

Monday, August 27, 2012

Latin America: The Corruption Problem

Corruption remains widespread in Latin America and there is little chance of improvement in the worst countries, experts say.

BY JOACHIM BAMRUD

Last week, a former Brazilian senator was forced to repay 468 million reais (US\$231 million) to the Solicitor-General's Office in Brazil after he was implicated in a construction scheme involving public funds. That's the largest settlement in the country in a case of misuse of public money.

Meanwhile, this month, Brazil's Supreme Court started a major corruption trial of 38 defendants, including former presidential chief of staff Jose Dirceu, over an alleged scheme to pay legislators a monthly retainer in exchange for their support in the national assembly – the so-called *mensalão* scandal.

"We are currently experiencing an important moment for the fight against corruption in Latin America," says Alejandro Salas, Regional Director for the Americas for Germany-based Transparency International. "Brazil is showing its willingness to tackle corruption: the current *mensalão* trial, the recent resignation of ministers, the signing into law a freedom of information bill, the hosting of the 15th International Anti-Corruption Conference, and the co-leadership of the Open Government Partnership, among others. As Brazil is a regional leader this could prove to have a trend-setting effect, and could signify a transformational moment for the region as a whole."

Seven Brazilian ministers have resigned over corruption scandals, including the transport, tourism, labor, agriculture and sports ministers.

"We may have seen seven ministers expelled from President Dilma Rousseff's government for corruption, but at least they were expelled," says Simon Strong, Senior Managing Director, FTI Consulting.

PRESIDENTS AND CORRUPTION

Notwithstanding the settlement with the former senator and the ongoing *mensalão* trial, neither Brazil nor Latin America has an impressive track record of fighting corruption. Few leaders end up in jail over corruption charges.

Twenty years ago, the Brazilian congress tried to impeach then-president Fernando Collor de Mello over corruption charges. He resigned in an attempt to avoid impeachment, but the congress later impeached him and barred him from holding any public office for eight years. He became a senator in 2007.



Former Brazilian presidential chief of staff Jose Dirceu is being tried for a scheme to pay legislators. (Photo: José Cruz/Agencia Brasil)



Former Brazilian senator Luiz Estevão was forced to repay 468 million reais (US\$231 million) in public funds. (Photo: Roque de Sa/Agencia Senado)



In September, it will be 20 years since the Brazilian congress voted to impeach then-President Fernando Collor de Mello. (Photo: Fabio Pozzebom/Agencia Brasil)

Guatemala's former president Alfonso Portillo was accused of embezzling \$15 million while in office. As soon as his term ended in 2004, he fled to Mexico, but was extradited to Guatemala four years later. In May last year, he was absolved of the charges. However, in November, the Guatemalan government approved to extradite him to the United States, where he faces separate charges of laundering \$70 million through U.S. banks.

Ironically, Costa Rica is one of the few countries that has made most progress against corrupt politicians. Two of its former presidents are serving jail time for corruption scandals.

Rafael Angel Calderon, who served as president from 1990 to 1994, was sentenced to five years in 2009 for receiving bribes from Finland-based medical equipment company Instrumentarium in return for government contracts.

Miguel Angel Rodriguez, who served as president from 1998 to 2002, was convicted to a five-year jail term in April 2011 for having accepted an \$800,000 bribe from French telecommunications firm Alcatel in exchange for a government contract.

HOW THEY RANK

The irony is that Costa Rica is one of the most transparent countries in Latin America, along with Chile and Uruguay, according to data from Transparency International and the World Economic Forum.

"Chile [has] scored higher than the United States for the past two years," Salas says. "Chile's progress should be seen as sending a strong and positive signal to other countries in Latin America. It raises the standard for those making efforts to advance anti-corruption and transparency related policies and practices."

On the opposite end are countries like Haiti and Venezuela, according to [Transparency International](#).

However, when it comes to diversion of public funds to companies, individuals, or groups due to corruption, the Dominican Republic ranks last in Latin America, followed by Venezuela and Argentina, according to the World Economic Forum.

Despite the many corruption scandals in Brazil, the country ranks fourth in transparency in Latin America, according to Transparency. Mexico ranks 9th out of 19 countries.

Meanwhile, a recent survey by U.S. law firms Miller & Chevalier and Matteson Ellis Law as well as 12 Latin American law firms showed that Paraguay and Guatemala received the lowest marks for the effectiveness of anti-corruption laws. The survey spanned 14 countries in the Americas and looked at the extent of corruption throughout the region, the effects of corruption on companies operating in those countries, perceptions of the effectiveness of regional anti-corruption laws, and the tools that companies are using to address corruption risks.

WHY NO PROGRESS?

Although both politicians (especially when they are in the opposition), media and civic groups frequently clamor for real progress against corruption, Latin America remains a region where bribery continues to be commonplace.

"There is lack of political will to control corruption," argues Luz Nagle, a law professor at Stetson University College of Law and a former judge in Medellin, Colombia.

There are many incentives to abuse power, many opportunities for corruption, little risk of being discovered, and nonexistent deterrents to punish the culprits, she points out.

“This is due in great part because public servants have great discretion and often their jobs compensate patronage instead of merit,” Nagle argues.

Meanwhile, incentive and opportunity for corruption is encouraged by the rules, regulations, and insurmountable bureaucracies to acquire licenses, documents, and permits—or even pay bills.

“There is too much tolerance for corruption,” she complains.

Both Salas and Strong point to factors such as weak institutions. Salas, for example, singles out countries like Venezuela, Panama, Ecuador and Nicaragua for their corruption.

“The common factor among those countries is the weakness of their democratic institutions,” he says. “Whether it is because institutions lack independence, there is no real balance of power, or because democratic reform processes are still in their early stages after years of authoritarian rule, the fact is that the main institutions in those countries are weak. This leads to greater opportunities for the misuse of public resources, for decision-making in favor of specific interest groups, impunity for criminals and vote buying in electoral processes. In other words, institutions are more vulnerable to corruption.”

Strong agrees. “In general, the greater the strength of democratic institutions and the rule of law, the less corruption you encounter,” he says. He singles out Venezuela and Nicaragua – along with Bolivia, Ecuador and Argentina for high corruption levels and little political will to change it.

On the other hand, Strong says countries like Colombia and Peru have made great progress in fighting corruption.

George Harper, the Chairman of law firm Harper Meyer, points out that corruption is an old problem in Latin America, a very old problem. “Unfortunately corruption, as the term is generally understood, has over a period of several centuries become engrained in the cultural framework of many Latin American countries,” he says. “It can be traced back to the earliest days of the Spanish Empire, when the colonial viceroys throughout the continent were left to fend for themselves with virtually no economic support from the crown so many thousands of miles away.”

The viceroys had to find a way to equip their armies and feed their people and they developed a system in which those at the top required tribute from those below, whom in turn required tribute from those below them, and so on down the line, Harper points out. Eventually exacting tribute became the accepted way of doing business.

“It’s difficult to change a practice which has been in place for hundreds of years,” he says.

SOLUTION

So how can corruption be reduced, if not eliminated?

Education and transparency are the keys, along with strengthening of their judicial systems, Harper recommends. “Business as usual cannot be considered an option,” he says.

Nagle agrees that education is a key tool. “Education is crucial at all levels,” she says. “It must start with children and must be part of an education curriculum, teaching them that they cannot cheat to get ahead, that they cannot commit plagiarism, that they cannot buy their way out of situations, cannot bribe authorities (police officers, etc.). Teaching anti-corruption in law

and business schools should [also] be a requirement.”

Nagle also recommends creating a bank of information on corruption, which will allow citizens and analysts to evaluate the problems and find solutions.

She also favors reducing complex regulations that provide allow corruption to persist and flourish and reforming the public sector. “Public service must be made a profession that is compensated through merit instead of patronage and conduct must be transparent and accountable,” she says.

In many countries throughout Latin America, most public servants are appointed due to their ties to the winning party of an election or because they are related or know a key official in a public entity. Many of these short-term appointees see their public jobs as an once-in-a-lifetime opportunity to boost their personal wealth.

“Their leaders should lead by example and place anti-corruption at the heart of their agenda, promoting and enforcing the rule of law, tightening anti-bribery statutes, and developing initiatives that will lead to law enforcers, regulators, prosecutors and judges receiving better training and better salaries,” recommends Strong.

Visible actions taking a strong stance against corruption, such as the punishment of the corrupt, need to be combined with the promotion of ethical values as well as structural and institutional reforms, Salas adds. “In other words, an attitude of zero tolerance towards corrupt officials needs to come together with longer term policies,” he says. “Only then is it possible to move from a political discourse towards real policy change.”

Such a multi-layered approach does not only translate into a more open, inclusive and modern government, but also provides politicians at the same time with popularity and respect, he says. “Politicians that fight corruption only on one level let their citizens down.”

For change to occur, at the micro level, citizens have to feel that if they denounce even petty instances of corruption—say, for example, paying a bribe to get the street lights fixed—there will be consequences for those demanding bribes, argues Cynthia J. Arnson, Director of the Latin American Program at the Woodrow Wilson International Center for Scholars.

Nagle is encouraged by the success in getting former Brazilian senator Luiz Estevão to pay back the stolen funds. He was impeached in 2000 after public audits of his construction firm.

“The seizure of assets was achieved due to the persistence and vision of the lawyers in the attorney general’s office who created ways to fight corruption to preserve democracy and strengthened good public governance,” she points out. “Fighting for the public good goes a long way to improving peoples’ faith in the rule of law and in their government institutions.”

OUTLOOK

The likelihood that there will be any improvement in many of the countries with the worst corruption is minimal unless there is a change of government, the *Latinvex* panel of experts argues.

“I’d like to believe that in the more advanced and enlightened countries we’ll see improvement,” harper says. “But overall I’m not optimistic, especially in those countries continuing to experience economic malaise. Venezuela, for instance, is becoming one of the most, if not the most, corrupt countries in the world, taking Cuba as its model. Until their economies improve to the point where payoffs are no longer practical or deemed ethically acceptable from a business point of view, the practice will continue.”

Salas and Strong concur. “Should the regimes that focus too much power on the executive remain in place, it is unlikely that there will be any progress in those countries,” Salas says.

“The most obvious change ... will be triggered by political change – for example were the Chavez government to be replaced,” Strong says.

There has been talk about Latin American countries implementing conventions in the last fifteen years, and it is worse now than it was back when the conventions came into force because the countries have largely failed to honor their international commitments or take those commitments seriously, Nagle says

“Corruption will increase in certain countries and it will stay the same in others regardless of the political parties that come and go, because in some places, the political system is not hampered by corruption, corruption *is* the political system,” she says.

© Copyright Latinvex

If the print window didn't appear, [click here](#).
Copyright Latinvex, www.Latinvex.com