2004), a government advised by a retired military got the approval of Legislative Decree 40-2000, with the majority of Congress presided over by retired General Ríos Montt. Here the official party had the necessary votes to make things happen. According to a UNDP study (2004), this decree outlined "an unequivocal participation of the army in national security tasks."

Gutierrez points out that the Global Appropriations Laws of the Capitol seek to strengthen civilian security capabilities in countries of the Northern Triangle of Central America "almost with the same sense of urgency they give to respecting the independence of judges."^{xxiv} However, it is difficult to identify the impact of these appointments on the last two civilian governments and their control of the armed forces. Moreover, it is not a good indicator that the independence of judges has not been respected, judging by the criminalization of four judges working on high-risk cases from 2018 to date, including the dismissal of judge Erika Aifán in March 2022 (Vásquez, 2021; Sanz, 2022).^{xxv}

(c) Non-state Stakeholders with Economic interests in Guatemala (private sector), such as the Russian/Swiss mining consortium Solway. This firm represents a foreign private investment with significant political influence. Its influence is such that it grants the consortium state resources (military and police forces and the judicial criminalization of mining opponents) to defend its interests. This case has a historical precedent in the United *Fruit Company*, affected by the Agrarian Reform, and whose interests were protected at the request of the United States. The Guatemalan Army was instrumental in achieving this in 1954. The non-state external actors also establish key alliances with national actors (business elite with strong political influence in the Executive branch and with the government itself) to protect its economic interests.

5. The "Inside Enemy" to Justify Militarization: Conceptualization and Narrative

The definition of the inside enemy is based on: (a) the economic interests of the business elite, which the government defends for its reasons (corruption); (b) foreign economic and political interests in the country, and (c) to justify militarization, given the inability or lack of political will to strengthen the PNC.

Guatemala has not shown an increase in personnel or the overall budget of the Army. Instead, its influence has been much more subtle in some cases and blunt in others. As Ricardo Barrientos of Icefi pointed out, the growth of military influence is not seen in its budget as such but rather in budget items that do not contain detailed expenditures and are used to justify action against well-defined enemies like organized crime (mainly drug trafficking), and undocumented migration, at the behest of an (external) state actor such as the United States.

Then, at the behest of an economic elite that is always linked to the current administration, the state contains any social conflicts that interrupt the economic development of large companies. Even if the social claims are legitimate (water shortages due to hydroelectric plants, water pollution from mining activity, loss of land due to the growth of the agricultural zones of monocultures such as African palm, territorial boundaries between municipalities, etc.).

"Since its colonial origins, the Guatemalan political class has depended on the coercive capacity of state institutions," says Arévalo. "Relatively free of foreign threats, the military developed as a domestic instrument of political control," he stresses (Arévalo, 2021: 128). This coercive capability was used in full force during the twentieth century and continues to be used in this century.

The defense of local and foreign interests has a historical background that predates the armed conflict and others that occurred during that time. The armed conflict has been described as the product of the influence of the U.S. on the Guatemalan army and government in the 50s, and that of the communist and socialist parties in Cuba and the former Soviet Union, on the Guatemalan guerrillas to protect the *status quo*, in the case of the military government, or destroy it, in the case of the guerrillas.

An example of the defense of the economic and political interests of the Guatemalan right wing and economic elite, as well as American interests, was the overthrow of the government of Jacobo Arbenz in 1954 for being considered leftist and socialist. It was also believed to have harmed the American United Fruit Company's interests with the Agrarian Reform. In 1978, the persistent land claim in Panzós, Alta Verapaz, ended with the first massacre during the armed conflict. According to case records, large landowners who feared the invasion of their property requested help from the army. The armed forces ended up massacring 53 people and wounding other 47 others who did not carry firearms (CEH, 1999).

Once again, the lack of substantive and long-term solutions against crime and ungovernability due to inequality and poverty has led the Executive branch to resort to using the military for social control purposes.

Several cases showcase that the government has been more effective (in the medium term) in using states of exception when the goal is to neutralize social conflicts (usually targeting indigenous communities, particularly women and children) in defense of the economic interests of a third party or a local stakeholder. A prime example of this is the states of exception implemented to control social conflicts in El Estor, Izabal, in 2019 and 2021, together with the criminalization of community leaders to silence the protests against the pollution of Lake Izabal caused by the mining activities of the Guatemalan Nickel Company (CGN), a subsidiary of Swiss consortium, Solway.

The mining case dates back to at least 1970 with Canadian mining companies. Then Solway appeared on the scene in 2011. Similar processes were employed against communities that opposed their eviction from ancestral lands by monoculture companies devoted to growing bananas and African palm.^{xxvi}

The government has been less effective when it uses military forces to combat crime and organized crime, such as drug trafficking through Task Forces (or gang violence, as in January and February 2020), or social conflicts caused by ancestral border problems, as in the case of Nahualá and Santa Catarina Ixtahuacán, in Sololá, in 2021. The same happened in the Ixchiguán and Tajumulco in San Marcos in 2022.

Drug trafficking has not diminished; it has only changed routes as an effect of military and police intervention, just like the eradication of poppy crops in San Marcos has not stopped cultivation.

Meanwhile, border conflicts in that region and Sololá have not been resolved with substantive actions. States of exception only reduced violence to a certain extent (Toledo, 2022; Roman, 2022).

"Until 2019, the sitting administration used the states of exception on average once a year. However, in the first 15 months of his administration, President Giammattei has declared four states of exception to carry out operations against crime in urban areas and two states of exception, one related to conflict due to border problems between municipalities in San Marcos and the other related to drug trafficking in Izabal. None of these cases justified the suspension of constitutional guarantees. What was needed were professionally planned operations backed by effective police intelligence. Moreover, these meager results do not support the vast military and police resources used. However, invoking emergency laws allows the government to be seen as 'doing something' about crime and violence" (Arévalo, 2021: 136). In addition to the four states of exception mentioned, three more: El Estor Izabal in October 2021, Nahualá and Santa Catarina Ixtahuacán, in Sololá, in December 2021, and San Marcos in June 2022.

Mérida says that the combined actions of the security forces failed due to a lack of intelligence-based strategies.^{xxvii} The former military officer points out that the government should have the capacity to generate intelligence in all departments where it is required. This would allow for immediate actions permanently, thus avoiding reactive responses once a conflict reaches the point of a violent crisis. The former official says to act before a conflict turns into a crisis.

Despite the legal frameworks, the inability to implement strategic security plans makes the government resort to using military forces without applying long-term solutions. Moreover, the need to use military troops is permanent because the "internal enemy" in crime, organized crime, and social conflict will never disappear.

5. The Role of Society in Militarization

There is no social counterweight to the role of the Army and its influence in the administration of the state and its resources beyond the opposition parties in Congress, the Human Rights Ombudsman's Office (for now)^{xxviii}, and the different Civilian society organizations that report the transgressions of the armed forces. Also, the head of the Prosecutor's Office (MP) is directly related to how complaints are prosecuted.

In 2022, the leadership of the MP by Consuelo Porras, and the influence of people such as retired military officer Ricardo Méndez Ruiz, president of the Foundation Against Terrorism (FCT), had tremendous importance in the handling of judicial cases of corruption or violation of human rights against the military. An excellent example is the forced disappearances linked to the *Diario Militar* and the harassment and threats against judge Miguel Ángel Gálvez who sent seven retired military officers to trial for this case (Burt et al. 2022).

At least a dozen prosecutors and another judge working on high-risk cases, Erika Aifán, have had to leave the country due to criminalization processes against them. Only in the week of June 6, 2022, the Attorney General's Office started proceedings against former Attorney General Claudia Paz y Paz, in addition to other proceedings initiated against her successor Thelma Aldana, and other former prosecutors of the Special Prosecutor's Office Against Impunity (FECI) and former CICIG

officials. There are currently several former prosecutors from the FECCI or the Prosecutor's Office Against Corruption imprisoned or under house arrest. In the week when the MP announced the proceedings against Paz y Paz, the Judicial branch announced the trial of Virginia Laparra, former head of the FECCI in Quetzaltenango.

Many of these cases are not related to the issue of militarization. Still, they are driven by the military, as in the case of Judge Gálvez, in which the FCT is the plaintiff, or the case of Laparra, in which the FCT is the petitioner. The structure or actors to criminalize justice operators who affect (with investigations or rulings) the interests of the ruling class, in the Executive and the Legislative also works to ensure impunity for military or ex-military actors in judicial processes or in complaints that indicate the strange use of military or police forces. It is no coincidence that Bill 6076, under discussion in Congress in August 2022, seeks to benefit with alternative measures for police or military accused of illegal acts in exercising their functions (such as abuse of force, among others).

6.1. Impact on Marginalized Communities and Democratic Governance

An example of the impact and use of militarization is El Estor, Izabal, where the PNC and the army have been used to silence community leaders who report the pollution of Lake Izabal caused by the Fénix mine, owned by CGN-Solway. While criminalization processes are handled at the level of local courts in Izabal, states of exception are controlled by the Executive branch and are requested from Congress.

The measures taken by the Executive branch have been requested by executives of Solway's subsidiary, CGN, and its processing plant, Pronico, since 2012 directly to the President (López, 2022). These processes entail infiltrating armed groups inside demonstrations (managed at the local level) to justify the use of public force and accusations against community leaders, leading to arrest warrants. This process, as mentioned above, is also used in cases of illegal evictions linked to monocultures such as African palm, bananas and the operation of hydroelectric plants with foreign capital in other regions, such as Alta Verapaz.^{xxix}

Indigenous communities suffer the harshest impact of these actions in the regions where extractive industries operate. Also, where drug traffickers operate and where peasant communities are co-opted by drug traffickers and criminalized by the authorities in a situation where the state is absent for providing basic services. These are places where the extractive industry (El Estor, Izabal) or drug traffickers (Zacapa and Chiquimula) play the state's role and, in some cases, provide the basic services and employment that the state should facilitate.

Marginalized communities are criminalized in one way or another: either because they oppose the state protecting the economic interests of the extractive industry over their interests or because they receive aid from drug traffickers and are complicit with drug traffickers. The intention is not to defend criminals in the second case but to point out that drug traffickers take advantage of poverty, underdevelopment, and the absence of the state to criminalize the population. In this context, the victimization of the LGBTIQ+ community is invisible.

For example, the government used soldiers and the police to block a caravan of thousands of migrants that tried to enter the country in January 2021. The caravan included LGBTIQ+ people who wanted to apply for asylum in Guatemala or reach Mexico, and the U.S. Those who managed to enter the country have applied for asylum. Suppose they are the target of military or police harassment. In that case, this occurs within a broader context of discrimination in society and within a justice system that ignores and often ignores claims of any kind (extortion, violence, etc.) by LGBTIQ+ people. By March 2022, there were 949 complaints filed in MP between 2016 and 2021 (Factor 4, 2022). None of the cases reported reached a sentence in this five-year frame, and 70% were either dismissed or archived. However, this trend occurs outside of and not as a consequence of the militarization of citizen security.

Congressman Arévalo points out that "until the structural conditions for effective civilian control are developed at a state level, the complete subordination of the military to (civilian) political power will continue to be a greater challenge" (Arévalo, 2021: 140).

6.2. Communities that Change the Future of the Problem

In general terms, apart from complaints by local press and non-governmental organizations defending human rights, communities' reaction has a limited scope. However, press coverage has also been criminalized, as evidenced by the abuses, persecution, and criminalization of the journalists at Prensa Comunitaria. In addition, they have followed the case of El Estor, particularly journalist Carlos Choc.

The lack of justice in Guatemala led the affected communities in El Estor to sue the State of Guatemala before the Inter-American Commission on Human Rights (IACHR). Likewise, the broad disclosure of Solway's abuses (enabled by the State of Guatemala, including the army and PNC) in international press reports through the #MiningSecrets project turned into commercial pressure from the European Parliament to interrupt the purchase of nickel from Solway from at least one European company.

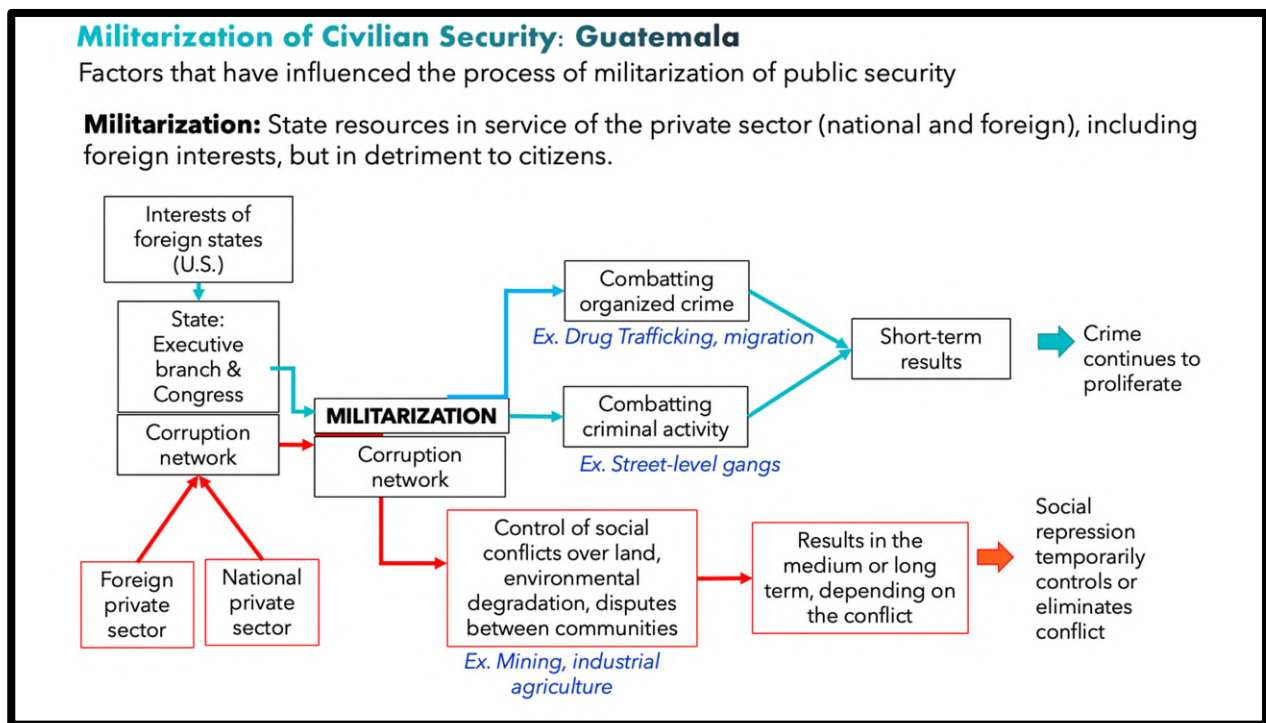
In Guatemala, the allegations have had limited effects on the behavior of the Executive branch, in particular the Ministry of Energy and Mining, regarding the illegal operation of the Fénix mine (Prensa Comunitaria, 2022). There are also no consequences for using military and police force to intimidate communities. On the contrary, it is justified as actions to maintain public order.

The co-optation of the legislative and judicial branches has profoundly damaged the reporting mechanism and the tools of Civilian society to act against corruption and the illegal use of military and police forces. The reports of the international community and international organizations still have no impact on corruption and the irregular use of state resources, including the Guatemalan Army.

There is an example of communities that have changed the future of the conversation, although it is too early to conclude that the change is long-term. After the Governance Commission in Congress issued a favorable opinion to Law Initiative 6076, which allowed security forces to use their firearms to control violent disturbances, different Civilian society groups spoke out against the initiative for over two weeks.

On August 17, representatives of the 48 Cantons of Totonicapán arrived in Congress to demand that the initiative be annulled because it could lend itself to serious human rights abuses. The group remained in the Congress building until August 18, when they finally received a written guarantee that the initiative would never be signed into law. However, the next day, the initiative remained on the agenda of the plenary session. Nevertheless, the opposition of the 48 Cantons of Totonicapán and other indigenous, popular, and political opposition organizations prevailed until August 23, when the board of directors of Congress announced to the press that the initiative had been shelved.

These actions do not guarantee that the initiative will not be reactivated. Still, at least the citizens' rejection stopped a law at a critical moment: a pre-election year and a growing popular discontent towards the government. The cause of concern is that the excessive use of police and military force has already occurred without this law. Two examples are the police abuses on November 21, 2020, against peaceful protesters, journalists, and activists, as well as citizens who were bystanders, and the violence in El Estor, Izabal, against community members who reject pollution from mining activities. In the case of the Army, the most recent abuses against the population occurred during the states of exception in 2019 and 2021 in Izabal. These facts suggest what could happen if the initiative's approval sanctions the use of greater force.



6.3. Paradigmatic Case: El Estor, Izabal

The case of mining in Estor, Izabal, goes back at least 50 years. However, the most recent events have to do with the claim of the Q'eqchi'és Ancestral Councils and the Artisan Fishermen's Union of El Estor, before the State of Guatemala, for the contamination of Lake Izabal by the Fénix

Mining Project, owned by the Swiss consortium Solway, through its subsidiary Compañía Guatemalteca de Níquel (CGN).

The case reached the Constitutional Court in 2018. One year later, the Court ordered the suspension of production at the Fénix mine, while a community consultation was held to determine the future of the mine.

The mine continued to operate, and the councils and the union were excluded from the community consultation. The consultation was led by a part of the community that supports mining because they work in the mine or someone in their family does (a minority). In October 2021, the councils and the union blocked the way to the mine. An infiltrated armed group began shooting at the PNC, who tried to remove the blockade. These events allowed the government to justify a state of exception and criminalize several activists of El Estor, who now have arrest warrants. CGN blames the activists for the actions of the infiltrated group. Once the state of exception was invoked, PNC agents jogged alongside the trucks to protect their movement to and from the mine (López, 2022).

In 2022, the Comptroller General of Accounts accused the Ministry of Energy and Mining (MEM) before the Prosecutor's Office of allowing the mine to continue operating. In addition, an international collaborative journalistic investigation (*Mining Secrets*), following a leak of CGN-Solway documents, revealed that the company knew all along that they were polluting the lake (just like the MEM knew), that it bribed the population who voted pro-mining activities during the consultation with community projects (since three years before they voted), and that it made payments to the PNC and the Army in El Estor (at least between 2013 and 2017, as well as in 2020), in years when they protected the interests of the mine and repressed the population that opposes mining and pollution. The repression included the criminalization of community leaders and the assassination of several of their leaders from previous years; the most recent case was fisherman Carlos Maaz, killed by police in 2017. The photographic documentation of this crime and other crimes cost journalist Carlos Choc to be criminalized for five years (López, 2022).

The case of El Estor shows how the state favored a local private company (CGN) and a foreign one (Solway) over the interests of marginalized Q'eqchi'es communities. Furthermore, the government used the justice system to protect the economic interests of the company through colluding actors (the District Prosecutor's Office of Izabal and a judge accused of favoring drug traffickers with his resolutions) and the municipality of El Estor to criminalize activists who oppose mining (and generate multiple arrest warrants that force them to hide and prevent further public protest over the pollution of the lake).

In addition, the MEM made tampered environmental impact studies regarding the lake's pollution. It did not prohibit the operation of the Fénix mine after the Constitutional Court ordered it to cease operations in 2019. The government also used the Ministries of the Interior and Defense to send police and soldiers to control the social conflict that resulted from the state's neglect of the pollution caused by the mine. In the process, the Ministry of the Interior built a narrative of El Estor as a violent municipality.

In reality, El Estor is the least violent municipality in Izabal, according to PNC data. The only violence was against the state's repression of mining victims. El Estor is also the poorest community, according to Icefi data, despite mining royalties (the municipality, in theory, receives

half of 1% as royalties) and job creation from mining activities. Community testimonies say most employees are from other municipalities and regions (López, 2022).

In the case of El Estor, as in other municipalities, militarization is not an end, but a means that the state has used to control social instability derived from the abuse of human rights by the state itself or the local or foreign private sectors (monocultures, mining, landowners) since the 60s.

The municipality brings together the *trifecta* that makes possible the militarization of citizen security in Guatemala. First, there is local economic power with strong political influence in the Executive branch and the Army. There are national laws that enable militarization, the influence of the Executive branch over the Legislative, and factors of external state and non-state influence. *Trifecta* does not work separately but simultaneously, as historical facts demonstrate.

The Executive Branch and the Army. The roots of military regimes in the state administration are a power divided into factions that operate, from different arenas, based on their political and economic interests.

For example, when CGN was a subsidiary of a Canadian mining company, it had a former lieutenant colonel on its security staff who murdered a community leader in El Estor and left another person with paraplegia in 2009. The former military was convicted in Guatemala but acquitted on appeal. However, relatives of the victims charged him in a Canadian court, where he pleaded guilty until January 2021 (Lopez, 2022/2). This case shows a symbiosis between state forces (even in retirement), private companies, and the abuse of power observed during the armed conflict.

In 1960, Canadian mining companies began approaching to invest in Guatemala through their local subsidiary Exmíbal. In 1971, when the government offered a 40-year concession to the subsidiary, four academics from the state-run Universidad San Carlos de Guatemala opposed it. As a result, two were killed, and the other two had to go into exile.

Another important example is the first massacre recorded in the national armed conflict, which occurred in 1978 in Panzós, Alta Verapaz, 54 kilometers from El Estor, which involved activists from that municipality, according to documentary records. The massacre occurred after farmers in the area asked the Army for protection when a group of peasants gathered in the Plaza de Panzós to demand the restitution of land (after the agrarian reform and the expropriation of idle lands were reversed, to be handed over to peasants, in the government of Jacobo Arbenz 1951-1954).

In the 80s, forced disappearances of activists demanding land or who opposed mining and unlawful executions continued in the municipality (as in other areas of the country). The 1998 Remhi report documents that 91% of abuses committed during the conflict were carried out by state forces (soldiers, military officers, civilian self-defense patrolmen under military orders, and police).

The historical background of the use of military forces in El Estor caused the states of exception invoked in 2019 and 2021 to impact the communities of El Estor profoundly. The aftermath of fear left by the armed conflict made the states of exception an effective method of social control. Several community leaders lost family members in the armed conflict, and the states of exception functioned as *déjà vu*. They succeeded in getting community leaders, who were not yet caught, to flee and to desist from publicly demanding against for CGN-Solway's abuses. The repetition of the armed conflict patterns in the current state of repression in El Estor is as perverse as it is effective.

Congress and Local Laws. Given the Public Order Law has been in force since 1970, the Executive branch only needed enough votes in Congress, where the ruling party had enough alliances for that purpose. In addition, Decree Law 40-2000 allowed the government to maintain a military presence and increase the police presence in the municipality without the need for another state of exception. The 2021 state of exception ended on November 24, and then a state of Prevention was invoked. This lasted 15 days and did not require congressional approval. Existing arrest warrants, and the promise of fear (of issuing new ones), were enough to deter community leaders from blocking the mine's access road again.

The company and the government used the law of development councils to their advantage. The law stipulates that the members of these councils are the only legally acknowledged representatives to make decisions related to the community. The commissions are organized by the municipality, which is responsible for creating them with people supporting mining activities. The ancestral councils and the fishermen's union, which are not representatives acknowledged by law, rejected the legal authority of the Community Development Councils (Cocodes), which also appeared in the Constitutional Court's file under "interested third parties" in favor of the Fénix mine and CGN. The process mentioned the councils and union members as individuals and plaintiffs but not as organizations.

"Everything that happened with the Comudes, Codedes, Cocodes,¹ displaced the ancestral authorities," says Mérida, referring to this issue in general. "Today, this gravitates around particular interests, foreign to the point of view of the ancestral authorities, who intervened in these matters and managed to reduce conflict and collateral effects."

In 2022, the Constitutional Court declared null and voided the community consultation in El Estor, citing an error in procedure. Unfortunately, this means that the process must be repeated, with the inclusion of the fishermen's union and ancestral councils, in compliance with Convention 169 of the International Labor Organization. This Convention discusses consultation with indigenous peoples about exploiting natural resources in their communities.

However, despite the court's announcement, the publication of *Mining Secrets*, and the MEM's claim to the Prosecutor's Office, the repression in El Estor continues with military presence and increased police patrols. In June, two community leaders, one from that municipality and another from Panzós, were captured in the capital following the blockade of the mine in October 2021. They arrived in Guatemala City to announce that they had filed a complaint against the State of Guatemala with the IACHR.

The use of militarization as a means of social control has contributed to undermining trust in the justice system. It reflects an absence of the rule of law, which explains why victims went to international bodies in the 2009 case before a court in Canada, and the lawsuit filed in 2022 before the IACHR.

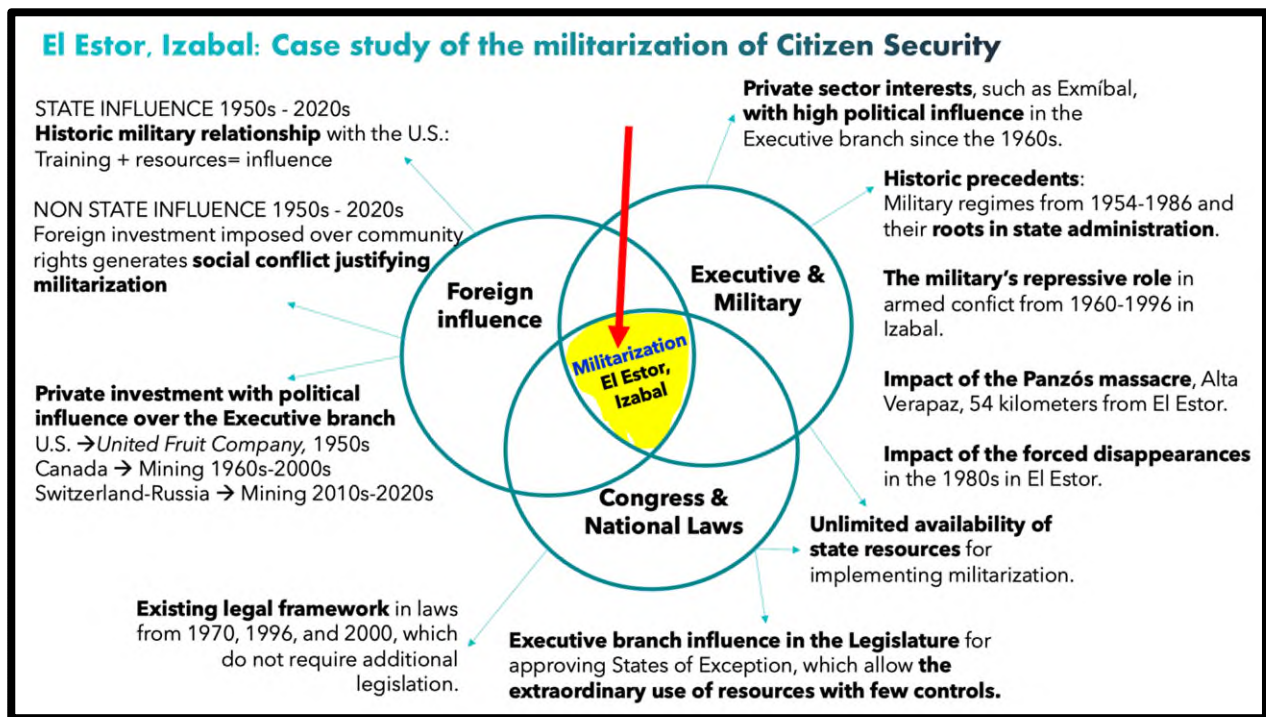
External Influence. In the case of El Estor, CGN-Solway is the non-state foreign influence in local politics. This is another *déjà vu*, in this case, from the *United Fruit Company* 50 years ago. The Swiss consortium bought the mining right to the Phoenix Project in 2011. The leaked CGN-Solway

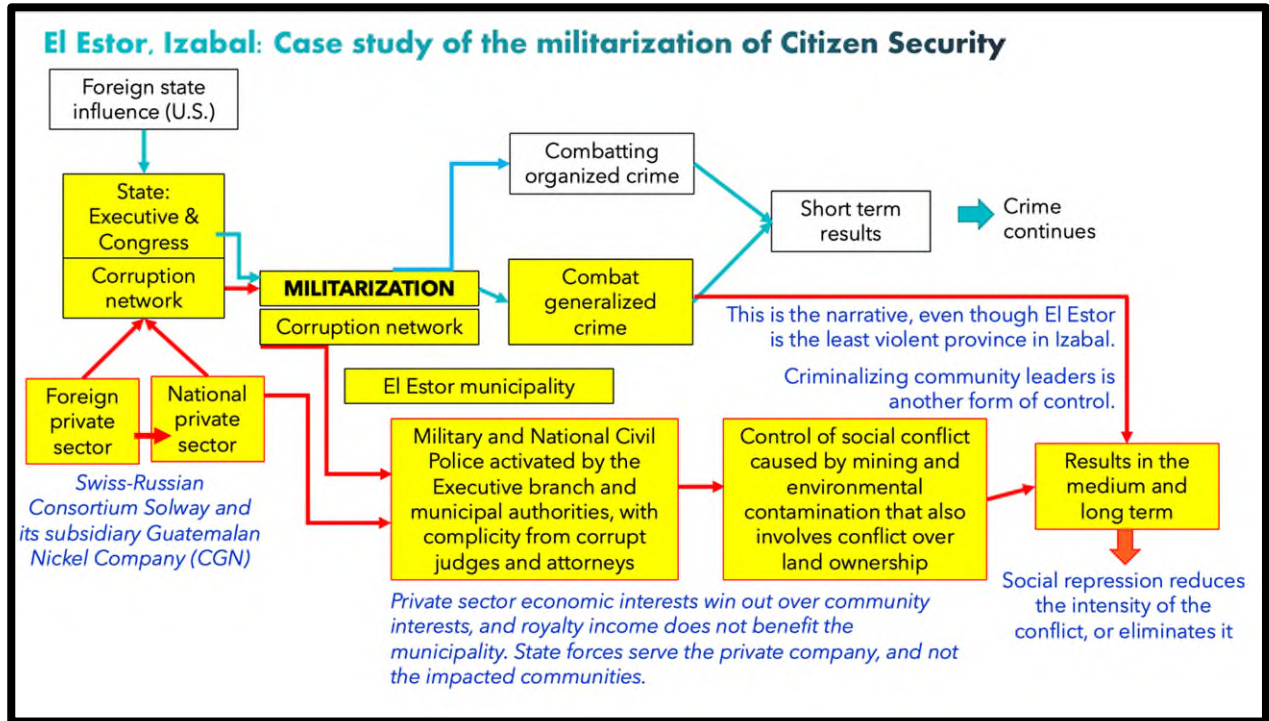
¹ The Comudes are Municipal Development Committees. Codedes are departmental development committees.

documents, as part of the "*Mining Secrets*" investigation, revealed that CGN-Pronico maintained direct contact with Presidents Pérez Molina, Morales, and Giammattei between 2012 and 2021. After this, the Executive branch invoked the states of exception or sent soldiers and more police to the municipality. The company argued it is defending its large investments in the country, its creation of employment and donations in the form of community projects, and, since 2020, protective supplies against Covid-19 for the municipality's population.

The process is set in motion from the foreign and local private sectors to the Executive branch. The Executive branch, in turn, exerts influence over the Legislative to invoke a state of emergency. The government's narrative was biased in favor of the operation of the mine and the jobs it generates over the destruction of Lake Izabal and the self-sustainability of thousands of families through fishing activities.

The case of El Estor showcases how the Guatemalan State, and each sitting administration, use militarization for repressive purposes when the protection of local and foreign economic interests is at stake. Unfortunately, there is no documentary evidence about what the central government receives in return. One can only speculate that there is, at least, a cost-benefit assessment in which social repression has a lower cost than the loss of economic investment and generation of jobs and royalties.





7. Conclusions

In cases of conflict over legitimate social claims, militarization as a means of social control, in combination with police forces, undermines trust in authorities, especially those charged with administering justice. As a result, the Q'eqchi' leaders of El Estor found no other way out but to resort to the IACHR in 2022 and to a court in Canada in 2009—although, in this case, they got results 12 years later.

When the government places public institutions at the service of local and foreign economic interests, it becomes the enemy, and the victims become the internal enemy. Moreover, this practice delegitimizes the power bestowed upon an official party through (supposedly) free and democratic elections.

Military interference in national security erodes the meaning of the PNC Law and the police career. Further, it detracts from policing by showcasing it as one activity that will always require military support during an event like an armed conflict.

The military cooptation of civilian intelligence agencies such as the SIE and the Digici is problematic because they can offer citizen security guidelines that come from military doctrine, even if they are steered by retired military personnel. In addition, if they do not generate intelligence, they prevent the PNC from maximizing its few resources to fight crime.

The military's share of political power is more symbolic than the budget allocated to the Ministry of Defense. An example is the power the ministry has to manage the Digecam and the reluctance of

the presidents in office since 1996 to transfer it to the Ministry of the Interior as mandated by the Peace Agreements.

It is difficult to say in which direction militarism is taking the country. A scenario like Nicaragua's is certainly feasible at this rate, to the extent that the country's options to demand justice and an end to impunity are being exhausted. The question is, where do civilian governments that use militarization to control the national enemy and advance their political and economic interests take the country? Here the distance between Giammattei's Guatemala and Ortega's Nicaragua begins to narrow.

It is pernicious that the United States continues to talk about the need for military involvement in combating drug trafficking and undocumented migration in a country without democratic control of the armed forces.

Both the factor of foreign, state, and non-state influence, and local and foreign economic interests, will continue to fuse the military with the state administration and national security, with the complicity of the Executive branch and Congress, including local power and corrupt justice operators.

The cooptation of state institutions, and the alliances of corrupt bureaucrats and drug traffickers, are antidotes to democracy. These stakeholders find militarization a helpful tool.

Guatemala dangerously follows Nicaragua, where the ruling party has co-opted the executive, legislative, and judicial branches, and key players of the administration are treated as the "internal enemy" and criminalized; or are targets of violence by state forces, as in the case of land defenders (the case of El Estor, among others).

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Annex

Laws relevant to militarization and documents with the budget of the Ministry of Defence:

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ⁱ Murillo Jimenez, Hugo (1985). The U.S. intervention in Guatemala in 1954; two recent interpretations". *Yearbook of Central American Studies; University of Costa Rica: 1985. Page 4*. Retrieved from: [Dialnet-LaIntervencionNorteamericanoEnGuatemalaEn1954DosIn-5075978.pdf](#)

ⁱⁱ Consult Process for Approval of a Government Agreement: [Structure of a Governmental Agreement by Andrea Torres \(prezi.com\)](#)

ⁱⁱⁱ Merida, Mario. Electronic interview. Guatemala, June 2, 2022.

^{iv} The Secretariata Strategic Intelligence of the State (SIE) coordinates the state intelligence system, among other functions. Consult: [Wayback Machine \(archive.org\)](#)

^v The Technical Secretariat of the National Security Council (STCNS) is responsible for formulating the National Security Policy, among other functions. See: [Who We Are – Technical Secretariat National Security Council \(stcns.gob.gt\)](#)

^{vi} Jimenez Irungaray, Francisco. Personal interview. June 3, 2022. Guatemala City.

^{vii} Serrano Castañeda is identified in said job position in paragraph 6 and page 33 of the "Covid 19 Pandemic Detailed Report", of the Ministry of the Interior, Decree 21-2020, of August 26, 2020: Document No. DM-822-2020/OGR-wdc (OB.202006219). See: [Detailed Report Ministry of the Interior.pdf \(congreso.gob.gt\)](#)

^{viii} Electronic interviews: Barrientos, Ricardo. Guatemala, February 2, 2022. / Gossmann, Carlos. Guatemala, April 19, 2022.

^{ix} Jimenez, 2022.

^x Gutierrez, Edgar. Electronic interview. June 2, 2022. Guatemala City.

^{xi} Personal interview at the Division of Investigation and Deactivation of Weapons and Explosives (DIDAE) of the PNC. May 3, 2022. Guatemala City.

^{xii} Tellez, Ruben. Spokesperson of the Ministry of Defense. Electronic interview. May 6, 2022.

^{xiii} Electronic interview with former UPCV analyst. January 2021.

^{xiv} Menocal, Carlos. Electronic interview. July 14, 2022.

^{xv} Jimenez, 2022.

^{xvi} History of the Kaibil Special Forces Brigade [Guatemalan Army Official Site \(mindef.mil.gt\)](http://Guatemalan Army Official Site (mindef.mil.gt)). The Kaibiles have been linked to human rights violations during the armed conflict in Guatemala (1960-1996) and, with the training of members of military forces in Mexico that later formed the Zetas, although the Ministry of Defense assured by 2012 that the Kaibiles arrested and related to the Zetas and drug trafficking were less than 6% of the Kaibil forces.

^{xvii} Series of interviews between 1998 and 2008 with former kaibil infiltrated in the MP between 1998 and 1999.

^{xviii} Head of DOAN. Personal interview. Guatemala, 1998.

^{xix} The SAAS remains valid for 2022: [SAAS - Secretary for Administrative Affairs and Security |](#)

^{xx} See Digici Law (2005) in annex A.

^{xxi} Statements by investigator of the Anti-Kidnapping Section of the Criminal Investigations Department (SIC) of the National Police (PN) in February 1997 (before the transition to the PNC that year).

^{xxii} These were the same vehicles that Morales' Minister of the Interior, Enrique Degenhart ordered to patrol the capital and stand in front of CICIG headquarters on August 31, 2018, when the president announced he would not request to renew the Commission's mandate. They also parked in front of the US Embassy, the Commission's main financier. See: Attacks on transitional justice and the fight against corruption (2019, March-September). *The Observer* Year 14, No. 66-67. Retrieved from: [EObservadorNos.66-67-2019.pdf \(albedrio.org\)](#)

^{xxiii} In 1999, Portillo, who won the presidency in that year's elections, promised Pérez Molina the position of Minister of Defense, something Ríos Montt was opposed to. Montt had more power in the official party (Guatemalan Republican Front) than Portillo. The president reneged on his promise to Pérez, who two years later formed his own party, Partido Patriota, with which he won the presidency in 2012 (see López, 2016: 169).

^{xxiv} Gutierrez, Edgar. Electronic interview. Guatemala, June 2, 2022.

^{xxv} Gutierrez, Edgar. Electronic interview. Guatemala, June 2, 2022.

^{xxvi} Chub Caal, Abelino. Activist of the Maíz de Vida organization. Personal interview. Guatemala, March 25, 2022. Chub was criminalized by businessmen of a banana plantation when he opposed offering money to community members for evicting lands of interest for the production company. The activist was imprisoned for two and a half years until his case was dismissed. However, the businessmen managed to get the authorities to forcibly evict the communities. Chub notes that in 2012, African palm farmers got the government to send military forces to protect the palm plantations that community members tried to burn down in retaliation for the attempts to evict them from ancestral lands.

^{xxvii} Merida, 2022.

^{xxviii} The role of the Office of the Human Rights Ombudsman depends on who runs it. In July 2022, Congress elected the successor to current Attorney General Jordán Rodas. In the current administration, Congress has managed to place in key positions key players related to the economic and political interests of the official party. An example is the election of magistrates of the Constitutional Court, where pro-government congressmen managed to place pro-government magistrates and block the nomination and swearing in of those perceived as opponents. An example is Gloria Porras, representative of the state-run San Carlos University of Guatemala, who not only was unable to take office, but had to leave the country (see: Pérez Marroquín, 2022). The new Human Rights Ombudsman, José Alejandro Córdova Herrera, was an advisor to Giammattei, when he was director of the Penitentiary System between 2006 and 2007 (Sapalú, 2022).

^{xxix} Chub Caal, 2022.