WHEN ANTI-CORRUPTION AGENCIES DELEGITIMIZE THE STATE: THE CASE OF NEPAL AND GUATEMALA

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ABSTRACT

State-led anti-corruption agencies are often posited for their state-legitimizing effects. This article argues that anti-corruption agencies (ACAs) can have adverse legitimacy effects on the state and its institutions. Based on an extensive review of the literature the paper first defines twelve ACA ideal types which reflect their corruption-reduction potential. Negative effects of ACAs on state legitimacy are illustrated through two case studies, Nepal and Guatemala. The findings show that ACAs can negatively impact state legitimacy if they increase citizens' awareness and condemnation of corruption in state institutions or if governments interfere with effective investigations from the ACA. Taken together, these findings highlight that anti-corruption policies and reforms need to account for and adapt to potentially delegitimating effects on state institutions.

KEYWORDS: *Anti-corruption agency; state legitimacy; trust; Guatemala; Nepal*

INTRODUCTION

Scholars broadly agree that the negative effects of corruption outweigh positive ones. While economists point to corruption as an impediment to economic development (Gründler & Potrafke, 2019), political scientists single out the deleterious effects of corruption on state-society relationships, including public distrust in the state and low public participation in governance (Warren, 2015). Such a conception of corruption implies that corruption negatively affects the state's effectiveness (its ability to govern) as well as the state's legitimacy (the recognition of its right to govern) (O'Donnell, 2008; Pyman et al., 2016). Yet, studies of anti-corruption reforms have predominantly analysed their effectiveness in reducing corruption, with less attention to their political impact, e.g. on state legitimacy. This gap in the anti-corruption literature seems surprising, as support for anti-corruption reforms is often aimed at mitigating the negative effects of corruption on state institutions and state-society relations. As Alan Doig and Stephanie McIvor formulate, "dealing with corruption is not an end in itself but a means to resolving [its] profoundly 'anti-developmental' effects" and to restore political stability and trust in government and state institutions (Doig & McIvor, 1999; Ezrow & Frantz, 2013). Strengthening the state-society relation has been an important rationale for international actors to engage in anti-corruption reforms. The World Bank argues that anti-corruption measures are particularly important in statebuilding settings for other development interventions not to lose credibility due to corruption (World Bank, 2011). Similarly, Christine Lagarde former director of the IMF, argued that corruption is the cause for people's dwindling trust in state institutions, including governments, and therefore needs to be addressed "head-on" (Lagarde, 2018). Hence, when anti-corruption studies focus exclusively on the efficacy of reforms in reducing corruption, they neglect the socio-political impacts, i.e. the effect on the relationship between states and their citizens.

In sum, while much of the growing research on anti-corruption reforms has failed to analyse the reforms' impact on the relationship between state and society, international actors assume a positive effect of anti-corruption reforms on this relationship. However, failing or noneffective anti-corruption reforms may for example cause public cynicism that "threatens to subvert public trust" in state institutions (Mungiu-Pippidi, 2006). Thereby, an intended positive or legitimizing effect of anti-corruption reforms turns into a delegitimizing one.

This article critically examines the assumed positive impact of anti-corruption reforms by illustrating how anti-corruption agencies (ACAs) – the most prominent anti-corruption policy promoted over the past three decades (Johnston, 2015) – contribute to delegitimize the state and its institutions.

RELATIONSHIP BETWEEN STATE LEGITIMACY, CORRUPTION AND ANTI-CORRUPTION REFORMS

Legitimacy is an important dimension of state effectiveness and political stability (Abulof, 2017; Clements, 2014; Dagher, 2018; Fisk & Cherney, 2016), and most of the literature on political legitimacy takes the nation-state as the main reference object of legitimation (von Haldenwang, 2017).[1] Generally defined as a "perception or assumption that the actions of an entity are desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs, and definitions" (Suchman, 1995), political legitimacy plays an important role in characterising power relations on a set of shared values between governing entities and their constituents – a social contract (Lemay-Hébert, 2009). Legitimacy enables the state to benefit from gaining voluntary compliance and confidence from its constituents, and more

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easily see acquiescence for its right to exercise authority within its territory. In turn, legitimate states are expected to depend less on their coercive capacities, the co-optation of opposition, or the adoption of populist strategies to sustain their rule (Gerschewski, 2013), these latter strategies being less efficient and inducing high economic and social costs (Kapidžić, 2018). Legitimacy is thus generally associated with greater state effectiveness, with legitimate states being more effective in providing public services and more resilient to challenges to their authority (Divjak & Pugh, 2008; Zaum, 2012).

In contrast to legitimacy, corruption is mostly associated with corroding effects on state institutions, including inferior public services as corruption depletes state revenues and their efficient allocation (Pugh, 2013). Corruption also increases the likelihood of political unrest and conflict by lessening confidence in public institutions and aggravating grievances between societal groups (Clausen et al., 2011; Lindberg & Orjuela, 2011; Neudorfer & Theuerkauf, 2014; Rose-Ackerman, 2001). In turn, corruption is often seen as "the most striking indication of the failure to link society and government in a shared sense of values" (Clapham, 1985). This claim implies that corruption is a transgression of the social contract and its underlying norms – i.e. the principle of impartiality as a universal norm for the conduct of public authority (Rothstein, 2011; Rothstein & Teorell, 2008). Corruption, commonly defined as the misuse of public power for private gain, violates this principle of impartiality and, thus, thwarts state institutions from attaining or retaining legitimacy (Linde, 2012).

Following this conception of corruption some actors in the field of anti-corruption have fallen into the fallacy "that the best way to fight corruption is by fighting corruption – that is, by means of yet another anti-corruption campaign, the creation of more anti-corruption commissions and ethics agencies, and the incessant drafting of new laws, decrees, and codes of conduct" (Kaufmann, 2005). However, the inferred assumption – that anti-corruption reform is conducive to legitimize the state and its institutions – remains ambiguous in theory and empirical evidence. For example, while ACAs may have positive effects on state legitimacy by demonstrating institutional effectiveness, they can also undermine state legitimacy by uncovering widespread corruption patterns within the state apparatus or be seen as a political instrument of the ruling elite to punish opponents. Furthermore, if ACAs may improve state legitimacy when certain institutional conditions of effectiveness are fulfilled, it is not unimaginable that they undermine it when these same criteria are unmet. Consequentially, a uniformly positive linear effect of ACAs on state legitimacy is questionable (Gemperle, 2018a; Scharbatke-Church & Chigas, 2016). Also, while the argument about ACAs promoting a legitimate state-society relationship hinges on the effectiveness of ACAs in reducing corruption, a delegitimating effect of ACAs may occur with effective as well as ineffective ACAs. In the next section, ACAs are conceptualised according the criteria determining their potential in fighting corruption.

CONCEPTUALISING ANTI CORRUPTION AGENCIES

Scholars generally categorise ACAs according to their functions. For example, Heilbrunn distinguishing between a universal model with preventative and investigative functions and an exclusively investigative model of ACAs (Heilbrunn, 2004). Kuris differentiates ACAs with law-enforcement powers ('guard dog agencies') from those without such powers ('watchdog agencies') (Kuris, 2015). Similarly, the OECD identifies three models of ACAs: *Multi-Purpose Anti-Corruption Agencies*, *Law Enforcement Institutions* and *Prevention Type Institutions* (OECD, 2013). Multi-purpose ACAs are equipped with a comprehensive mandate including law-enforcement functions such as investigation (at times also prosecution) and preventive functions such as education or campaigning.[2] This ACA type is prominently represented by the successful Hong Kong Independent Commission against Corruption. Law enforcement type institutions are specialised in detecting, investigating and prosecuting corruption but sometimes include coordination or research functions. ACAs of the prevention category encompass coordination councils or dedicated prevention bodies which, however, lack any investigative functions.

These typologies facilitate comparing ACAs from the perspective of their functional capacities (Recanatini, 2011). In addition, several studies suggest that other political and institutional conditions are necessary for ACAs to deliver on their mandate (de Maria, 2008; Doig et al., 2006; Kuris, 2015). For instance, one element in Meagher's definition of ACAs stipulates that they need to be of a permanent nature - in other words, that ACAs have a legal basis (Meagher, 2004). Kpundeh further suggests that successful ACAs share a set of common characteristics including independence from political influence, a sufficient and predictable budget, relatively well-working complementary institutions, and checks and balances that ensure their accountability (Kpundeh, 2004). Similarly, in describing ACAs' authority, Kempf and Graycar distinguish the degree of anticorruption activity centralisation, coordination or overlap with other agencies as well as their political independence (Kempf & Graycar, 2017).

Drawing on these discussions, this article conflates ACAs' various elements into two dimensions that are important to consider – ACAs' functions and authority. First, the range of *functions* specifies the various activities that ACAs pursue in executing their mandate. Two sets of functions are defined to reflect this range: law-enforcement and preventive functions.[3]

Law-enforcement functions are often regarded as the linchpin of an ACA. For instance, Choi suggests that ACAs' success in deterring corruption depends on their law-enforcement functions, which include activities related to investigating corruption cases or prosecuting them (Choi, 2009; UNDP, 2005). However, while high-level investigations promise high rewards, they also entail risks, such as provoking political retaliation. Therefore, ACAs often have to gauge the utility and costs of law-enforcing activities with lower-visibility approaches (Kuris, 2014). For example, compiling and monitoring asset declarations of senior public officials are also part of the law-enforcement functions, that have additional preventive effects (UNDP, 2005).

ACAs may also engage in specific *preventive functions* ranging from public education and campaigns against corruption to more technical activities such as reviewing administrative procedures to identify and close loopholes prone to corruption. Kuris (2015) dissents with the view that preventive functions are subordinate to law-enforcement functions for agency effectiveness. He argues that preventive functions are more effective in contexts with systemic corruption where they have better chances to initiate long term structural changes than law-enforcement activities.

The second dimension, ACAs' *authority*, includes political and institutional factors influencing ACAs' capacities to operate. De Sousa (2009) refers to throughput performance indicators which evaluate ACA processes on achieving results. Similarly, a study of seven Asian ACAs finds three factors that appear to determine performance: political independence, sufficient resources, and transparent oversight procedures involving political adversaries (Quah, 2009).

Most studies on ACAs consider *political independence* as a key issue since politically motivated exertion of influence compromises their impartiality in investigating (and prosecuting) corruption at different government or administrative levels and sectors (UNDP, 2005). For example, Schütte (2015) contends that undue external interference in appointment of ACA officials or removal procedures affects "the actual and perceived impartiality of ACAs". Other forms of political interference include threatening to terminate the ACA or obstructing its work by inciting inter-institutional non-cooperation (de Sousa, 2010). This, in turn, undermines the reputation of and public confidence in ACAs (UNDP, 2005).

The *accountability and accessibility* component comprises different mechanisms to control for an unbiased implementation of an ACA's mandate and to ensure responsiveness to public complaints. On the one hand, placing oversight of ACAs with multiparty parliamentary committees rather than with the executive can provide checks against the agencies' instrumentalization by one political faction, thereby bolstering its credibility and ability to mobilise public support (Meagher & Voland, 2006; Wettenhall, 2012). On the other hand, accountability is ultimately associated with "public transparency" (Brown & Head, 2005). As Stone argues, publicly accessible reports on investigations or regular media communication do "enhance public trust as they provide accountability by satisfying public expectations about an anticorruption agency's use of its powers" (Stone, 2015). Related to this is the ease for public reporting of corruption with an ACA, for example to file complaints, and whether they are investigated (UNDP, 2005).

Finally, ACAs depend on adequate *resources and powers* in order to effectuate their mandate. ACA resources include financial and human resources while powers refer to the technical capacities to effectuate all functions as established in the mandate. Sufficient resources and powers are crucial to meet public performance expectations, which in turn is important to sustain public support as a counterbalance to potential political retaliation (Moroff & Schmidt-Pfister, 2015; Schütte, 2015; Stone, 2015).

While most studies looking into the effectiveness of ACAs combine some but not all of the components (Gemperle, 2018b), the following ACA typology integrates all of them.

ACA IDEAL TYPES

The process of identifying ACA ideal types involves two steps. First, ACA sub-types are formed for the function and authority dimension. Guided by the OECD typology, the functions components define three ACA sub-types. They are based on the combination of prevention and law-enforcement functions and include multi-functional ACAs (featuring both functions), prevention ACAs and law-enforcement ACAs (each featuring the respective function but not the other).[5]

Furthermore, four ACA sub-types result from combining the authority components. The empowered ACAs sub-type has capacity in all three authority components, while the powerless ACAs has no capacity in either authority component - they represent the opposite extremes of having full authority in executing their mandate or none. The weakly constrained ACA sub-type lacks capacity in one and the substantially constrained ACAs in two of the three authority components. These latter two ACA sub-types each subsume three possible combinations of the authority components. Clustering the three combinations together into one sub-type implies the assumption that the three components are each necessary for an ACA to achieve a comparable authority level. Since no component is deemed superior in the literature, this assumption seems credible. Likewise, each component is insufficient in itself for an ACA to reach full authority. Only capacities in all three components constitutes a combination sufficient for an ACA to be fully empowered. However, the sub-type with no capacity in only one component is closer to the sufficient combination than the sub-type with no capacity in two components. Hence the term weakly constrained for the first and substantially constrained for the second ACA sub-type.

In the second step towards ACA ideal types, the functions and authority ACA sub-types are combined. This procedure results in twelve ACA ideal types. They represent the capability or potential of an ACA in performing the functions given by its mandate. For example, an empowered multi-functional ACA is independent, accountable and has adequate resources and powers to engage in investigations and prevention activities.

Table 1 shows the twelve ACA ideal types. A total of 39 ACAs from different countries have been allocated to the ideal types using fuzzy set ideal type analysis (FSITA; see supplemental material). The 39 ACAs distribute empirically across nine ideal types. With eleven ACAs, the empowered multi-functional ACA is the most common ideal type. Among the functions sub-types, more than two-thirds of the ACAs (28) have a multi-functional mandate and among the authority sub-types 15 ACAs are empowered.

Table 1 ACA ideal types

	Multi-functional	Prevention	Law-enforcement
Empowered	11	4	0
Weakly constrained	5	1	0
Substantially constrained	8	0	2
Powerless	5	2	1

Note: total number of ACAs: 39; empirically observed ACA ideal types: 9

ACA'S DELEGITIMATING THE STATE : NEPAL AND GUATEMALA

This section examines state delegitimating effects of ACAs with two case studies from countries with multi-functional ACAs. The two case studies differ, however, regarding the authority of their ACAs. While Nepal's Commission for the Investigation of Abuse of Authority (CIAA) is an empowered multi-functional ACA, Guatemala's International Commission against Impunity (CICIG) is a substantially constrained multi-functional ACA. Recalling the assumption that effective ACAs promote a legitimate state, the CIAA is more likely to have a positive influence on state legitimacy than CICIG. Vice versa, a delegitimating effect is less expected for the CIAA than for the CICIG. Nevertheless, both cases illustrate a negative relationship between an ACA and the legitimacy of state institutions.

Nepal's Commission for the Investigation of Abuse of Authority

Following long-established authoritarian monarchic rule (Brown, 2002), democratic change in 1991 led to a new constitution transforming the Commission for the Prevention of Abuse of Authority first created in 1975 into the Commission for the Investigation of Abuse of Authority (Acharya, 2015). As a constitutional – and supposedly stronger – body, the CIAA was created as an authority independent from line ministries and other law-enforcement institutions. While this new mandate still encompassed preventive activities, its main focus was on the investigation and prosecution of corruption.[6] During its first decade, however, the CIAA was largely powerless because political parties did not agree on a nominee for the post of chief commissioner. By 1996, Nepal's democratic experiment had derailed into a decade long Maoist uprising and civil war (Deraniyagala, 2005; Do & Iyer, 2010; Murshed & Gates, 2005; Sharma, 2006). Popular discontent against the state's weak capacity and its inability to rural grievances was further exacerbated by state officials partaking in "distributional coalitions" with politicians and entrepreneurs to divert state resources for their private benefit (Pfaff-Czarnecka, 2004). For Thapa (2012; see also Riaz & Basu, 2010) the Communist Party of Nepal (Maoist) launched its People's War because "[p]ublic faith in democracy itself eroded while governance lay in shambles, with the major political parties engaging in an all-out scramble for power".

With the first chief commissioner, Sury Nath Upadhaya, commencing office in 2001 and as a result of the CIAA Second Amendment Act and the Corruption Prevention Act in 2002, the CIAA saw its powers increased (Khanal et al., 2007; Koirala et al., 2015; Thapa, 2002), and it started taking actions against public officials including high-profile politicians. On one hand, these actions increased public trust in the CIAA (Manandhar, 2015). On the other, widespread media reporting about these actions also increased public awareness about the extent of corruption in politics and public administration. This open exposure of corruption cases led to a first rise in the number of corruption complaints being filed with the CIAA between 2001 and 2005 (see Fig. 1) (Dix, 2011)

The royal coup in February 2005 not only changed the dynamics of the conflict but had a regressive impact on anti-corruption efforts in Nepal. King Gyanendra established the Royal Commission on Corruption Control (RCCC) to sideline the CIAA and its commissioners who were reluctant to support him in reinstalling the monarchy. Furthermore, the RCCC was instrumental in a political campaign to pressure or eliminate republican adversaries (Adhikari & Gautam, 2014).[8] However, the suspension of the parliament and political persecutions united the major political parties to form an alliance with the Maoists against the monarchy and after a countrywide popular uprising with a weeks-long general strike, the King finally restored parliament in late April 2006 (Riaz & Basu, 2010).

Figure 1: Number of corruption complaints at CIAA (1991/92-2018/19)[1]
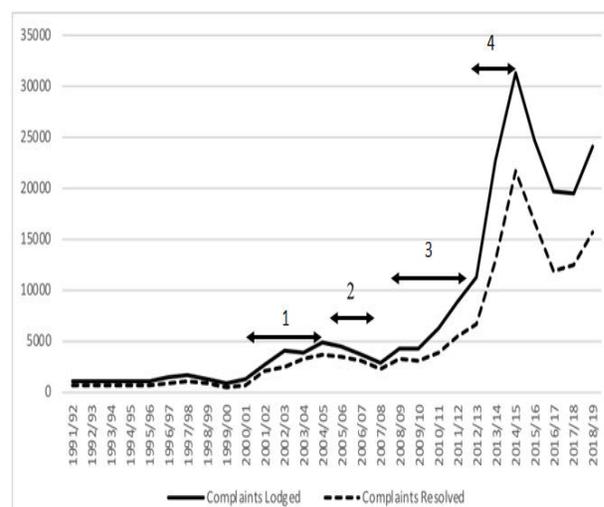
During this relatively short authoritarian interlude public corruption complaints declined significantly, notably after the demission of chief commissioner Upadhaya at the end of his tenure in 2006 (Fig. 1, period 2). Successive transitional governments intended but failed to nominate party loyalists as succeeding chief commissioners, leaving the CIAA without leadership and susceptible to political interference for almost seven years. During that period the CIAA was headed by state secretaries who had no incentive to

antagonise superior ministers and therefore failed to initiate or continue investigations against political leaders (Adhikari & Gautam, 2014). As such, the CIAA may have contributed to delegitimating the state, with people losing trust in the CIAA, especially in terms of authority.

The number of complaints again resumed an upward trend towards the end of the transition period between the peace agreement of 2006 and the first elections to the Constituent Assembly (CA) in May 2008. The time until the elections for the second Constitutional Assembly in November 2013 was characterised by political instability, with no fewer than six governments and a total impasse over the constitution. In addition, the controversy about the CIAA commissioner and the slow but steady stream of corruption revelations caused considerable media attention. Hence, after a decline between 2005 and 2008 in the number of complaints lodged, the numbers rebounded (see Fig. 1, period 3). When, finally, Lok Man Singh Karki was nominated new chief commissioner in 2013 and the CIAA reassumed (sometimes spectacular) actions against corrupt civil servants, the number of new complaints surged exponentially (see Fig. 1, period 4).[9] The rising number of complaints against corruption lodged with the CIAA can thus be interpreted as the complex articulation of growing concerns over corrupt practices *and* growing trust in anti-corruption measures.

The varying number of complaints during different periods suggests that citizen's trust in the CIAA varied accordingly. Trust in CIAA increased during the phases when a chief commissioner actively engaged against corruption, but decreased when political interference was particularly pronounced (Jamil et al., 2016). Results from two consecutive surveys conducted in 2009 and 2014 confirm that trust in CIAA increased over that period along with trust in most other state institutions – noting that the CIAA saw the largest positive change and became the second most trusted public institution after the judiciary/courts (see Table 2) (Jamil et al., 2016).

Table 2: Evolution of trust in public institutions in Nepal[2]

Public Institutions	2008	2014	Change (%)
CIAA	49	75	53
Judiciary/courts	66	77	17
Police	53	73	38
Central government	45	61	36
Parliament	46	58	26
Political parties	27	40	48

This possibly reflected greater awareness about corruption, including through easier access to media coverage of CIAA's documentation of corruption cases. Even though the CIAA was criticized for failing to address grand corruption (Adhikari & Gautam, 2014), the increasing complaints and attention from the media and civil society indicated a loss in legitimacy for the government and state institutions. Furthermore, the 2017/18 Nepal National Governance Survey found that respondents who were more highly educated – and thus more likely to be informed about

CIAA's reports – were also more likely to distrust the government's commitment or zero tolerance to corruption. More than 75% of the respondents indicated that the government either did not *want* to control corruption (21%) or could control corruption if it wanted to (55%) rather than it cannot control corruption (17%) (Dhungana et al., 2018). Although the CIAA has not been able to significantly reduce corruption in Nepal, it is argued that the growing number of complaints, along with CIAA's investigations and some successful convictions, reflects an increasing awareness and condemnation of corruption in state institutions among Nepal's citizens, and thus some degree of state delegitimization.

Guatemala's International Commission Against Impunity

Guatemala's CICIG was founded in the wake of the civil war in 2007 through an agreement between the Guatemalan government and the United Nations. CICIG was given a broad anti-impunity mandate, and while corruption was not initially a priority it became so given its importance in perpetuating impunity.

In 2007 UN Special Rapporteur on Extra-Judicial or Arbitrary Executions, Philip Alston noted that Guatemala's security situation deteriorated to levels of violence worse than during the civil war (UN General Assembly, 2007). Weak state institutions were penetrated by organised criminal networks. The judicial system in particular failed to respond to the escalating homicide numbers, leaving perpetrators to enjoy almost complete impunity. This extensive post-conflict violence and impunity undermined democratic consolidation and institution-building processes, thereby also jeopardising peace (International Crisis Group, 2011).

Against this background, the International Commission Against Impunity in Guatemala (CICIG) was formed (Hudson & Taylor, 2010). It started working in September 2007 as a hybrid criminal justice mechanism comprising national and international personnel, advised and monitored by the UN Department for Political Affairs, funded by a multinational group of countries, but operating solely within Guatemala's national judicial system (International Crisis Group, 2011). CICIG's mandate was twofold: to investigate and dismantle organised criminal networks and to strengthen Guatemala's law-enforcement institutions through promoting legal reforms, capacity building and coordination between them.[11] While not directly within CICIG's mandate, fighting corruption was crucial to its activities given the role of corruption in perpetuating some of the impunity affecting the country (Kurtenbach & Nolte, 2017).

At the beginning of its mission, CICIG's main challenge was to establish itself as a politically independent institution. While CICIG achieved rapid and considerable success in targeting lower-profile criminal networks, it faced growing opposition from powerful actors as it started investigating members of elite groups (Hudson & Taylor, 2010; International Crisis Group, 2011). Such political interference and obstruction generally did not directly target CICIG, but its domestic counterparts in the judiciary - which were more frequently seen as captured by political or other interests (Kuris, 2019). In 2010, Carlos Castresana, CICIG's

first commissioner, resigned after the controversial appointment of a new attorney general, Conrado Reyes, by President Álvaro Colom Caballeros (International Crisis Group, 2011). Political opposition continued on a number of important cases under CICIG's new commissioner Francisco Dall'Anese. Most notably, former President Alfonso Portillo, charged with multi-million dollar embezzlement, was acquitted in a disputed trial (Ramsey, 2011). Dall'Anese resigned in 2013 during a row with the judiciary and President Otto Pérez Molina's government, although he stated doing so for personal reasons (International Crisis Group, 2011).

These tensions with the government seemed to have contributed to CICIG's visibility and legitimacy among citizens. In 2010, for example, the Latin American Public Opinion Project survey found that people trusted CICIG significantly more than other domestic institutions (Malone, 2012; Speck, 2015). This, however, also suggests that public trust in CICIG did not transfer to other state institutions (see Table 3). Lack of trust and grievances erupted into major protests against the government in the Spring of 2015 after CICIG and the attorney general revealed a massive customs fraud scheme involving the highest government echelons. The weekly protests in Guatemala City united citizens and civil society organisations from across the political spectrum (International Crisis Group, 2011). This public pressure forced president Molina to revert his intention of letting CICIG's mandate expire (Lohmuller, 2015), and to Vice-President Roxana Baldetti's resignation shortly after.[12] In August, protests climaxed in a general strike in support of CICIG prosecutors' announcement of Baldetti's arrest and petition to withdraw president Molina's immunity to face public charges. With the general elections approaching and parliamentarians eager to keep their seat, initial resistance in the National Congress to remove presidential immunity faded and Molina submitted his resignation on 2 September (Carrera, 2017).

This sequence of events suggests that despite considerable political interference, CICIG's comprehensive mandate enabled it to establish its own legitimacy and conduct investigations that, in turn, played a major role in reducing the political legitimacy of incumbents who interfered with these investigations. CICIG's strengthened public profile further incurred potential electoral costs or benefits for politicians opposing or supporting CICIG. Replications of the gameplay, with president Jimmy Morales swaying from running an anti-corruption electoral campaign to opposing CICIG as soon as it started investigating himself and his entourage (Matute, 2017), illustrate an opportunistic rather than sincere political support for CICIG in electoral

campaigns. Such seesaw politics is, however, unlikely to confer some of CICIG's legitimacy to political institutions (Stephenson, 2018).

An opinion poll conducted between January and March 2020 asking "to what point are you in agreement or disagreement with President Morales to immediately end the mandate of CICIG" found 46.8% in disagreement, 43.1% in agreement and 10.1% neutral (Azpuru, 2019). According to this same poll, the level of public confidence in CICIG had gone down from 70.1% in 2017 to 57.2% in 2019, suggesting that Morales' attacks against CICIG - which included an 'army of trolls' operating on social media - may have contributed to delegitimating CICIG among part of the population (Currier & Mackey, 2018). To do so, Morales applied the logic of instrumentalization against CICIG: Morales sought to delegitimate CICIG as being instrumentalized by foreign powers to discredit himself, his family and his government. This was perhaps best illustrated during Morales' high-profile press conference on 31 August 2018. With about 80 police and military personnel serving as background, and only a day after his Foreign Affairs minister had met with US President Trump's representative at the UN, Morales announced that he was not renewing CICIG's mandate (Dudley et al., 2018). In his forceful declaration, Morales accused CICIG of conducting "selective criminal prosecution with an obvious ideological bias … to intimidate and terrorize the citizens … instrumentalizing the judicial system … " and argued that it was "violating our laws, inducing people and institutions to participate in acts of corruption and impunity" – thereby rhetorically flipping CICIG from an anti-corruption agency to a corrupting organization undermining Guatemala's sovereignty and security.[14] CICIG closed on 3 September 2019 amidst people gathering around its headquarters to thank CICIG for the work it had done and express their concerns around renewed corruption (Abbott, 2019; CICIG, 2019). While it is difficult to assert if Morales's attacks on CICIG in turn delegitimated his government, the conservative political forces he represented – this time under a new party (*Vamos* rather than *FCN*) – still won the elections June 2019 against the same opponent but with a slightly smaller margin (i.e. 58% against 67% in 2015).

In sum, the Guatemalan example highlights that substantially constrained ACAs may have delegitimizing effects on state institutions. In this case, the government became delegitimized because of mostly unpopular pressure on and interference with CICIG's effective investigations. Within government, CICIG had positive if limited

Table 3: Evolution of confidence in state institutions in Guatemala[3]

State institutions	2004	2006	2008	2010	2012	2014	2017	2019
CICIG	n.a.	n.a.	n.a.	52	37.3	n.a.	70.6	57.3
Ministerio Publico	37.2	30.7	37.6	33.8	33	n.a.	53.9	46.6
National Government	42.5	32.2	41.7	31.8	39.9	n.a.	n.a.	44.4
President/Executive	n.a.	n.a.	43.6	31.7	45.4	23.2	36.7	23.3
Supreme court	32.1	30.8	29.4	28.7	28.5	n.a.	n.a.	34.6
Congress	27.8	29.5	29.9	25.6	28.6	22.3	30.9	28.7
Political parties	16.7	28.7	22	15.4	20.5	11.9	14.6	14

Note: Percentage of respondents having confidence in the institution (%); n.a. data not collected for that year.

legitimizing effects on the national legal institutions it consolidated and cooperated with, such as the attorney general or the special prosecutor's office (Carrera, 2017).

CONCLUSION

The prevailing view on anti-corruption and state legitimacy is that effective anti-corruption measures which reduce corruption in politics and public administration increase citizens' trust in the state and that they therefore regard it as more legitimate. This article has critically examined this presumed positive relationship between anti-corruption reforms and state legitimacy, emphasising the imperative to consider delegitimizing effects of anti-corruption reforms. This study has not sought to generally deter anti-corruption reforms such as establishing ACAs, nor to misunderstand the capability of anti-corruption efforts to enhance state legitimacy, but rather to highlight the need to incorporate concerns about unintended delegitimizing effects of anti-corruption interventions for the state.

The negative relation between ACAs and state legitimacy was discussed in two case studies, Guatemala and Nepal. Both countries were selected from a new typology which categorises ACAs by their authority and functions. The two countries' ACAs have multi-functional mandates (including preventive and law-enforcing functions) but differ in the extent of their authority. Delegitimizing processes for the government and state institutions were discerned for both countries. Guatemala's CICIG demonstrates how restraining political influence on the ACA delegitimized the government and its administration by undermining its proclaimed commitment to reduce corruption. In Nepal, the CIAA's investigations further increased public awareness about corruption within state institutions and thereby contributed to their delegitimation.

Taken together, these findings call for a refinement of the often-asserted positive relationship between anti-corruption reforms and state legitimacy. In particular, they challenge the predominantly positive framing of this relationship and highlight the need to consider the potentially delegitimizing effects of anti-corruption reforms. Anti-corruption efforts matter for state legitimacy not only in terms of how effectively corruption is reduced but as a manifestation of the state's credibility and commitment to integrity and impartiality. Awareness about delegitimating effects of ACAs is particularly relevant for international actors supporting ACAs as part of 'state-building' efforts. Anti-corruption policies and reforms need to account for and adapt to potential delegitimating effects related to anti-corruption activities, as well as the broader political context in which anti-corruption institutions operate. The evidence from the two cases shows that high public expectation in anti-corruption efforts bears the potential to not only foster but also undermine the legitimacy of state institutions.

This study points to options for further research and more general recommendations. Additional case studies could validate the delegitimating effects and estimate their impact on state legitimacy. Delegitimating effects should also be examined for prevention and law-enforcement types of ACAs with different levels of authority. A broader study could investigate both legitimating and delegitimating effects; for example to assess whether the net-effect on state legitimacy from increased investigation and prosecution of corruption is positive (due to perceived reduction in corruption) or negative (due to dominant corruption reporting).

NOTES

[1] Other objects of legitimation include supra-national governance regimes and non-governmental actors or traditional authorities (e.g. Bernstein, 2011; Boege, 2014; Chapman, 2009; Scholte, 2011).

[2] Some terminological ambiguity exists regarding multi-purpose ACAs. While the OECD's definition describes a multi-functional ACA - i.e. combining law-enforcement and preventive functions – the UNDP defines multi-purpose agencies as including anticorruption, human rights and/or other mandates. This article follows the OECD's denotation (See UNDP, 2011).

[3] Furthermore, ACAs commonly feature auxiliary functions such as coordinating the inter-institutional implementation of national anticorruption strategies. Following existing ACA typologies, these functions are not included in the ACA analysis.

[4] The logically possible ACA sub-type without prevention nor law-enforcement functions is not considered.

[5] Charges from CIAA investigations are indicted at the Special Court, also founded in 2002. CIAA further shares preventive capacities with a second anti-corruption authority, the National Vigilance Centre (NVC), the successor of the Special Police Department (1961-2002).

[6] Data from CIAA (2013) and Republica (2019).

[7] The Supreme Court finally ruled that the RCCC was unconstitutional and therefore to be dissolved (Dix, 2011).

[8] Karki's nomination was met with suspicion from civil society but invigorated the CIAA. However, many criticise the CIAA for its focus on civil servants while avoiding corruption charges against political leaders (Adhikari & Gautam, 2014).

[9] Data from Jamil et al. (2016).

[10] In 2008, CICIG successfully negotiated the creation of a special prosecutor's office with Guatemala's Attorney General (the SPO at the Ministério Público, MP) which henceforth was its main contact-point to the legal

system (e.g. litigating CICIG's cases in court) (International Crisis Group, 2016). Furthermore, CICIG closely cooperates with the National Public Police and the Ministry of the Interior (Hudson & Taylor, 2010).

[11]Baldetti was sentenced in 2018 to 15 years in prison for corruption, with remaining charges in Guatemalan and US courts (Lakhani, 2018).

[12] Data from Azpuru (2019).

[13] A video of the press conference is available on https://www.youtube.com/watch?v=ME7Q4CryO5o.

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