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Combating Corruption in Latin America: Congressional Considerations

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SUMMARY

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Combating Corruption in Latin America

Corruption of public officials in Latin America continues to be a prominent political concern. In the past few years, 11 presidents and former presidents in Latin America have been forced from office, jailed, or are under investigation for corruption. As in previous years, Transparency International's Corruption Perceptions Index covering 2018 found that the majority of respondents in several Latin American nations believed that corruption was increasing. Several analysts have suggested that heightened awareness of corruption in Latin America may be due to several possible factors: the growing use of social media to reveal violations and mobilize citizens, greater media and investor scrutiny, or, in some cases, judicial and legislative investigations. Moreover, as expectations for good government tend to rise with greater affluence, the expanding middle class in Latin America has sought more integrity from its politicians. U.S. congressional interest in addressing corruption comes at a time of this heightened rejection of corruption in public office across several Latin American and Caribbean countries.

Whether or not the perception that corruption is increasing is accurate, it is nevertheless fueling civil society efforts to combat corrupt behavior and demand greater accountability. Voter discontent and outright indignation has focused on bribery and the economic consequences of official corruption, diminished public services, and the link of public corruption to organized crime and criminal impunity. In some countries, rejection of tainted political parties and leaders from across the spectrum has challenged public confidence in governmental legitimacy. In some cases, condemnation of corruption has helped to usher in populist presidents. For example, a populist of the left won Mexico's election and of the right Brazil's in 2018, as winning candidates appealed to end corruption and overcome political paralysis.

The 2017 U.S. National Security Strategy characterizes corruption as a threat to the United States because criminals and terrorists may thrive under governments with rampant corruption. Studies indicate that corruption lowers productivity and mars competitiveness in developing economies. When it is systemic, it can spur migration and reduce GDP measurably.

The U.S. government has used several policy tools to combat corruption. Among them are sanctions (asset blocking and visa restrictions) against leaders and other public officials to punish and deter corrupt practices, and programming and incentives to adopt anti-corruption best practices. The United States has also provided foreign assistance to some countries to promote clean or "good" government goals. U.S. efforts include assistance to strengthen the rule of law and judicial independence, law enforcement training, programs to institutionalize open and transparent public sector procurement and other clean government practices, and efforts to tap private-sector knowledge to combat corruption.

This report examines U.S. strategies to help allies achieve anti-corruption goals, which were once again affirmed at the Summit of the Americas held in Peru in April 2018, with the theme of "Democratic Governance against Corruption." The case studies in the report explore

- Brazil's collaboration with the U.S. Department of Justice and other international partners to expand investigations and use tools such as plea bargaining to secure convictions;
- Mexico's efforts to strengthen protections for journalists and to protect investigative journalism generally, and mixed efforts to implement comprehensive reforms approved by Mexico's legislature; and
- the experiences of Honduras and Guatemala with multilateral anti-corruption bodies to bolster weak domestic institutions, although leaders investigated by these bodies have tried to shutter them.

Some analysts maintain that U.S. funding for "anti-corruption" programming has been too limited, noting that by some definitions, worldwide spending in recent years has not exceeded $115 million annually. Recent congressional support for anti-corruption efforts includes training of police and justice personnel, backing for the Trump Administration's use of targeted sanctions, and other efforts to condition assistance. Policy debates have also highlighted the importance of combating corruption related to trade and investment. The 116th Congress may consider the United States-Mexico-Canada Agreement (USMCA), which would revise the NAFTA trade agreement, and contains a new chapter on anti-corruption measures.

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Overview

The majority of Latin American and Caribbean countries are functional democracies, but institutional weaknesses and widespread public corruption in many of these countries have undermined effective governance and sparked protest and demands for greater transparency. From a U.S. perspective, widespread corruption in Latin America is a potential threat to regional security, has a symbiotic relationship with violent crime, and can be a stimulus for migration.

This report examines how anti-corruption strategies in U.S. policy and legislation initially evolved from a desire to level the playing field for corporations working in the developing world. At first, U.S. corporations were regulated so they could not bribe or extort to win contracts, and then the focus expanded to helping build more effective institutions and the rule of law in developing countries to ensure more fair, predictable, and transparent systems. The report examines how corruption contributes to wasting public monies, distorting electoral outcomes, and reinforcing criminal structures. Although the fight against corruption is a global effort, this report focuses more closely on U.S. interests in fighting corruption in the region, and how U.S. policy and assistance programs have developed to address that goal. Contemporary anti-corruption efforts in Brazil, Mexico, and Central America are examined as case studies. The report closes with considerations for Congress in conducting its oversight role over U.S. funded anti-corruption efforts in the region and pursuing the policy objective of broadening the rule of law and encouraging good government.

Background

In the wake of numerous scandals, particularly regarding the multi-country scandal involving the Odebrecht corporation,[1] corruption has become a searing, top-level concern in many Latin American nations, with implications for U.S. policy. In past decades, public rejection of corruption has risen and then crested and fallen back, sometimes to a tacit toleration of bribery and other corruption as the way of politics. Some critics maintain that corruption is so entrenched that it is now endemic in the region and forms the primary path to political power.[2] The number of grand-scale scandals exposed in recent years in the region, such as payoff schemes involving high court justices and top-level officials, has led some voters to conclude that all parties and politicians are corrupt, resulting in presidents and vice presidents being pushed from office and traditional political parties being viewed as corrupt and illegitimate.

Some analysts maintain that chronic corruption diminishes support for democracy and stokes cynicism about the integrity of politics. However, 2018 saw prominent anti-corruption candidates and campaigns win elections across the region, with populist and anti-establishment fervor marking campaigns in Mexico, Brazil, and several other countries. In these contests, leading candidates abandoned traditional parties sullied by corruption allegations. For instance, in Mexico, the decades-long dominance of the Institutional Revolutionary Party (PRI)[3]—displaced in 2000, but resurgent in 2012—was again swept out in Mexico's July 2018 national elections by

[1] Odebrecht is one of the region's largest construction firms. Based in Brazil, Odebrecht was involved in a sprawling bribery scandal affecting countries throughout Latin America.

[2] See for example, Uki Goni, "Bestselling Book Claims Corruption is Argentina's 'Main Structure of Power," *The Guardian,* September 27, 2018.

[3] Mexico's long-ruling political party, which governed Mexico in a one-party system for 71 years during the 20th century.

the National Regeneration Party, or MORENA, founded four years earlier.[4] Throughout the region, winning candidates of the left and the right—as in Mexico and Brazil—embraced anti-establishment platforms that appealed to voter disillusionment with corrupt elites.

In its global perceptions survey, Transparency International (TI) has found that a majority of Latin Americans tend to believe pervasive public corruption exists and is expanding its reach. The sense of widespread corruption may be sparking a civil society rejection of the status quo and a deeper commitment to combat corrupt behavior and demand accountability (see textbox).

Transparency International's Corruption Perceptions Index

Transparency International, founded in 1993, is recognized as the first global nongovernmental organization (NGO) with a mission "to stop corruption and promote transparency, accountability and integrity at all levels and across all sectors of society." Its independent national chapters fight corruption and offer some help to corruption victims. Transparency International's Corruption Perception Index (CPI) is a frequently used measure of corruption that assesses citizens' perceptions of corruption. The index provides a worldwide comparison of corruption perceptions and is published annually. In the CPI covering 2016, 2017, and 2018, respondents in most Latin American nations surveyed believed corruption was increasing, and a majority of respondents cited their country's politicians as "mostly corrupt."

Transparency International (TI) defines corruption as the use of public resources for private gain. Administrative or ***petty corruption*** refers to corrupt practices of lower level officials, such as small-scale bribe solicitation, payroll skimming, expectation of gifts, nepotism, selective enforcement of laws, and compensating absentee employees. These might be seen as everyday efforts to exploit ordinary people and small businesses.

Grand corruption refers to corrupt practices involving significant resources and top-level officials, such as receipt of kickbacks for selecting bribe-paying bidders on large concessions or public procurement contracts, embezzlement of public funds, irregularities in political party and campaign finance, maintaining political patronage networks on public payrolls, and reducing prices (discounting) for the sale of public goods and infrastructure. Some observers have portrayed grand corruption as "elite capture by powerful vested interests" [including] capture of "high-level decision makers and politicians," potentially able to undermine democratic processes.

This information from the Transparency International's website at https://www.transparency.org/ and Eduardo Engel, Delia Ferreira Rubio, and Daniel Kaufmann et al., *Report of the Expert Advisory Group on Anti-Corruption, Transparency, and Integrity in Latin America and the Caribbean*, Inter-American Development Bank, IDB Mongraph-677, Washington, DC, November 2018.

Grand corruption involving top political leaders has touched every nearly every partof Latin America, generating a wave of anti-corruption activism. In the past, such demonstrations have proven ephemeral, quickly fading as the systemic nature of the problem has left citizens resigned to the status quo. These anti-corruption campaigns may prove more enduring, however, as civil society organizations are attempting to build on their preliminary successes by pushing for institutional reforms to enhance transparency and accountability throughout the public sector.[5]

Regarding the relationship of perceptions of corruption as an accurate indicator of actual acts of corruption or prevalence of those acts, TI has in the past married the two. In the 20 Latin American nations polled in the Corruption Perceptions Index (CPI) for 2016, TI said that respondents identified politicians, political parties, and police as the most corrupt sectors of their

[4] According to the author, by 2018 eight in ten Mexican voters, disapproved of the PRI. Denise Dresser, "Can Mexico Be Saved? The Peril and the Promise of López Obrador," *Foreign Affairs*, September/October 2018 issue.

[5] For additional background, see the reports and analyses referenced in this document, such as: Eduardo Engel, Delia Ferreira Rubio, Daniel Kaufmann et al., *Report of the Expert Advisory Group on Anti-Corruption, Transparency, and Integrity in Latin America and the Caribbean*, Inter-American Development Bank, November 2018; Cynthia J. Arnson, Editor, *In the Age of Disruption: Latin America's Domestic and International Challenges*, Wilson Center, October 2018; "Latin America's Battle Against Corruption: A Path Forward," *Americas Quarterly/Council of the Americas*, April 10, 2018; Kevin Casa-Zamora and Miguel Carter, *Beyond the Scandals: The Changing Context of Corruption in Latin America*, Inter-American Dialogue, Rule of Law Report, February 2017. For more, see Appendix C.

societies. The most frequently cited offenses were graft, influence peddling, extortion, bribe solicitation, money laundering, and political finance violations (for 2016 and 2017 CPI results for Latin America and the Caribbean, see **Figure 1**). One of the 2016 surveys used to establish TI's country rankings asked whether respondents had paid a bribe for a public service over the past 12 months. Nearly one-third confirmed they had paid a bribe to receive a basic public service, such as health care or education.[6]

Another index, called the World Justice Project's Rule of Law Index (WJP Rule of Law Index), reports that corruption levels vary significantly across the region, although corruption appears to be both widespread and endemic. The Rule of Law Index identifies several indicators for a regional ranking related to governance. At the region's apex and exhibiting the strongest rule of law sit Chile, Costa Rica, and, at the top, Uruguay. The region's least successful on the 2019 Rule of Law Index are Nicaragua, Honduras, Bolivia, and, at the bottom, Venezuela. However, on the indicator of "absence of corruption" alone, the region's worst with regard to the metrics of bribery, improper influence by public or private interests, and misappropriation of public funds, were: Peru, Venezuela, Mexico, and at the bottom, Bolivia. The World Justice Project asserts that full, functioning democracies evolve slowly and anti-corruption programs able to influence and transform the status quo may take years to show results.[7]

Corruption patterns vary considerably from country to country. Transparency International and other regional surveys, such as the Latinobarómeter, have found the divergence between countries is more pronounced in Latin America and the Caribbean than in other regions. Some commentators argue that lower-level corruption is simpler to identify and root out. More widespread and higher levels of corruption are more difficult to contain and have powerful forces protecting them. For instance, compromised justice systems, apparent in recent scandals in Mexico, Colombia, and Peru, result in impunity for powerful defendants and inhibit the number of successfully completed prosecutions.[8] This may result in diminished belief in democratic legitimacy and the rule of law. The confidence or expectation of fairness is replaced with mistrust when bribes are routinely demanded by the police; there is ample evidence of political kickback schemes; and evidence such as recordings shows the suborning of court officials and judges.

In the Western Hemisphere, populist leaders including Nicaragua's Daniel Ortega and Venezuela's Nicolás Maduro have resorted to tactics that undermine democratic institutions like the free press and an independent judiciary, which, when functioning, can help prevent corruption. In Peru, President Pedro Pablo Kuczynski stepped down in March 2018 to avoid impeachment for allegedly taking Odebrecht bribes right before he was to host a Summit of the Americas focused on eradicating corruption. In Mexico and Brazil in 2018, and in El Salvador early in 2019, presidential candidates campaigned successfully against traditional political parties deemed corrupt. In 2018, Mexico's long-dominant Institutional Revolutionary Party (PRI), was dogged by corruption allegations and performed poorly in congressional and presidential elections.

Political parties are crucial to a competitive democracy, but when they are no longer accountable they lose their primary function of placing a check on the consolidation and abuse of power.

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[6] TI, *Corruption Perceptions 2016: Vicious Circle of Corruption and Inequality must be Tackled*, at Indexhttps://www.transparency.org/news/pressrelease/corruption_perceptions_index_2016_vicious_circle_of_corruption_and_inequali.

[7] World Justice Project, *2019 WJP Rule of Law Index*, February 2019, at https://worldjusticeproject.org/sites/default/files/documents/WJP-ROLI-2019-Single%20Page%20View-Reduced.pdf.

[8] See, for example, Mike LaSusa, "Peru's Judicial Corruption Scandal, Explained," *InSight Crime*, August 9, 2018.

Disillusioned and cynical voters who have regularly experienced breaches by their governments, leaders or political parties, can lose trust that is not easily restored. The effort needed to rebuild a country's democratic institutions, such as a functioning justice system, takes patience and political will that is hard to sustain over time. Anti-corruption efforts can face towering political opposition and significant undercurrents that undercut prosecution and future transparency.

The economic costs related to systemic corruption are well researched. In 2018, the costs to Mexico of corruption were estimated to be as high as 5% of the country's GDP and in Peru and Colombia as much as 10%.[9] Many analysts contend corruption also exacerbates inequality (a persistent feature of several Latin American and Caribbean societies) which increases instability.[10]

Many observers have noted the unusual level of activism on anti-corruption reaching nearly every corner of the region in recent years and wondered whether it will endure and produce lasting reform.[11] They question whether this current resistance to an existing culture of impunity can be prevented from falling into anti-democratic reaction, or, once again, slipping into resignation.

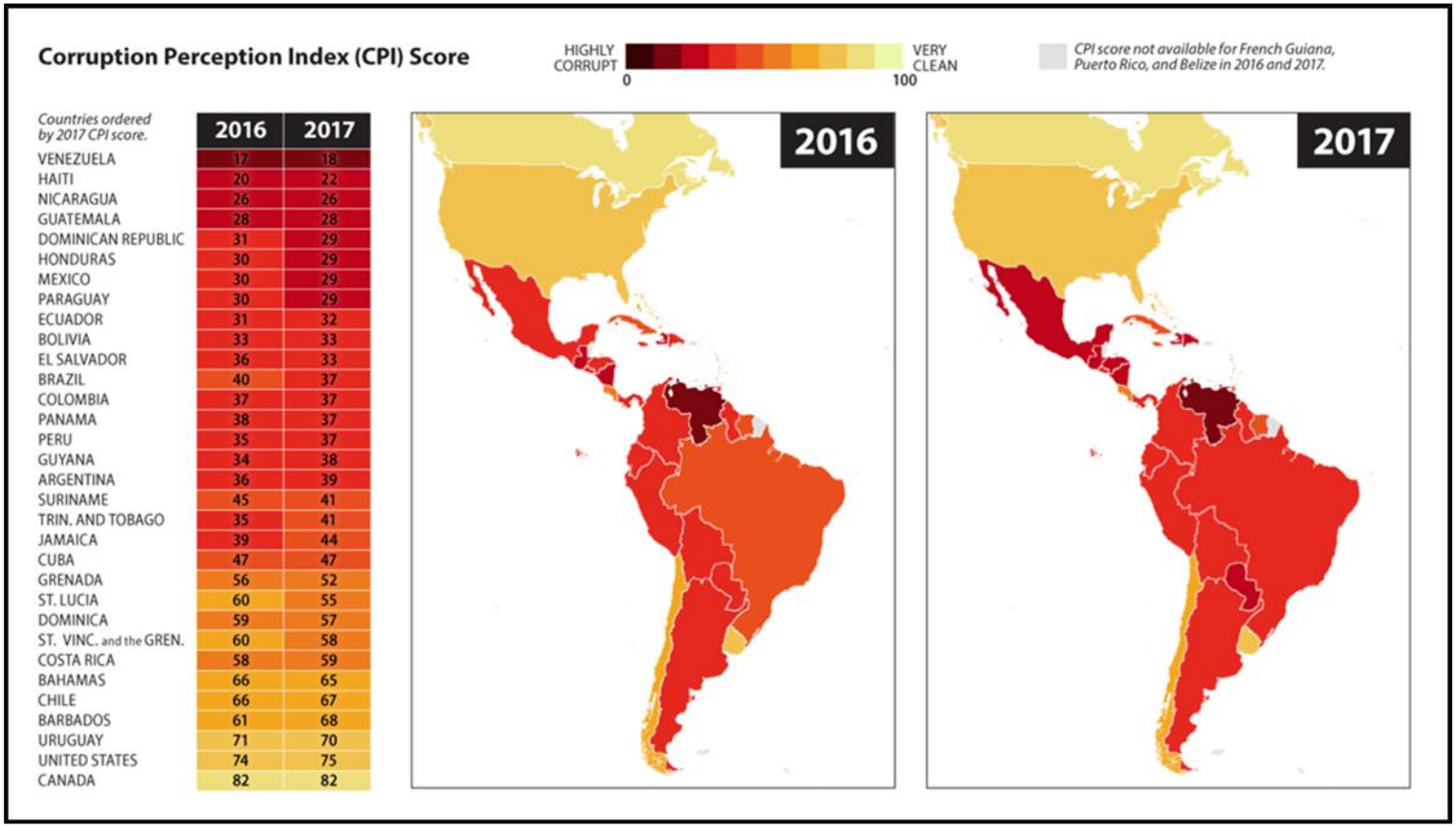
In the realm of foreign assistance and especially investment, U.S. competitors, including China and to a lesser extent Russia, are using investment in the region, such as infrastructure or energy development projects, not to strengthen recipient governments, but to further their own economic interests. These projects can be beset by hidden costs and have unknown beneficiaries, while they lack public oversight. Greater transparency on bidding and public finance will help give the general public greater capacity to assess them. U.S. programs to strengthen the rule of law and increase governmental transparency may directly benefit recipient nations in Latin America and the Caribbean by extending the institutional foundation for sustained economic development.

[9] Mexico figure is from the Mexican Institute for Competitiveness (IMCO); the Colombia estimate was reported by the leading daily newspaper *El Tiempo*; figure from Peru from the Peruvian Office of the National Ombudsman. (Cited in Cynthia J. Arnson, Editor, *In the Age of Disruption: Latin America's Domestic and International Challenges*, Wilson Center, October 2018.)

[10] See Daniel Kaufmann, "Corruption Matters," *Finance and Development, 20-23*, International Monetary Fund, September 2015.

[11] See, for example, Cynthia J. Arnson, Editor, *In the Age of Disruption: Latin America's Domestic and International Challenges*, Wilson Center, October 2018.

Figure 1. Corruption Perceptions Index (CPI): Western Hemisphere



Countries ordered by 2017 CPI score.	2016	2017
VENEZUELA	17	18
HAITI	20	22
NICARAGUA	26	26
GUATEMALA	28	28
DOMINICAN REPUBLIC	31	29
HONDURAS	30	29
MEXICO	30	29
PARAGUAY	30	29
ECUADOR	31	32
BOLIVIA	33	33
EL SALVADOR	36	33
BRAZIL	40	37
COLOMBIA	37	37
PANAMA	38	37
PERU	35	37
GUYANA	34	38
ARGENTINA	36	39
SURINAME	45	41
TRIN. AND TOBAGO	35	41
JAMAICA	39	44
CUBA	47	47
GRENADA	56	52
ST. LUCIA	60	55
DOMINICA	59	57
ST. VINC. and the GREN.	60	58
COSTA RICA	58	59
BAHAMAS	66	65
CHILE	66	67
BARBADOS	61	68
URUGUAY	71	70
UNITED STATES	74	75
CANADA	82	82

Sources: "Corruption Perceptions Index 2017", Transparency International, February 21, 2018, https://www.transparency.org/news/feature/corruption_perceptions_index_2017. "Corruption Perceptions Index 2016", Transparency International, January 25, 2017, https://www.transparency.org/news/feature/corruption_perceptions_index_2016. Figure created by CRS.

Notes: The corruption Perceptions Index (CPI) ranks countries and territories by their perceived levels of public sector corruption. The index is calculated using different data sources from 11 different institutions that capture perceptions of corruption. For a country or territory to be included in the CPI, a minimum of three sources must assess that country. A country's CPI score is calculated as the average of all standardized scores available for that country. Scores are rounded to whole numbers. In 2016, 176 countries worldwide were included; and, in 2017, 180 countries were included.

Early Anti-corruption Approaches

U.S. foreign assistance programs to bolster rule of law, encourage good governance, and eliminate bribery, extortion, and graft have been common in Latin America for about three decades. Anti-corruption programming sponsored by the United States and major international financial institutions grew out of ferment in the 1970s, when the long-time practice of businesses and foreign corporations paying bribes to gain contracts in developing countries was exposed (see textbox on Select International Efforts to Combat Corruption). Controlling bribery and payments to foreign governments by businesses became the focus, for the first time, of U.S. legislative reform, the Foreign Corrupt Practices Act (FCPA), in 1977. The law (P.L. 95-213, Title 1) prohibits U.S. corporate bribery of foreign officials. However, this change initially raised concern that the new policy could disadvantage U.S. corporations in comparison to firms from other countries.[12]

In 1996, the Organization of American States (OAS) adopted the Inter-American Convention Against Corruption (IACAC), the world's first anti-corruption treaty. The IACAC provides OAS member states with a set of legal tools and an institutional framework to prevent, detect, punish, and eradicate corruption. The convention covers criminalization of corruption, international cooperation, asset recovery, and considers preventive roles for business, civil society and nongovernmental organizations (NGOs) in curtailing corruption. All 34 active OAS member states are party to the IACAC, including the United States, which ratified the convention in 2000 (Treaty Doc. 105-39). The Convention requires signatory states to penalize active and passive corruption, transnational corruption, and improper use of confidential information. However, few high-level public office holders in the region have been brought to justice, especially those who are financially and politically powerful. Signatories' implementation of the IACAC treaty is largely voluntary and relies on sustained political will. (See **Appendix B** for background on the implementation of IACAC).

In 1997, the Organization for Economic Cooperation and Development (OECD), with strong support from the United States, adopted the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions. Entering into force in 1999 and binding only upon OECD member nations, the Convention on Bribery has actually had a large impact in Latin America, even though only Mexico and Chile at the time were OECD members. Subsequently, Argentina, Brazil, Colombia, and Costa Rica adopted the measures and other countries changed their laws to begin to conform to the requirements of the 1996 OAS and 1997 OECD conventions.

Some of the innovations from the anti-corruption conventions allowed legislatures in Latin America to sidestep the philosophical question of the capacity of a legal entity (e.g., a corporation) to have a will or intent to commit a crime. With corporations legally capable of committing a crime (such as bribery of local or national officials) then culpability could be assessed. Another method to encourage prevention of corruption was adoption of a "safe harbor" defense for companies, providing them a motive to reform their practices through greater internal corruption safeguards and monitoring.

If a business implemented staunch policies to prevent bribery—such as designating an officer to monitor operations for potential corruption who reports twice a year to the top officer or CEO—then the business could avoid criminal liability, even if individuals inside the corporation were

[12] Rachel Brewster, "Enforcing the FCPA: International Resonance and Domestic Strategy," *Virginia Law Review*, vol. 103, no. 8 (December 2017).

caught in bribery or graft. This policy rewards self-monitoring by offering a buffer from liability as an inducement for self-policing and prevention.

Since the early 1990s, the OAS has convened the Summit of the Americas to address common agenda items in the Western Hemisphere. Both President Barack Obama and President George W. Bush supported initiatives and programs aimed at increasing transparency and accountability in governance to help achieve the overarching U.S. international policy goal of fostering good governance in the region. The Summit convened in April 2018, in Lima, Peru, attended by Vice President Pence rather than President Trump, had the theme of "Democratic Governance against Corruption," echoing a long-term concern with public corruption eroding support for democracy.[13]

In the past five years, as U.S. enforcement of the FCPA has increased, it has been used to expand the reach of U.S. extraterritorial jurisdiction, as evidenced in support to the Odebrecht case. Several countries are considering a similar statute, or FCPA-like laws to prohibit corporate bribery, including nations as diverse as India, Thailand, and France.[14] In addition, the U.S. Federal Bureau of Investigation opened a unit on international corruption in Miami, Florida, in February 2019, with a focus on violations of the Foreign Corrupt Practices Act.[15]

The Fight Against Corruption Goes Global[16]

Anti-corruption has emerged gradually on the international agenda over recent decades. Factors contributing to its growing prominence as an international policy concern include domestic pressure in many countries to curb political corruption, business risks associated with corruption exposure in a globalized economy, and the undermining impact of official corruption on economic development and foreign aid.[17]

U.S. advocacy also appears to have played a significant role internationally, although approaches to combating corruption vary widely by country. International standards can provide guidelines and a framework for domestic reform and, critically, mobilize international pressure to enact and implement anti-corruption policies. Due to widespread links between corruption and natural resource exploitation, one prominent area for broadening accountability is in the use of natural resources. Many countries endowed with minerals and resources in demand by more developed economies have sought to put in place voluntary transparency measures and public monitoring of natural resource revenue and expenditure flows to ensure the assets gained will go for public purposes. Transparency measures to prevent resource diversion through corruption and mismanagement have included enactment of broader accountability-focused legal reforms, such as mandatory state budget transparency and accountability measures, freedom of information laws, and the formalization of citizens' participatory rights in state decisionmaking and regulation of extractive industries.

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[13] For more, see CRS In Focus IF10863, *2018 Summit of the Americas*, by Peter J. Meyer.

[14] David L. Hall, Partner, Wiggins and Dana, Hearing Witness Testimony, "Understanding Odebrecht: Lessons for Combating Corruption in the Americas," House Committee on Foreign Affairs, Subcommittee on the Western Hemisphere, U.S. House of Representatives, March 26, 2019.

[15] Michael Balsam and Eric Tucker, "FBI Stepping up Efforts to Root Out International Corruption," Associated Press, March 5, 2019.

[16] This section and following textbox prepared by Michael A. Weber, Analyst in Foreign Affairs, Congressional Research Service, with contributions by Nicolas Cook, Specialist in African Affairs.

[17] Patrick Glynn, Stephen J. Kobrin, and Moisés Naím, "The Globalization of Corruption," in Corruption and the Global Economy, ed. Kimberly Ann Elliott (Washington, DC: The Institute for International Economics, 1997), pp. 7-27.

For many countries in Latin America and the Caribbean, extractive resources provide a critical source of government revenue. The textbox below identifies some of the important global anti-corruption efforts, such as the Extractive Industries Transparency Initiative, which some Latin American countries have adopted.

Select International Initiatives to Combat Corruption

Numerous global and regional multilateral membership bodies, nongovernmental organizations (NGOs), international financial institutions, and multilateral financial institutions, and singular multilateral initiatives address anti-corruption challenges at various levels. Brief information on a selection of these is included below.

Selected Civil Society Organizations

Many civil society organizations focus on corruption-related issues either globally or at the regional or country level, including within Latin America. A coalition of civil society organizations "committed to promoting the ratification, implementation and monitoring" of the U.N. Convention against Corruption (UNCAC) was established in 2006 and now includes over 350 organizations.[18] In addition to TI, prominent examples of other globally focused civil society organizations engaging on this issue include

- Global Witness (https://www.globalwitness.org)
- Global Financial Integrity (https://www.gfintegrity.org/)
- Publish What You Pay (http://www.publishwhatyoupay.org/)
- Global Integrity (www.globalintegrity.org)

Global Anti-Corruption Summit

In May 2016, the United Kingdom hosted the Global Anti-Corruption Summit, described as the first of its kind for convening more than 40 foreign governments as well as private sector and NGO representatives toward the goal of combating corruption. Key outcome documents from the summit included a Global Declaration Against Corruption, an Anti-Corruption Summit Communique, and more than 600 individual commitments regarding anti-corruption efforts.[19] In September 2017, TI's United Kingdom chapter released a report monitoring progress to date on a selection of the country commitments and found that progress had been made on a majority of them, and 17 percent had been completed.[20]

Extractive Industries Transparency Initiative (EITI)

EITI aims to establish a "global standard" for transparency and accountability in oil, gas, and minerals management. EITI standards require "the disclosure of information along the extractive industry value chain from the point of extraction, to how revenues make their way through the government, and how they benefit the public." Fifty-one countries are currently implementing the EITI Standard, a set of commitments that signatory governments agree to implement domestically.[21] Of note, the United States withdrew from the EITI in November 2017, citing incompatibility with the U.S. legal framework, although under the prior administrations of Presidents George W. Bush and Barack Obama it had been implemented.[22]

Open Government Partnership (OGP)

In 2011, the United States helped launch OGP with the goal of bringing together governments and civil society to "make governments more inclusive, responsive, and accountable." Participating countries commit to principles of

[18] UNCAC Coalition, "About the Coalition," https://uncaccoalition.org/en_US/about-us/about-the-coalition/. For a complete list of member organizations, including organizations based in Mexico, Colombia, Peru, and elsewhere in Latin America, see https://uncaccoalition.org/en_US/about-us/members-list/.

[19] Transparency International, "43 Countries, 600 Commitments: Was the London Anti-Corruption Summit a Success?" September 12, 2016.

[20] Transparency International UK, *Promise to Practice: Monitoring Global Progress of the 2016 Anti-Corruption Summit Commitments*, September 2017.

[21] EITI, "Who We Are," https://eiti.org/who-we-are. See https://www.opengovpartnership.org/participants for the list of participating countries and their commitments under OGP.

[22] Gregory J. Gould, U.S. Department of the Interior Office of Natural Resources Revenue letter to EITI Chair Fredrik Reinfeldt, November 2, 2017.

open and transparent government and submit independently monitored action plans. There are currently 79 participating countries, including most countries in Latin America.[23]

International Monetary Fund (IMF)

Through lending and technical assistance, the IMF helps countries to strengthen their governance and combat corruption. IMF-supported lending may include conditionality tied to strengthening governance, while IMF technical assistance provides guidance on good governance and combating corruption.[24]

The World Bank

The World Bank "considers corruption a major challenge to its twin goals of ending extreme poverty by 2030 and boosting shared prosperity for the poorest 40 percent of people in developing countries." It describes its corruption-related efforts as working "at the country, regional, and global levels to help its clients build capable, transparent, and accountable institutions and design and implement anti-corruption programs relying on the latest discourse and innovations."[25] The Bank's global work in this area includes implementation of the Stolen Assets Recovery Initiative (StAR) in partnership with the U.N. Office on Drugs and Crime (UNODC). StAR "works with developing countries and financial centers to prevent the laundering of the proceeds of corruption and to facilitate more systematic and timely return of stolen assets."[26]

Corruption Scandals and Popular Response in 2018

Although protests decrying corruption in public office have occurred since 2015 in Brazil, Mexico, and in many countries of Central America, the events of 2018 suggest that corruption prosecutions and revelations during the year significantly increased. As a result, numerous anti-corruption candidates and campaigns played central roles during the 2018 elections, and protests against corrupt leaders erupted in countries throughout the region. (For more details, see the timeline in **Appendix C**).

Brazil. In Brazil, a sprawling corruption investigation underway since 2014 known as *Lavo Jato* (Car Wash, in English) implicated much of the political class.[27] Brazil's multinational construction firm Odebrecht was one of the firms involved, and, in a landmark plea agreement, admitted to paying millions in bribes to politicians and office holders throughout Latin America. Odebrecht executives, in an agreement with authorities in the United States, Brazil, and Switzerland, admitted to paying some $788 million in bribes to secure public contracts worth more than $3.3 billion. The fallout extended beyond Brazil to countries such as Colombia, the Dominican Republic, Ecuador, Panama, and Peru.[28] Both inside Brazil and in other countries, successful prosecution of cases connected to the Odebrecht plea deal received support from the U.S. Department of Justice (see Brazil case study below).

In January 2019, Transparency International endorsed a comprehensive package of 70 reforms developed in conjunction with numerous public and private partners inside Brazil to set the country on a path to restore legitimacy to its political institutions. According to Transparency:

[23] OGP, "About OGP," https://www.opengovpartnership.org/about/about-ogp.

[24] IMF, "IMF and Good Governance," https://www.imf.org/en/About/Factsheets/The-IMF-and-Good-Governance.

[25] The World Bank, "Combating Corruption," http://www.worldbank.org/en/topic/governance/brief/anti-corruption.

[26] The World Bank, "Stolen Asset Recovery Initiative," https://star.worldbank.org/.

[27] The name of the operation is derived from an investigation into money laundering at a service station.

[28] Anthony Faiola, "The Corruption Scandal Started in Brazil, Now It's Wreaking Havoc in Peru," *Washington Post*, January 23, 2018. The fallout of the Odebrecht case extended well beyond Brazil. According to the U.S. Department of Justice, Odebrecht also provided bribes accepted by officials for their personal use or to support their elections and political parties in Angola, Argentina, Colombia, Dominican Republic, Ecuador, Guatemala, Mexico, Mozambique, Panama, Peru, and Venezuela.

> The anti-corruption package includes proposals for institutional reforms, draft bills, constitutional amendments, draft resolutions and other rules to control corruption and tackle its systemic roots. [29]

Some of those proposals were incorporated into draft laws that Minister of Justice and Public Security Sérgio Moro presented to the Brazilian Congress in February 2019. Moro presided over the Car Wash investigation as a federal judge prior to being offered the Ministry of Justice and Public Security by President-elect Bolsonaro.[30]

In Brazil, former President Michel Temer (2016-2018), who was protected from investigation while in office, was arrested on charges of bribery and money laundering in March 2019. According to the Brazilian police, during his vice presidency in 2014 Temer took more than $2 million from Odebrecht to benefit himself and his Brazilian Democratic Movement Party.[31] In addition, an array of former high-level government officials in Brazil, such as Aécio Neves, a former senator, governor, and 2014 presidential candidate for the Brazilian Social Democracy Party, face investigations for taking Odebrecht bribes for favorable consideration of legislation preferred by Odebrecht. Former President Luiz Inácio Lula da Silva (2003-2010) has been sentenced to two 12-year prison terms for steering contracts to Odebrecht and another Brazilian construction firm, OAS, in exchange for renovated properties.

Venezuela. In 2018, an exodus of desperate Venezuelans continued to leave their country, which was under the sway of an authoritarian government that had asserted its power through human rights abuses and significant corruption from drug trafficking and other crimes.[32] A May 2018 report by *Insight Crime* identified more than 120 high-level Venezuelan officials who had engaged in criminal activity.[33] In Venezuela, Odebrecht reportedly provided bribes of more than $98 million to President Nicolás Maduro and his government to gain priority treatment. When President Maduro ousted his Attorney General Luisa Ortega, she reported the President solicited a $50 million bribe directly from the Brazilian construction firm. An Odebrecht executive based in Venezuela maintains that the company only paid Maduro $35 million, and other reports state that Odebrecht also sent contributions to Maduro's political opposition.[34]

The Andean Region

Ecuador. In late 2017, Ecuador's vice president, Jorge Glás, was convicted of taking bribes exceeding $13 million from the Odebrecht firm when he served under former President Rafael

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[29] See *Corruption Perceptions Index 2018*, Transparency International, January 29, 2018, at https://www.transparency.org/cpi2018 and https://www.transparency.org/news/feature/cpi-2018-regional-analysis-americas.

[30] Antiestablishment sentiment had propelled right-wing populist Jair Bolsonaro to victory in the country's October 2018 presidential election, with his four-year term starting on January 1, 2019.

[31] Operation Car Wash contributed to the 2016 impeachment of President Dilma Rousseff. Michel Temer rose from the vice presidency to replace Rousseff.

[32] For more background, see CRS In Focus IF11029, *The Venezuela Regional Migration Crisis*, by Rhoda Margesson and Clare Ribando Seelke, and CRS In Focus IF10230, *Venezuela: Political Crisis and U.S. Policy*, by Clare Ribando Seelke.

[33] "Venezuela: A Mafia State?," *InSight Crime*, May 2018, available at https://es.insightcrime.org/wp-content/uploads/2018/05/Venezuela-a-Mafia-State-InSight-Crime-2018.pdf. See also, Dan Restrepo, "Venezuela in Crisis: A Way Forward," Center for American Progress, October 16, 2019.

[34] Antonio Maria Delgado, "Maduro Demanded $50 million Bribe from Odebrecht, ousted Venezuelan Attorney General Says," *Miami Herald*, February 28, 2018; Odebrecht's Venezuela Bribes Reportedly Top US $170," Business News Americas, February 19, 2019.

Correa (2007-2017). He was removed from office, convicted, and given a seven-year prison sentence, which he is currently serving. Former President Correa, who currently resides in Europe with his Belgian wife, is also wanted by the current government of President Lenín Moreno for arranging the kidnapping of an Ecuadorian official who was a political opponent in 2012. Other charges against Correa include economic mismanagement during his 10-year tenure that involves his ties to Odebrecht.[35]

Colombia. High-level corruption networks have been exposed since March 2018, when Colombia's Supreme Court sentenced the country's top anti-corruption official, Luis Gustavo Moreno, to four years in prison for corruption. An investigation by Colombia's Attorney General's office found a corruption network pervading the national justice system involving high court justices receiving bribes from influential defendants. In late 2018, Colombia's current Attorney General, Néstor Humberto Martínez, was linked to Odebrecht bribes when he served as legal counsel to the Aval Group, a New York Stock Exchange-listed conglomerate run by the Colombia's wealthiest individual.[36] In May 2019, Martínez announced his resignation but for an unrelated matter.[37] Odebrecht executives admitted in their guilty plea that they had provided $32.5 million in bribes to facilitate the building of Colombia's Ruta del Sol highway and other infrastructure projects. A Colombian senator, who had accepted some bribes, cooperated in the prosecution to further expose the scheme. It ensnared a number of important Colombian officials in the previous administrations of President Juan Manuel Santos (2010-2018) and President Álvaro Uribe (2002-2010). A former governor, Sergio Fajardo, and a left-centrist presidential candidate, dedicated his 2018 presidential campaign to combating corruption, which became the impetus for a popular referendum promoting anti-corruption, promoted by the candidate who ran as Fajardo's vice president.[38]

Peru. The Odebrecht campaign-finance and bribery scandals upset political relations nowhere more than in Peru. Several high-profile political figures continue to be under investigation. Four former presidents of Peru are linked to the Odebrecht scandal and other corruption charges. President Pedro Pablo Kuczynski (2016-2018) stepped down in March 2018 to avoid impeachment, but may continue to be held in preventive detention for up to three years.[39] The Public Ministry opened an investigation into Kuczynski's alleged involvement in buying votes to avoid impeachment as well as his ties to bribery by the Brazilian construction firm. Former president Ollanta Humala (2011-2016) and first lady Nadine Heredia, while released from pretrial detention, are under investigation for money laundering and corruption charges. Peru's government has sought to extradite former president Alejandro Toledo (2001-2006) from the United States for allegedly accepting bribes during his administration. In April 2019, former Peruvian president Alan Garcia (who served from 1985 to 1990 and 2006 to 2011) shot himself during his arrest on Odebrecht-related charges, and died shortly afterwards. His private secretary

[35] Op cit, "Major Odebrecht Corruption Cases and Investigations in 2019," *InSight Crime*, February 20, 2019. For more background on Ecuador, see CRS Report R44294, *Ecuador: In Brief*, by June S. Beittel.

[36] Matthew Bristow, "U.S. Opens Inquiry Into Road Project at Center of Colombian Corruption Scandal," *Bloomberg*, December 11, 2018.

[37] "Colombia's Attorney General Resigns over Court Refusal to Extradite FARC Leader," Reuters, May 15, 2019.

[38] For more background, see CRS Report R43813, *Colombia: Background and U.S. Relations*, by June S. Beittel.

[39] According to this article, Peruvian law allows suspects to be jailed without trial for up to three years if prosecutors can show that the suspect is likely to flee and if they possess sufficient evidence likely to lead to conviction. See, "Peru Prosecutor to ask Judge to Jail Ex-president for Three Years before Trial," Reuters, April 15, 2019.

and other officials in his administrations are being closely investigated for allegedly taking bribes from Odebrecht.[40]

In October 2018, a judge ordered former presidential candidate and congressional leader Keiko Fujimori to pretrial detention for allegedly laundering illegal campaign contributions from Odebrecht. In his government's fiscal year 2019 budget, Peruvian President Vizcarra expanded funding to the judiciary by 11% to develop additional mechanisms to combat corruption.

Referenda in the Andes. Voters in three Andean nations considered anti-corruption measures in public referenda held in 2018: in Ecuador in February, Colombia in August, and Peru in December. The Ecuador referendum approved all seven measures on the ballot, some of which tackled public corruption. The Colombian referendum, in which more than 11 million voted, was disqualified for not reaching its high voter threshold requirements (it was also the fourth national vote held in 2018). Although requirements for the referendum were not met, the seven measures on Colombia's ballot received high approval levels. New President Iván Duque supported most of the measures, and pledged to introduce some of them in legislation during his four-year term, although none of the measures that the Administration introduced in the first four months of 2019 passed the Colombian Congress. When Peru's President Martín Vizcarra came to office after president Kuczynski resigned in March 2018 he committed to fighting public corruption. The December 10, 2018, referendum in Peru that Vizcarra steered to a vote resulted in a ban on reelection of Members of Congress, a reform of the body that appoints members of the judiciary, and measures to regulate how political parties are financed. The only measure that failed was a controversial proposal to reestablish a bicameral Congress.[41]

Central America

In 2018, anti-corruption institutions in Guatemala and Honduras faced inhospitable governments opposed to their mission once charges got too close to either themselves, family members, or close political colleagues. The U.N.'s International Commission against Impunity in Guatemala (CICIG), established in 2006, was embraced by President Jimmy Morales when he took office in 2016, but when CICIG began to scrutinize more closely allegations of financing irregularities in his electoral campaign, Morales's government became openly hostile to extending CICIG's mandate.[42] In early January 2019, President Morales abruptly ended CICIG's mandate, prematurely disregarding the stated will of the nation's top court and instigating a constitutional standoff (see case study).[43] In 2016, the Organization of American States worked with the Honduran government to establish a similar organization, the Mission to Support the Fight against Corruption and Impunity in Honduras (MACCIH). The Honduran government has also sought to undermine MACCIH over the past year.

Dominican Republic.[44] In May 2017, the attorney general issued indictments for 14 people, including a cabinet minister (who then resigned) and two senators, on charges of receiving $92 million in bribes from Odebrecht in exchange for construction contracts. The government

[40] Gideon Long, "Garcia's Death Highlights Peru's Corruption Scandals," *Financial Times*, April 19, 2019; "El Gobierno de Perú declare Tres Días de Duelo Nacional por la Muerte de Alan García," Infobae, April 17, 2019. Also information provided to CRS by a Peruvian official at the Embassy of Peru to the United States, April 24, 2019.

[41] "Peru's Vizcarra bolstered after Referendum Success," *LatinNews Andean Group*, January 2019.

[42] Sandra Cuffe, "Guatemala's Assault on an Anti-Corruption Commission Evokes the Country's Dark Past," *World Politics Review*, September 19, 2018.

[43] Hector Silva Ávalos, "Guatemala President Causes Constitutional Crisis to Oust CICIG," InSight Crime, January 8, 2019.

[44] This description drawn from CRS In Focus IF10407, *Dominican Republic*, by Clare Ribando Seelke.

maintains that the investigation is ongoing, but none of those accused were sentenced to prison, and in June 2018, the attorney general dropped charges against seven of the 14 defendants. Others linked with the Odebrecht scandal include a senator and former public works minister, both of whom belong to the dominant Dominican Liberation Party. Reportedly, resolution of their cases could tarnish the party's image in the run-up to the 2020 national elections.

El Salvador. Former president of El Salvador Mauricio Funes (2009-2014) was found guilty of massive illicit enrichment during his time in office. After fleeing to Nicaragua, he was granted asylum by President Daniel Ortega in 2018. Former Salvadoran president Anthony Saca (2004-2009), Funes's predecessor from a rightwing party, pled guilty to similar charges and was convicted and sentenced to 10 years in prison in El Salvador in September 2018; former first lady Ana Ligia de Saca, announced in April 2019 she has reached a plea deal to avoid prison for her role in laundering $25 million in public money.[45]

Panama. In Panama, several high-profile politicians have faced charges of illicit financial gains. For example, U.S. court documents contend that Odebrecht reportedly paid more than $59 million in bribe payments in Panama to secure public works contracts between 2010 and 2014.[46] In August 2017, Odebrecht agreed to pay the Panamanian government $220 million in fines.[47] Former President Ricardo Martinelli (2009-2014) was extradited to Panama from the United States for charges of using public funds to spy on political opponents during his administration. In late 2018, two of Martinelli's sons were arrested in the United States for illegal actions, including accusations of taking Odebrecht bribes. Top members of the Martinelli government are also being investigated for receiving bribes from Odebrecht (e.g., former Minister of the Economy Frank de Lima).[48]

Mexico. In 2018, Mexican President Andrés Manuel López Obrador campaigned successfully for office by attacking corruption and promising to remove corrupt elites. However, how the President will implement his campaign pledges remains unclear. López Obrador was inaugurated in December 2018, and his new Attorney General announced in May 2019 that he planned to prioritize Odebrecht. The former president of the state oil company, Petróleos Mexicanos (Pemex), Emilio Lozoya Austin, has been accused of a scheme involving ghost companies and bribery by Odebrecht provided to Lozoya to help fund electoral campaigns of the historically dominant Institutional Revolutionary Party (PRI). In mid-February 2019, López Obrador maintained that the cases against Mexican officials begun under his predecessor, President Enrique Peña Nieto of the PRI party, would have to be re-launched.[49]

In Mexico, corruption investigations of 20 former state governors, most from the PRI, diminished the party's legacy.[50] Following the end of the term of PRI President Enrique Peña Nieto in late 2018, the historic party reportedly is considering changing its name due to its poor showing in

[45] "Ex-First Lady of El Salvador to Plead Guilty to Corruption," Associated Press, April 1, 2019.

[46] This may total as high as $96 million in bribes for infrastructure and road contracts, according to some analysts if the years examined include 2009 to 2014. Op cit. "Major Odebrecht Corruption Cases and Investigations in 2019," *InSight Crime*.

[47] For more background, see CRS In Focus IF10430, *Panama: An Overview*, by Mark P. Sullivan.

[48] Op cit, "Major Odebrecht Corruption Cases and Investigations in 2019," *InSight Crime*, February 20, 2019.

[49] Op cit,. U.S. State Department, Human Rights Report for 2018. Also see, CRS Report R42917, *Mexico: Background and U.S. Relations*, by Clare Ribando Seelke and Edward Y. Gracia; "Mexico to Launch Criminal Probe into Odebrecht: Attorney General," Reuters, May 6, 2019.

[50] In the U.S. State Department's Country Reports on Human Rights Practices for 2018, the number of "nearly 20 former governors had been sentenced, faced corruption charges, or were under formal investigation," appears in the Mexico country report. See U.S. State Department, Bureau of Democracy, Human Rights and Labor, *Country Reports on Human Rights Practices for 2018*, April 2019.

legislative and presidential elections. Among the PRI party governors under investigation or in jail in Mexico are former Veracruz Governor Javier Duarte (2010-2016) who was arrested in Guatemala and extradited to Mexico in August 2017. Following his trial in Mexico, he received a nine-year sentence in September 2018. Others are Governor Roberto Borge of Quintana Roo (2010-2016) who is wanted on charges of corruption and abuse of public office; Governor Tomás Yarrington of Tamaulipas state along the U.S.-Mexico border with Texas, who was arrested in Italy and extradited to the United States for U.S. charges of money laundering and other corruption; and former PRI governor Cesar Duarte of the border state of Chihuahua, who fled Mexico and is an international fugitive wanted on a Red Notice by the International Criminal Police Organization, Interpol.

Santiago Narra, the former head of the Specialized Prosecutor's Office for Attention to Electoral Crimes (FEPADE), claims in a book published in January 2019 that the Peña Nieto administration was rife with corruption. According to Narra, governors made common practice of using intimidation and bribery to quash or co-opt dissent.[51]

Southern Cone

Argentina. In Argentina during 2018 a large scandal surfaced called "the Notebooks." The name comes from notebooks belonging to a former government chauffeur, who allegedly recorded cash payments he ferried to the residence of Presidents Néstor Kirchner and Cristina Fernandez de Kirchner, who governed Argentina in succession from 2003 to 2015. The kickbacks to the Kirchners were allegedly in exchange for public works contracts approved between 2008 and 2015. The chauffeur's notebooks revealed an alleged bribery scheme totaling $160 million. In August 2018, federal authorities in Argentina arrested 12 former government officials and business executives on corruption-related charges. Fernandez de Kirchner has immunity from arrest as a sitting senator, but she can be prosecuted on the charges.[52] Other investigations into public works bribes directly tied to Odebrecht include investigations of Julio de Vido and Daniel Cameron, respectively the minister of planning under both Néstor Kirchner and Fernandez de Kirchner, and the energy secretary in the Fernandez Administration. De Vido allegedly received bribes for road construction tenders in the President's home state of Santa Cruz and other projects. Energy Minister Cameron was allegedly involved in a gas pipeline expansion project that involved taking bribes in cooperation with the Brazilian construction mega-firm.[53] In September 2018, Cristina Fernández de Kirchner, who may be positioning herself to run again for president, was indicted on bribery charges alleging her involvement in taking some $69 million in bribes.[54]

Paraguay. Historically Paraguay has been plagued by corruption emerging from a chaotic political history. In the 20th century, the landlocked country experienced a 35-year military dictatorship under General Alfredo Stroessner. Paraguay's legacy of dictatorship included one-party rule that endured until 2008.

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[51] Santiago Nieto, *Sin Filas ni Fobias: Memorias de un Fiscal Incomodo*, Penguin Random House, January 2019; "EPN Hizo un Gobierno de Cuates y de Corruptos, narra Santiago Nieto en su Nuevo Libro," *Vanguardia MX*, February 25, 2019.

[52] U.S. State Department, Bureau of Democracy, Human Rights and Labor, *Country Reports on Human Rights Practices for 2018*, March 2019. (Hereinafter, U.S. State Department, *Human Rights Report for 2018*). The country report on Argentina, notes "A sitting senator, Fernandez de Kirchner had immunity from arrest but not from prosecution."

[53] Camilo Carranza, Seth Robbins, and Chris Dalby, "Major Odebrecht Corruption Cases and Investigations in 2019," *InSight Crime*, February 20, 2019.

[54] Andrés Oppenheimer, "Argentina's Indictment of Former President is Great News-It also Goes Against Corrupt Business Leaders," *Miami Herald*, September 19, 2018.

President Mario Benito Abdo Benítez, elected in April 2018, was a grandson of a general in the Stroessner cabinet, although he pledged to work toward greater transparency and not return to the days of nepotism and centralized rule.

A grassroots protest movement known as "*escraches,*" started by a disenchanted criminal lawyer in August 2018, has led to some prominent politicians, reportedly from parties across the political spectrum, choosing to resign rather than be humiliated. Youthful supporters say that the focus of these protests is to reduce impunity from the historically weak and unresponsive judicial institutions of the country that require identifying and shaming the accused to push the cases forward. Protest leaders maintain long-unaddressed cases have been taken up and prosecuted with unprecedented speed. However, critics question the ethics of using visible protests at homes of officials (whose homes are picketed and pelted with raw eggs), when these officials are only alleged to be corrupt or to have committed crimes, and some protests have turned violent.[55] On April 24, 2019, Paraguay's Comptroller General resigned as it became evident that the Paraguayan senate planned to vote in favor of his impeachment on charges of corruption. The vote to impeach him was reportedly supported by President Abdo Benítez.[56]

The Economics of Corruption and the Role of the Private Sector

The World Economic Forum (WEF) has identified the inability of weak national institutions to cope with insecurity and prevent and punish corruption as a barrier to investment. According to the WEF's 2017-2018 *Global Competitiveness Index*, the largest economies in Latin America (Argentina, Brazil, Colombia, and Mexico) ranked below 100 out of 137 countries in the performance of their institutions. WEF recognizes Brazil for its efforts to use its judiciary to clean up government and punish bribery. On the other hand, El Salvador has received the lowest levels of foreign direct investment (FDI) in Central America over the past decade, with extensive insecurity and corruption cited as the primary reasons.[57] Corruption constricts funds that should be available for legitimate socio-economic challenges, such as controlling violence and crime. On the other hand, criminal influence allowed to run rampant engenders instability that negatively affects economic growth. The worst-off victims of corruption tend to be the most marginal and therefore the most vulnerable.

Some analysts maintain that private sector responses to corruption are often reactive rather than proactive and that in some countries businesses are part of the problem. Other analysts maintain that business leaders can be catalysts for demanding clean, non-corrupt governance and can serve as strong advocates for laws to prohibit bribery and extortion to end the distorted impact of corruption on competition. Private sector leaders have supported anti-bribery legislation in several of the more established Latin American democracies. In Mexico, the major business association for small and medium-sized businesses, COPARMEX, is advocating for full implementation of the National Anti-Corruption System, which began under the Peña Nieto government in 2017 (described in the Mexico case study). The business association supports establishing an independent prosecutor's office, one of the key features of the system. On the other hand, business leaders from Guatemala and Honduras have in many cases sought to weaken anti-corruption efforts and controls.

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[55] Ernesto Londoño and Santi Carneri, "In Paraguay, Fighting Graft With Eggs and Toilet Paper," *New York Times*, April 22, 2019.

[56] "Controller General Resigns amid Corruption Charges," *LatinNews Daily*, April 25, 2019.

[57] Klaus Schwab, *Global Competitiveness Report 2018*, World Economic Forum, Geneva, Switzerland, October 16, 2018.

The Inter-American Development Bank (IDB) report on anti-corruption, transparency and integrity in Latin America and the Caribbean called for an integrated approach for systemic change to reduce corruption. The report, published in 2018, describes earlier interventions encouraged by multilateral and regional institutions as "uneven and partial." The report points out that the use of corruption indicators by the main rating agencies (Standard & Poor's, Moody's, and Fitch) are critically important for investment and loans available to a recipient country.[58]

Typically, politicians receive payoffs in exchange for favors to aid their parties or campaigns that ultimately may distort public-works bidding (some for multi-billion dollar infrastructure projects). Levels of outside direct investment are also influenced by perceptions of public corruption. For instance, Chile has had one of the lowest levels of perceived corruption in Latin America, and was quick to correct a perception of increasing corruption when its record was tarnished by scandals between 2015 and 2017. Chile's reputation has helped it achieve both high growth and significant foreign direct investment.[59]

A Push Factor for Migration?

Many scholars report that corruption affects productivity and lowers competitiveness; when it is systemic, corruption can reduce GDP.[60] Public-sector corruption, widespread in many Latin American societies, may handicap Latin American growth, skew incentives, and erode public services. The active involvement of corrupt elites, whether from the private or public sector, may allow criminal networks to remain deeply embedded. Public-sector corruption can be a contributor to migration, since corruption that fosters criminality and corrodes the rule of law may be a factor in Central Americans leaving their countries of origin to migrate to the United States. In addition to economic factors, the growing reach of violent crime into their communities has been cited as an impetus to emigrate. Corruption hinders government efforts to address the factors that cause people to migrate, and undermines public confidence in state institutions.

The Links between Corruption, Violent Crime, and Impunity[61]

Many governments in Latin America, particularly those in the Central America-Mexico drug transit zone through which 90% of U.S.-bound cocaine passes, suffer from weak and overwhelmed criminal justice systems. Weak criminal justice systems are unable to investigate and punish crimes and they are easily penetrated by bribery or intimidation. As a result, all manner of criminal behavior may increase, in a self-reinforcing cycle, due to lack of trust in the justice system, failure to invest in fixing the system to bring about improvements, and greater

[58] Eduardo Engel, Delia Ferreira Rubio, Daniel Kaufmann et al., Report of the Expert Advisory Group on Anti-Corruption, Transparency, and Integrity in Latin America and the Caribbean, Inter-American Development Bank, IDB Mongraph-677, Washington, DC, November 2018.

[59] A recent study, No Más Cohecho, ("no more bribery") published by a Chilean NGO, the Fundación Ciudadano Inteligente (FCI) in 2018, revealed a counterintuitive insight in a 16-country study: Chile's fines for bribery were among the most lenient of the countries studied. See "Anti-bribery Laws Found to be Most Lenient," LatinNews, August 16, 2018.

[60] See, for example, the findings of K. Murphy, A. Shleifer, and R. Vishney, "The Allocation of Talent: Implications for Growth," *The Quarterly Journal of Economics*, vol. 106, no. 2, 1991; Elvin M irzayev, "How Corruption Affects Emerging Economies, Investopedia, January 22, 2018; "The Economic and Fiscal Impact of the Fight Against Corruption in Guatemala: An Empirical and Documentary Analysis," Instituto Centroamericano de Estudios Fiscales (ICEFI), July 2018.

[61] For more, see CRS Report R41576, *Mexico: Organized Crime and Drug Trafficking Organizations*, by June S. Beittel. See also, David Luhnow, "400 Murders a Day: The Crisis in Latin America," *Wall Street Journal*, September 21, 2018.

criminal impunity or non-prosecution of crimes. This continues to erode confidence in judicial authorities who are perceived to be "captured" by criminal networks. Lack of confidence in the justice system can affect the morale of criminal-justice personnel and further increase their susceptibility to corruption.

This negative-feedback loop has contributed to Latin America having the highest homicide rate of any region in the world outside a war zone. The linkage between violence and corruption has led Latin Americans to protest the dire situation that they face in their communities, and has been an impetus for their support of anti-corruption campaigns and anti-crime candidates in recent elections. Venezuela, Guatemala, and Honduras, ranked in TI's 2018 Corruption Perceptions Index as highly corrupt by respondents, also registered some of the region's highest homicide rates. Correspondingly, these countries have some of the most-elevated emigration rates in the region, as families facing criminal threats leave rather than rely on security forces that they perceive as corrupt for protection.[62]

In February 2019, the drug trafficking kingpin Joaquín "El Chapo" Guzmán who led Mexico's notorious Sinaloa cartel for decades, was convicted in New York on multiple counts of operating a continuing criminal enterprise. The charges included trafficking more than 440,000 pounds of cocaine into the United States, murder, acts of torture, kidnapping, and money laundering. According to the U.S. Drug Enforcement Administration (DEA), the Sinaloa Cartel has the most extensive reach of any transnational crime group into U.S. cities.

In some of the trial's most incendiary testimony, U.S. government witnesses testified that former senior officials in the Mexican government took bribes from Guzmán; one witness alleged that former president Peña Nieto (2012-2016) received a $100 million bribe from Guzmán.[63] The conclusion of the Guzmán trial may do little to diminish the role of corruption generated by drug trafficking, which is entrenched and secured by the enormous profits of the drug trade.

Mexico's Search for an Independent Prosecutor General

Mexico's attorney general's office (PGR) has been plagued by low budgets, allegations of corruption, inefficiency, and a lack of political will to resolve high-profile cases. Many civil society groups, which advocated for a new criminal justice system, focused their efforts on urging the Mexican congress to create an independent national prosecutor's office to replace the PGR, by implementing a change to the Mexican Constitution made in 2014.[1]

Under the new system, the Senate would appoint a respected independent person to lead the new institution. President Andrés Manuel López Obrador downplayed the importance of the new office during his presidential campaign, but Mexico's Congress established the office after he was inaugurated in December 2018. Dr. Alejandro Gertz Manero, a 79-year-old associate of President López Obrador, was named Prosecutor General by the Mexican Senate in January 2019. He will serve a nine-year term, extending beyond the constitutionally mandated six-year term of the President.

U.S.-supported Mexican efforts to train judicial personnel and judges, establish rule of law programming, and professionalize police and military have had limited sustainable impact, (see Mexico case study below). Most crimes still go unreported because the public believe there is ongoing police collaboration with the criminal networks and/or public officials acquiesce to

[62] Open Society Justice Initiative, *Corruption that Kills: Why Mexico Needs an International Mechanism to Combat Impunity*, New York, NY, 2018.

[63] David Agren, "Witness: 'El Chapo' Bribed Ex-Mexican President," *Washington Post*, January 16, 2019; "The Trial of El Chapo and Mexican Politics," *LatinNews*, Mexico & Nafta, January 2019; Alan Feuer, "The Public Trial of El Chapo, Held Partially in Secret," *New York Times*, November 2018.

criminal acts.[64] Successful prosecutions are rare, with 8% of every 100 homicide cases resolved, due to poor investigations, corrupt policing, and other inefficiencies.

The effort to build more independence and protect the judiciary from undue political influence in Mexico has focused on establishing a separate attorney general's office. As noted in the textbox, in early 2019 Mexico's Senate appointed Alejandro Gertz Manero to serve a nine-year term in a newly defined attorney general position.[65] The appointment has raised concerns that the desired independence may be compromised, as the appointee has a long political association with Mexican President López Obrador. How the President will direct and respond to the newly independent office remains to be seen.[66]

Conditions that Can Cause Damage and Casualties

Extortion by criminal networks—or by public officials—on an ongoing basis can be significant and corrosive. State resources or public funds to counter violence are diminished if funds are drained by officials stealing public monies. Extortion by criminal networks or officials can reduce funding for essential services like education and healthcare or public works, while artificially raising the cost to citizens for such services. When contracts for major public infrastructure, such as dams, large transportation, or water-supply projects are awarded to the highest *briber* instead of the lowest priced, qualified bidder, consequences can be deadly. In Peru, in 2017, one criminal group, dubbed by authorities the Imposters of Reconstruction, set up a fake government agency to assist in letting contracts designed to recover from floods and landslides caused by El Niño. The fake agency bilked some 50 to 100 contractors to pay bribes to expedite their bids in the bogus El Niño recovery.[67]

Oversight of public procurement and transparency requirements may be insufficient to prevent office holders and politicians from using extortion and nepotism to their benefit. Furthermore, government regulatory systems are often thwarted through bribery. The mine-waste dam collapse in January 2019 in Minais Gerais, Brazil, resulted in some 300 deaths. Prosecutors are considering charges of murder and violation of mine safety requirements for the Vale SA employees involved and the German company that signed off on dam inspections for filing false reports. The regulatory body for mines in Brazil had recently approved the dam as low risk, and the inspectors are alleged to have known that the dam was unsafe and at risk of collapse.[68]

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[64] Judicial system and law enforcement corruption may leave citizens more vulnerable to crime especially when high rates of impunity prevail.

[65] Some civil society groups and opposition leaders in Congress have raised concerns that, due to the new Attorney General's proximity to the President and a lack of transparency in the selection process, he will not be autonomous.

[66] For background on President López Obrador's security policies, see CRS In Focus IF10578, *Mexico: Evolution of the Mérida Initiative, 2007-2019*; Laura Y. Calderón, Kimberly Heinle, and Octavio Rodríguez Ferreira, et al., *Organized Crime and Violence in Mexico: Analysis Through 2018*, Justice in Mexico: University of San Diego, April 2019.

[67] Seth Robbins, "Peru Criminals Set Up Phony Government Agency to Receive Bribes," *InSight Crime*, May 1, 2019.

[68] Luciana Magalhaes and Samantha Pearson, "Brazil to Charge Vale Over Deadly Dam Collapse," *Wall Street Journal*, April 11, 2019. The article notes that according to one investigation "Vale employees knew for months of dangerous conditions are the dam on the outskirts of the town of Brumadinho. Yet the TUD SUD employees [German inspectors who inspected the dam] certified the dam as safe, expressing worry about losing contracts with Vale, a major client."

Corruption as a U.S. Foreign Policy Concern and Anti-corruption Assistance

The 2017 U.S. National Security Strategy maintains that corruption of weak governments, especially those cowed by criminals and terrorists, poses a serious national security challenge. It asserts that reducing violence should be a priority in countries that are U.S. trade and security partners because extreme violence is economically and socially disruptive and creates instability. The range of corrupt practices is broad and solutions to control public corruption are quite diverse as the case studies in this report indicate. Police and justice systems are open to corruption when morale and integrity are low and external pressures high, which may allow abusive prosecutorial practices to prevail, such as the use of torture or efforts to destroy or fabricate evidence. Weak rule of law subverts justice systems, and diminishes political systems and participatory democracy.

For several years, U.S. foreign assistance has been provided to fight corruption and enhance the rule of law in Latin America (including judicial training), to improve law-enforcement techniques to conduct investigations, make arrests and properly handle evidence, and enhance oversight of civil society for better accountability. U.S. assistance has supported whistleblower protections and other measures to allow private citizens to be more effective watchdogs of public officials, disrupt abuses, and prevent corruption from taking hold again.

Identifying U.S. partners as tainted by corruption can increase tensions in bilateral relations. As a result, U.S. assistance programs are often identified as efforts to increase the efficiency or integrity of "good government," increase "transparency," and inculcate the rule of law, rather than to combat egregious violations or known violators. Furthermore, anti-establishment and populist governing styles of leaders in Latin America may define their policy ends as anti-corruption, but this may mask other political goals that are more anti-institutional rather than committed to strengthening the nation's institutions.

One example of the U.S. approach is the new proposed trade agreement signed by the United States, Canada, and Mexico in late 2018.[69] U.S. trade talks with Mexico and Canada to replace the North Trade Agreement (NAFTA) resulted in the United States-Mexico-Canada Agreement, (USMCA), which includes a chapter on anti-corruption. The main purpose of the chapter is to "prevent and combat bribery and corruption in international trade and investment." The accomplishment of dedicating a full chapter to reinforce the trilateral commitment to combat corruption is significant, but success would be achieved as the provisions are translated into action. This is especially true in Mexico, where significant gaps remain in implementing anti-corruption regulation.[70] Some scholars have identified the various anti-corruption requirements in the chapter as some of the most comprehensive in any trade treaty, though largely drawn from the proposed Trans-Pacific Partnership agreement from which the Trump Administration withdrew in 2017. The USCMA chapter includes measures to combat corruption, which are legislative, administrative, and promotional.[71]

Relevant assistance provided by the U.S. government to combat corruption includes assistance and efforts by U.S. State Department, the United States Agency for International Development

[69] For more information, see CRS Report R44981, *NAFTA Renegotiation and the Proposed United States-Mexico-Canada Agreement (USMCA)*, by M. Angeles Villarreal and Ian F. Fergusson.

[70] Victoria Gaytan, "The USMCA and its New Anti-corruption Provisions," *The Global American*, October 19, 2018.

[71] Collman Griffin, Richard Mojica, and Marc Alain Bohn, "Takeaways from the Chapter of the USMCA," The FCPA Blog, January 9, 2019.

(USAID), the Department of Justice, the Department of the Treasury, and the Millennium Challenge Corporation (MCC), outlined below.

U.S. Agency for International Development (USAID), State Department and the Department of Justice[72]

The U.S. government's primary manager of foreign assistance is USAID and the closely linked U.S. State Department. The two organizations are the main funders of programming for increasing transparency, rule of law, and good government, and often use NGOs to implement their programs. State and USAID program implementers range from associations to local, U.S. embassy, and national civil society groups. Anti-corruption activities are integrated in the strategy of each USAID country mission and embassy, and therefore may influence programs beyond democracy and good governance to include such areas as health, education, economic growth, and promotion of environmental and natural resources management.

In 1994, USAID opened a new Office of Transition Initiatives (OTI) to provide rapid response programming to help support peace and democracy. OTI has assisted NGOs to combat antidemocratic forces and fight corruption or bolster weak institutions by providing more agile U.S. government responses on the ground. Nevertheless, the OTI concentrates on conflict settings rather than governance reform, which often require long-term interventions. The State Department's International Narcotics and Law Enforcement bureau advances the rule of law and human rights by supporting criminal justice institutions in a country, promoting accountability, and helping to strengthen and reinforce the rule of law.

In the last 30 years, USAID and State Department have funded programs to reinforce institutions that tackle corruption and cultivate a "culture of transparency" and integrity. Rule of Law (ROL) programming and judicial and prosecutorial training were part of USAID's 2005 strategy focused on overcoming challenges posed by corruption and targeting agency resources to meet greatest need with more precision. In 2012, with the intention to integrate anti-corruption goals throughout the agency's development portfolio, USAID established the Center of Excellence on Democracy, Human Rights, and Governance. According to one analysis, worldwide programming on combating corruption has totaled roughly 330 projects over seven years (2007 to 2013). About 30 were short-term projects including evaluations, while 289 were long-term country projects.[73]

Some funds for anti-corruption and justice programs abroad involve transfers from the State Department to the U.S. Department of Justice (DOJ), such as the International Criminal Investigative Training Assistance Program (ICITAP), which is a law enforcement development agency. It works with foreign governments to develop professional and transparent law enforcement institutions that can fend off corruption, lower the threat of transnational crime, counter terrorism, and protect human rights. The 17 ICITAP field offices include three based in Mexico, Panama, and Colombia. The Office of Overseas Prosecutorial Assistance and Training (OPDAT) carries out capacity building in the justice sector, largely by assigning experienced U.S. prosecutors to U.S. Embassies, who provide peer advice and training to host country prosecutors, judges, and other justice sector personnel. They also provide advice on legislation and criminal enforcement policy.

[72] Some of this summary was drawn from CRS Report R44858, *Democracy Promotion: An Objective of U.S. Foreign Assistance,* by Marian L. Lawson and Susan B. Epstein.

[73] U.S. Agency for International Development, Analysis of USAID *Anticorruption Programming Worldwide (2007-2013)*, July 24, 2014. See also, USAID, *Practitioners Guide for Anticorruption Programming*, 2015.

Strategies under the MCC to Combat Corruption

Another avenue of anticorruption assistance to the region is the U.S. Millennium Challenge Corporation, which provides positive incentives for good governance and transparency in its inventory system. The MCC requires countries to pass a "control of corruption" threshold in order to unlock funding such as assistance known as a compact, which on average provides a recipient country with $300 million of U.S. foreign assistance.

Created by Congress in 2004, the MCC was established as an independent assistance agency to award funds to developing nations based on a competitive selection process. A country's performance record is the primary (but not the only) basis for awarding funds; and these criteria include a record of clean and transparent governance when judged in comparison with other nations with similar socio-economic characteristics. Since revising its approach in its 2016 strategy *NEXT: A Strategy for MCC's Future*, MCC's awards and threshold programs seek to address and promote reforms that support sustainable anti-corruption practices. In the past decade, the region has received several threshold programs (Honduras, Paraguay, and Peru) and two large compacts for El Salvador. The program for Honduras, which the MCC launched in 2005, ended prematurely because of a 2009 coup. Over the past ten years, MCC has awarded roughly $800 million of assistance to countries in the Western Hemisphere in compacts and threshold programs.

Sanctions and the U.S. Treasury Department

U.S. Treasury Department programs, including sanctions, listings, and asset seizures in cooperation with police also address corruption. The Office of Foreign Assets Control (OFAC) in Treasury administers and enforces economic sanctions that target foreign entities and persons for their activities related to terrorism, narcotics trafficking, and other threats to the national security, foreign policy, or the economy of the United States. Two of OFAC's sanctions programs address drug trafficking while other programs target terrorist funding. Additionally, 22 individuals and 27 companies from Venezuela are designated as "specially designated narcotics traffickers" under the Kingpin Act.74

In 2015, President Obama issued E.O. 13692 to target those who have undermined democratic processes or institutions, including acts of public corruption, violence or human rights abuses by senior Venezuelan officials. The Trump Administration has imposed sanctions on 74 Venezuelan officials pursuant to E.O. 13692 (in addition to 7 officials sanctioned by President Obama). These officials include President Maduro and his wife, Vice President Delcy Rodriguez, United Socialist Party of Venezuela (PSUV) First Vice President Diosdado Cabello, Supreme Court members, and other high level military officials, state governors, and other officials.

In early 2019, the United States applied strong sanctions on Venezuelan oil and the Trump Administration has issued executive orders restricting the government and the ability of Venezuela's state oil company, *Petróleos de Venezuela, S.A.* (PdVSA), to access the U.S. financial system (E.O. 13808), barring U.S. purchases of Venezuela's new digital currency (E.O. 13827), and barring U.S. purchases of Venezuelan debt (E.O. 13835). On November 1, 2018, President Trump signed E.O. 13850, creating a framework to sanction those who operate in Venezuela's gold sector or are deemed complicit in corrupt transactions involving the government. On January 28, pursuant to E.O. 13850, the Administration imposed sanctions on PdVSA to prevent Maduro and his government from benefitting from Venezuela's oil revenue.

[74] For more details, see CRS In Focus IF10580, Transnational Crime Issues: International Drug Trafficking, by Liana W. Rosen and CRS In Focus IF10715, Venezuela: Overview of U.S. Sanctions, by Mark P. Sullivan .

The 116th Congress has paid close attention to the turmoil in Venezuela and is likely to continue to consider the steps to influence the Venezuelan government and a return to democratic rule. The humanitarian crisis in the country has caused an exodus of Venezuelans—reportedly the largest outflow of refugees and migrants ever in the Western Hemisphere—which has tested the capacity of receiving countries to respond. For the United States, Europe, and others, the conduit of narcotics through Venezuela has had immediate ill effects. The Maduro government, that is widely considered to be the region's most corrupt, has caused suffering within and beyond Venezuela's borders.[75] The effectiveness of sanctions on members of the Maduro government and on the vital oil sector, along with consequences for a destitute and undernourished population, are still to be seen. Should a transition to democracy occur in Venezuela, some observers speculate that what may be revealed would be multi-jurisdictional and massive corruption. It would far exceed the scope of what the State Department identified in a mid-April 2019 fact sheet.[76]

Case Studies

The following examples highlight the various ways in which the U.S. government has supported recent anti-corruption efforts in Latin America. The selected cases—Brazil, Mexico, Guatemala, and Honduras—examine the extent to which U.S. support has contributed to driving anti-corruption efforts in widely divergent legal and historical contexts. The United States in these illustrative cases has sought to work closely with established authorities and civil society actors to combat impunity, increase transparency, and dislodge corruption. In Brazil, the U.S. Justice Department cooperated with Brazilian prosecutors on a complex international bribery and corruption case. In Mexico, the United States has supported rule of law reforms to increase judicial independence, reduce impunity, and protect journalists in the context of a strong central government. In Central America, with its historically weak governments, the multilateral institutions and outside experts worked alongside the justice systems in Guatemala and Honduras to expose corruption and criminal control.

Brazil: Mutual Legal Cooperation[77]

Over the past five years, Brazilian authorities have carried out a series of overlapping investigations that have uncovered systemic corruption. As noted above, operation *Lava Jato* ("Car Wash"), launched in March 2014, has implicated high-level politicians from across the political spectrum, as well as many of the country's most prominent business executives. The initial investigation revealed that political appointees at the state-controlled oil company, Petróleo Braileiro S.A. (Petrobras), colluded with construction firms to fix contract bidding processes. The firms then provided kickbacks equivalent to 1-2% of the value of their inflated contracts to Petrobras officials and their politician sponsors in the ruling coalition.[78] Subsequent investigations have discovered similar practices throughout the public sector, with businesses providing bribes and illegal campaign donations in exchange for contracts or other favorable government treatment. To date, Brazilian prosecutors have charged more than 900 individuals and

[75] See, "The Battle for Venezuela," *Economist*, February 2-8, 2019.

[76] See, for instance, Roberto Simon and Emilie Sweigart, "What Will Happen When a Corruption Probe Starts in Venezuela?" *Americas Quarterly*, April 29, 2019. U.S. State Department, Western Hemisphere: *Nicolas Maduro: Corruption and Chaos in Venezuela*, Fact Sheet, Office of the Spokesperson, Washington, DC, April 15, 2019.

[77] This section was prepared by Peter J. Meyer, CRS Specialist in Latin American Affairs.

[78] Sérgio Fernando Moro, "Preventing Systemic Corruption in Brazil," *Dædalus*, vol. 147, no. 3 (Summer 2018), p. 160.

secured more than 200 convictions for crimes including corruption, money laundering, and abuse of the international financial system.[79] Most of the politicians implicated by the scandals have yet to be convicted, however, since the Supreme Court, which is charged with trying high-ranking public officials, faces a significant case backlog.

Brazilian officials and outside analysts have identified several legal and institutional reforms that have facilitated these anti-corruption efforts. The country's 1988 constitution grants autonomy to the office of the attorney general (*Ministério Público Federal*, MPF), and, due to institutional norms that have since developed, the practice has become entrenched of the president selecting the attorney general from a list of candidates created by federal prosecutors. This operational independence has enabled the MPF to pursue politically sensitive cases against high-ranking officials.[80] Investigations also have improved as the MPF and the federal police have begun to work together more closely, using new investigative tools. A 2013 law to combat organized crime, for example, enhanced prosecutors' discretion to reduce or drop criminal charges for cooperative defendants.[81] Brazilian prosecutors have approved at least 218 such plea bargain agreements to advance the various investigations stemming from the Car Wash probe.[82]

Brazil's anticorruption efforts also have benefitted from extensive cooperation with the United States and other international partners. Prosecutors affiliated with Operation Car Wash have issued 269 formal requests for legal assistance to 45 countries, and have received 279 requests for legal assistance from 36 countries.[83] Formal cooperation between the United States and Brazil is governed by a bilateral treaty on mutual legal assistance (Treaty Doc. 105-42)—ratified with the advice and consent of the U.S. Senate in 1998—as well as several multilateral agreements.[84] The bilateral treaty empowers both countries to request assistance from one another, including

- taking the testimony or statements of persons;
- providing documents, records, and items;
- locating or identifying persons or items;
- serving documents;
- transferring persons in custody for testimony or other purposes;
- executing requests for searches or seizures;

[79] "Coming Up at the Car Wash: Brazil's Biggest Anti-Corruption Investigation is at a Turning Point," *Economist*, April 11, 2019.

[80] Rodrigo Janot, "Rodrigo Janot: The Lessons of Car Wash," *Americas Quarterly*, vol. 11, no. 1, (January 2018); and Geanluca Lorenzon, *Corruption and the Rule of Law: How Brazil Strengthened Its Legal System*, CATO Institute, November 20, 2017.

[81] Ibid; and Andrew B. Spalding, "Brazil's Olympic-Era Corruption Reforms," *Maryland Journal of International Law*, vol. 32, no. 1 (2017).

[82] Ministério Público Federal (MPF), "A Lava Jato em Números no Paraná" January 10, 2019; MPF, "A Lava Jato em Números no Rio de Janeiro," October 9, 2018.

[83] Ibid.

[84] The United States and Brazil have both committed to collaborating on anti-corruption efforts as parties to the Organization for Economic Cooperation and Development (OECD) Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (Treaty Doc. 105-43), the Inter-American Convention Against Corruption (Treaty Doc. 105-39), and the U.N. Convention Against Corruption (Treaty Doc. 109-6). The U.S. Senate gave its advice and consent to ratification for the respective conventions in 1998, 2000, and 2006.

- assisting in proceedings related to immobilization and forfeiture of assets, restitution, and collection of fines; and
- any other form of assistance not prohibited by law.

U.S. and Brazilian authorities also engage in extensive informal cooperation. This allows them to share information more quickly, but evidence obtained this way may not be admissible in court.

The U.S. Department of Justice and the MPF have cooperated formally and informally to investigate and prosecute several major corruption cases related to the Car Wash probe. To date, those efforts have resulted in coordinated resolutions with seven multinational corporations for violations of the U.S. Foreign Corrupt Practices Act (15 U.S.C. §78dd–1) and various Brazilian laws. Collectively, the companies (Braskem, Embraer, Keppel Offshore and Marine, Odebrecht, Petrobras, Rolls Royce, and SBM Offshore) have agreed to pay more than $1.9 billion in penalties to the United States and nearly $4.4 billion to Brazil.[85]

The future of Operation Car Wash and the country's broader anti-corruption efforts will depend on the actions of Brazil's new government. President Jair Bolsonaro, who began a four-year term in January 2019, relentlessly attacked the corruption of the country's political class during his campaign. Upon taking office, he appointed Sérgio Moro, the federal judge who had presided over the Car Wash investigation, as his minister of justice and public security. Moro reportedly intends to use his position to push for concrete political and judicial reforms that could help consolidate the country's recent anti-corruption progress.[86] However, Moro's decision to join the right-wing Bolsonaro Administration could jeopardize popular support for the Car Wash investigation by lending credence to those who argue that he politicized the probe to damage the electoral prospects of the left-leaning Workers Party.[87] The Bolsonaro Administration's initial anti-corruption proposals already have run into resistance in the Brazilian Congress where a third of federal legislators, including the leaders of both houses, are under investigation for corruption or other crimes.[88]

[85] U.S. Securities and Exchange Commission, "SEC Charges Brazil- Based Petrochemical Company with FCPA Violations," December 21, 2016; United States v. Braskem S.A., Cr. No. 16-643 (E.D.N.Y., filed January 26, 2017); U.S. Department of Justice (DOJ), "Embraer Agrees to Pay More than $107 Million to Resolve Foreign Corruption Practices Act Charges," October 24, 2016; DOJ, "Keppel Offshore & Marine Ltd. and U.S. Based Subsidiary Agree to Pay $422 Million in Global Penalties to Resolve Foreign Bribery Case," December 22, 2017; United States v. Odebrecht S.A., Cr. No. 16-643 (E.D.N.Y., filed April 17, 2017); DOJ, "Rolls-Royce plc Agrees to Pay $170 Million Criminal Penalty to Resolve Foreign Corrupt Practices Act Case," January 17, 2017; DOJ, "SBM Offshore N.V. and United States-Based Subsidiary Resolve Foreign Corrupt Practices Act Case Involving Bribes in Five Countries," November 29, 2017; MPF, "MPF Firma Novo Acordo de Leniência com a SBM Offshore," September 5, 2018; and DOJ, "Petróleo Brasileiro S.A.—Petrobras Agrees to Pay more than $850 Million for FCPA Violations," press release, September 27, 2018.

[86] Brian Winter, "Why Sérgio Moro Took the Job—and Changed Car Wash Forever," *Americas Quarterly*, November 2, 2018.

[87] Operation Car Wash contributed to the 2016 impeachment of President Dilma Rousseff. It also led to the imprisonment of former President Luiz Inácio Lula da Silva (2003-2010), which prevented him from running against Bolsonaro in 2018.

[88] "1/3 do Congresso Eleito é Alvo de Investigações," *Estado de São Paulo*, November 5, 2018; and Chico Marés, "Congresso 2019: As Ocorrências Judiciais dos que Querem Presidir Câmara e Senado," Agência Lupa, February 1, 2019.

Mexico: Confronting Endemic Corruption and Weak Institutions[89]

Official corruption is a serious problem at all levels of government in Mexico; 84% of Mexicans identify corruption as among the most pressing challenge facing the country.[90] In Mexico, the costs of corruption reportedly reach as much as 5% of gross domestic product each year.[91]

The United States has supported programs to address corruption and impunity in Mexico since at least 2000, but lack of political will in Mexico to address these problems has arguably limited their impact. U.S. efforts have included programs aimed at supporting the country's transition to an accusatorial justice system, establishing a National Anti-corruption System (NAS), bolstering transparency and oversight of government programs, and supporting investigative journalism.[92]

U.S. Support for Anti-Corruption Efforts in Mexico

Transition to Accusatorial Justice System

By the mid-2000s, most Mexican legal experts had concluded that reforming Mexico's corrupt and inefficient criminal justice system was crucial for combating criminality and strengthening the rule of law. In 2008, Mexico implemented constitutional reforms mandating that by 2016, trial procedures at the federal and state level had to move from a closed-door process based on written arguments presented to a judge to an adversarial public trial system with oral arguments and the presumption of innocence. These changes aimed to create a new criminal justice system that would be less prone to corruption, more transparent, and more impartial. Federal changes followed advances made by early adopters of the new system, which included states such as Chihuahua.[93]

The United States has been supporting judicial reform efforts in Mexican states since the late 1990s, with assistance accelerating since the implementation of the Mérida Initiative in FY2008. U.S. assistance (1) has helped the federal and state governments adopt legislative frameworks to underpin the reform process, (2) provided in-depth training for justice sector operators on their roles in the system, and (3) built support for the reforms in Mexican civil society. Mexico technically met the June 2016 deadline for adopting the new system, with states that have received assistance from USAID showing, on average, better results than others do.[94] Nevertheless, serious problems in implementation have occurred at a time when public opinion is turning against the system and government funding for ongoing training and technical support for the system has diminished.[95]

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[89] This section was prepared by Clare Ribando Seelke, CRS Specialist in Latin American Affairs.

[90] Pew Research Center, *Crime and Corruption are top Concerns in Mexico*, September 13, 2017.

[91] Mexican Institute for Competitiveness (IMCO), *Índice de Competitividad Internacional 2015. La Corrupción en México: Transamos y no Avanzamos*, November 2015.

[92] For background, see CRS Report R43001, *Supporting Criminal Justice System Reform in Mexico: The U.S. Role*, by Clare Ribando Seelke; CRS Report R41349, *U.S.-Mexican Security Cooperation: The Mérida Initiative and Beyond*, by Clare Ribando Seelke and Kristin Finklea.

[93] Octavio Rodríguez Ferreira and David Shirk, *Criminal Procedure Reform in Mexico: 2008-2016 The Final Countdown to Implementation*, Justice in Mexico, October 2015.

[94] Since 1998, USAID has obligated some $149.9 million to support Mexico's National Criminal Justice System. Electronic correspondence with USAID, July 25, 2018. The State Department's Bureau of International Narcotics and Law Enforcement Affairs (INL) has also provided significant funding, some of which has been implemented by the U.S. Department of Justice. Guillermo Raúl Zepeda Lecuona, "¿Cómo Vamos en Procuración de Justicia?" *Animal Político*, July 18, 2018.

[95] Joshua Partlow, Mexico's Crisis of Justice, *Washington Post*, December 29, 2017; Octavio Rodiguez and David

National Anticorruption System and Related Efforts to Improve *Transparency*

In 2015, the Mexican congress approved and President Peña Nieto signed constitutional reforms creating a system to prevent and punish corruption following intense and sustained lobbying by civil society and the private sector. In July 2016, Mexico's congress approved secondary legislation to implement what became known as the National Anti-corruption System (NAS). The legislation reflected several of the proposals that were pushed by Mexican civil society groups and supported by USAID. The reforms gave the anticorruption system investigative and prosecutorial powers and a civilian board of directors, increased administrative and criminal penalties for corruption. and required three declarations (taxes, assets, and conflicts of interest) from public officials and contractors.[96] The system took effect in July 2017.

USAID has provided support to Mexican government (federal and state) anti-corruption and public administration entities, as well as efforts organized by private sector and civil society groups. Support to the Mexican government aims to help it comply with the NAS, conduct and publicize audits of government agencies and programs, develop and implement codes of conduct for public officials, and conduct transparent procurement processes. Through partnerships with private sector entities, USAID funds are helping to support research, push for public policy and legislative reforms, and foster investigative journalism. U.S. funds channeled through the World Bank and the U.N. Development Program support civic participation in federal and state-level transparency secretariats.

Despite U.S. support and civil society pressure, Mexico's implementation of its NAS has lagged. In December 2017, members of the system's civilian board of directors maintained that the government had been "thwarting" its efforts by denying requests for information.[97] It was not until February 2019 that a special prosecutor for corruption cases was appointed, and the 18 judges to hear corruption cases are still to be named. In addition to a lack of personnel at the federal level, many states have not fulfilled all the constitutional requirements for establishing a local anti-corruption system.

In the past, President López Obrador has been critical of the NAS or largely ignored it.[98] Yet, López Obrador made fighting corruption a central campaign promise. Since taking office, he has not prioritized NAS implementation, but the new Prosecutor General, Alejandro Gertz Manero, named a special anti-corruption prosecutor in February 2019. López Obrador has also launched a massive effort to combat fuel theft from the state petroleum company, Petróleos Mexicanos (PEMEX) and its pipelines. As part of this effort, he has called for the prosecution of high-level PEMEX officials, whose involvement in oil theft was revealed by investigative journalists.[99]

Searching for Safeguards for Investigative Journalism[100]

Shirk, "Mexico's Badly Needed Justice Reforms are in Peril," *San Diego Union Tribune*, August 11, 2017.

[96] Viridiana Rios, "Mexico Wins: Anti-Corruption Reform Approved," *Forbes*, July 18, 2016; Maureen Mayer and Gina Hinojosa, Mexico's National Anti-Corruption System, Washington Office on Latin America, (WOLA), May 2018.

[97] Azam Ahmed, "Mexico's Government Is Blocking Its Own Anti-Corruption Drive, Commissioners Say," *New York Times*, December 2, 2017.

[98] Palmira Tapia Palacios, "El Sistema Anticorrupción y el Nuevo Gobierno," *Forbes México*, Julio 25, 2018.

[99] "López Obrador Sends Out Message on Corruption," *LatinNews Daily*, February 1, 2019.

[100] This draws from: CRS Report R45199, *Violence Against Journalists in Mexico: In Brief*, by Clare Ribando Seelke.

A free and active press is widely viewed as critical to holding governments accountable for their actions, with investigative journalism playing a particularly important role in fostering government transparency and accountability.

Over the past decade, at least 74 journalists have been killed in Mexico and many more have been threatened or attacked. According to the U.S.-based Freedom House NGO, officials at all levels of government in Mexico have punished critical journalists by publicly denouncing their work, pushing media owners (who rely on government advertising for revenue) to dismiss them, suing them for libel, or using other tactics to intimidate or threaten them.[101] Criminal groups have also targeted Mexican journalists, particularly those investigating crime and corruption issues.

U.S. foreign assistance has sought to help the Mexican government and civil society better protect journalists and reduce impunity in cases of crimes committed against them. USAID helped Mexico draft the 2012 legislation that established a federal protection mechanism. The State Department also initiated a high-level human rights dialogue with Mexico that includes a focus on the issue of protecting journalists. USAID has provided at least $6.6 million to support freedom of expression and protection for journalists in Mexico, and it plans to invest at least another $4.2 million through September 2019.

Perhaps partially because of international pressure, the Mexican government has reported progress in resolving some of the 12 cases of journalists killed in 2017.[102] Although some observers are skeptical of this reported progress, others remain hopeful that Mexico will take decisive action to investigate and prosecute unsolved murders and to prevent future crimes against journalists. In 2018, totals for the number of journalists and broadcasters slain vary depending on the source and criteria, according to the Justice in Mexico program at the University of San Diego. In the Justice in Mexico database, which counts Mexican journalists and media workers murdered during the year (regardless of investigated connections to their work as reporters), the total number for 2018 was 16, demonstrating that the problem continues.[103]

Regional Bodies in Central America: CICIG and MACCIH

As part of its broader support for anti-corruption efforts in Central America, the U.S. government has provided extensive diplomatic and financial support to two innovative international institutions. The International Commission Against Impunity in Guatemala (CICIG), backed by the U.N., has recommended legal reforms and worked alongside Guatemalan institutions to dismantle a series of corruption networks. As a result of CICIG's success, civil society groups pushed for a similar institution in Honduras, leading to the establishment of the OAS-backed Mission to Support the Fight Against Corruption and Impunity in Honduras.

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[101] Freedom House, *Freedom in the World, 2017*, at https://freedomhouse.org/report/freedom-world/2017/mexico.

[102] Ibid.

[103] See, Laura Y. Calderón, Kimberly Heinle, and Octavio Rodríguez Ferreira, et al., *Organized Crime and Violence in Mexico: Analysis Through 2018*, Justice in Mexico: University of San Diego, April 2019. According to the authors of this study, conservative assessments range from 8 to 10 murders of Mexican journalists in 2018 based on cases with a proven connection to the journalists' work. On the other hand, other assessments, such as a U.S. Agency for International Development (USAID) fact sheet identify a higher number of 18 journalists murdered in 2018 in the USAID Fact Sheet: "Mexico: Human Rights," January 2019. As noted in the text above, the Justice in Mexico database identified and recorded 16 journalist murders for the year. From 2000 to 2018, some 120 journalists and media workers were killed in Mexico and many more have been threatened or attacked, according to Article 19 (an international media rights organization).

International Commission against Impunity in Guatemala[104]

The Guatemalan government invited the U.N. to establish CICIG to help it combat a "parallel state" of criminal gangs, business elites, politicians, and security services which was undermining the elected government. An independent, international entity, CICIG's mandate is to support, strengthen and assist Guatemalan state institutions in investigating, prosecuting, and dismantling illegal groups and clandestine structures responsible for organized crime, human rights violations and other crimes, and to propose effective legal reforms. The United States and other external donors provide CICIG's funding. CICIG works directly with the Guatemalan Public Ministry to strengthen rule of law in Guatemala.[105] The Ministry, headed by the Attorney General, is responsible for public prosecution and law enforcement.

CICIG's Accomplishments

A January 2019 CICIG statement reports that the commission has supported the Public Ministry in more than 100 cases, including against former President Otto Pérez Molina and Vice President Roxana Baldetti, both of whom subsequently resigned. It also has promoted more than 34 legal reforms to strengthen transparency and judicial independence, helped identify over 60 criminal networks, and secured more than 300 convictions. CICIG also builds the capacity of prosecutors, judges, and investigators working on high-profile and corruption-related cases.

In its annual report on drug policy, the U.S. State Department highlighted these accomplishments and concerns in March 2019:

> Guatemala's Attorney General and the UN-backed International Commission Against Impunity in Guatemala (CICIG) have investigated hundreds of government officials suspected of corruption.... Accomplishments in the broader fight against corruption in 2018 included several high profile corruption cases.… Unfortunately, the government's expulsion of CICIG from Guatemala calls into question its commitment to fight entrenched corruption.[106]

As anti-corruption efforts have proven successful and investigations have broadened, attacks against CICIG and the judicial system have grown more intense. Tactics of intimidation have included death threats against the attorney general and judges in high-profile anti-corruption cases, and public and anonymous attempts to discredit the head of CICIG, as well as other officials, activists, and their organizations. President Jimmy Morales (2016 to present) established zero tolerance for corruption as a primary pillar of his government's policy approach. President Morales requested the extension of CICIG until 2019, and said that before he left office, he would extend CICIG's term again, until 2021.[107] Since that time, however, President Morales, his brother and son, and members of his inner circle have become targets of investigation. Morales has tried to weaken and now oust CICIG. The President replaced some of his more reformist Cabinet ministers and officials who worked closely with CICIG and the attorney general's office with closer political allies.

In August 2018, the newly appointed Attorney General, María Consuelo Porras, along with CICIG, called for President Morales to be stripped of his immunity so that corruption charges

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[104] Prepared by Maureen Taft-Morales, CRS Specialist in Latin American Affairs.

[105] For further information, see "Efforts to Combat Impunity and Corruption" in CRS Report R42580, *Guatemala: Political and Socioeconomic Conditions and U.S. Relations*, by Maureen Taft-Morales.

[106] U.S. Department of State, Bureau of International Narcotics and Law Enforcement Affairs, *2019 International Narcotics Control Strategy Report, Vol. 1: Drug and Chemical Control*, March 2019.

[107] "Guatemala's Morales Reiterates Support for Cicig," *LatinNews*, October 29, 2015.

against him could be investigated. Although Guatemala's Supreme Court approved the request, it was blocked in the Guatemalan Congress, where almost half of the deputies are under investigation or have legal processes pending against them alleging corruption or other crimes. Morales subsequently said he would not renew CICIG's mandate and barred CICIG Commissioner Ivan Velásquez from reentering the country, in defiance of two Constitutional Court rulings that the President lacked the authority to prevent Velasquez's return. The battle to eradicate criminal networks that have coopted the Guatemalan state has drawn nearly to a standstill since January 24, 2019, when the current Attorney General cancelled the police protection for CICIG commissioners or staff in the country.[108]

When the Morales administration announced Guatemala was withdrawing from the CICIG agreement, it gave its staff 24 hours to leave the country. Guatemala's Constitutional Court overruled Morales's decision. The United Nations, European Union, and NGO advocates for government transparency and human rights, criticized Morales's decision to terminate CICIG, and citizens have protested the government's decision and called on Morales to resign. The U.N. maintained that CICIG should continue its work, in compliance with the judicial findings, but removed foreign staff because the government would not guarantee their safety. The Morales Administration subsequently tried to impeach members of Guatemala's Constitutional Court.

U.S. Support for CICIG

The United States has supported the International Commission against Impunity in Guatemala (CICIG) since its inception in 2007 as a key element in its Central American strategy. U.S. assistance to CICIG is provided through the State Department's Bureau of International Narcotics and Law Enforcement Affairs (INL). There has been broad support for CICIG over the years on a bipartisan basis in Congress and across U.S. Administrations.[109] In March 2018, however, several Members expressed concern about a Russian businessman and his family who had been found guilty of purchasing false passports, but who claimed they were unfairly targeted by CICIG; as a result, a hold on the $6 million in U.S. aid allocated for CICIG was put in place.[110] In July 2018, however, the State Department announced that its examination found no evidence to support the allegation regarding the Russians.[111] Funds have since been released.

After President Morales announced in early January 2019 that he was expelling CICIG, the U.S. Embassy in Guatemala issued a statement expressing concern about the future of anti-corruption efforts in the country, but did not mention the President's actions against CICIG.[112] CICIG continued its work in compliance with the judicial finding from abroad, and in February 2019 most staff returned to Guatemala under contingency safety plans. However, Velásquez and 11 investigators whose visas were revoked have not returned.

Many observers are concerned that Morales's moves against CICIG are part of a wider effort to protect himself and others from prosecution and that his actions threaten Guatemala's fragile democracy. Guatemalan Human Rights Ombudsman Jordan Rodas said if the government did not

[108] Lauren Carasik, "Guatemala's 'Slow-Motion Coup' Rolls Onward," Associated Press, January 26, 2019.

[109] See, for example: "Chairman Royce Statement on Guatemala," House Foreign Affairs Committee News Release, U.S. Government Publishing Office, August 28, 2017.

[110] "Citing Bitkov Family's Mistreatment, Rubio Places Hold on U.S. Funds to International Commission on Impunity in Guatemala (CICIG)," press release, Marco Rubio, U.S. Senator for Florida website, May 4, 2018.

[111] Remarks by acting Principal Deputy Assistant Secretary of State for Western Hemisphere Affairs Ken Merten, House Committee on Foreign Affairs, "Advancing U.S. Interests in the Western Hemisphere," Hearing, July 11, 2018.

[112] U.S. Embassy in Guatemala, "On the Fight Against Corruption in Guatemala," press release, January 8, 2019.

comply with the court ruling concerning CICIG being allowed to operate, it would represent a failure to obey the rule of law.[113] Although some Guatemalan institutions have built greater capacity since working with CICIG, many institutions remain vulnerable, and some fear a return to impunity for organized crime and government corruption. Some observers have also raised concern that reducing the activity of CICIG before the June 2019 national elections could facilitate continued financing of politicians by drug cartels and other criminal organizations in Guatemala.[114]

Mission to Support the Fight Against Corruption and Impunity in Honduras[115]

U.S. policy in Honduras is guided by the U.S. Strategy for Engagement in Central America, which is intended to promote economic prosperity, strengthen governance, and improve security in the region, and thereby mitigate migration and security threats to the United States. Recognizing that high-level corruption undermines those objectives, the U.S. government has supported a variety of efforts to increase transparency and improve accountability in Honduras. It has provided assistance to improve public financial management systems, strengthen justice-sector institutions, and encourage civil society engagement and oversight. It also has imposed targeted sanctions, such as visa restrictions, on corrupt Honduran officials. Perhaps most importantly, the United States has offered crucial diplomatic and financial support for the Organization of American States (OAS)-backed Mission to Support the Fight Against Corruption and Impunity in Honduras (MACCIH).

In 2015, Honduran civil society had carried out a series of mass demonstrations demanding the establishment of an international anti-corruption organization after Honduran authorities discovered that more than $300 million was embezzled from the Honduran Social Security Institute (*Instituto Hondureño de Seguridad Social*) during the administration of President Porfirio Lobo (2010-2014) and some of the stolen funds were used to fund the election campaign of President Juan Orlando Hernández (2014-present). Hernández was reluctant to create a U.N.-backed organization with far-reaching authorities like the CICIG but, facing significant pressure, negotiated a more limited arrangement with the OAS. According to the agreement, signed in January 2016, the MACCIH is intended to support, strengthen, and collaborate with Honduran institutions to prevent, investigate, and punish acts of corruption.[116]

The MACCIH initially focused on strengthening Honduras's anticorruption legal framework. It secured congressional approval for new laws to create anticorruption courts with nationwide jurisdiction and to regulate the financing of political campaigns. Since then, however, the Honduran Congress repeatedly delayed and weakened the MACCIH's proposed reforms, hindering the mission's anti-corruption efforts. For example, prior to enactment of the law to establish anticorruption courts with nationwide jurisdiction, the Honduran Congress modified the measure by stripping the new judges of the authority to order asset forfeitures, stipulating that the new judges can hear only cases involving three or more people, and removing certain crimes—

[113] "Guatemala Court Blocks Expulsion of UN Anti-corruption Group," *The Guardian*, January 9, 2019.

[114] Rachel López, "How A TV Star Triggered a Slow Motion Constitutional Crisis," *America's Quarterly*, February 21, 2019.

[115] Prepared by Peter J. Meyer, Specialist in Latin American Affairs. For more information, see CRS Report RL34027, *Honduras: Background and U.S. Relations*, by Peter J. Meyer.

[116] Presidencia de la República de Honduras and Organization of American States (OAS), *Agreement between the Government of the Republic of Honduras and the General Secretariat of the Organization of American States for the Establishment of the Mission to Support the Fight Against Corruption and Impunity in Honduras*, January 19, 2016.

including the embezzlement of public funds—from the jurisdiction of the new courts.[117] Similarly, between the approval of the political financing law and its official publication, the law was changed to delay its entry into force and to remove a prohibition on campaign contributions from companies awarded public contracts.[118] Other measures the MACCIH has proposed, such as an "effective collaboration" bill to encourage members of criminal networks to cooperate with officials in exchange for reduced sentences, have yet to be enacted. Such plea-bargaining laws have proven crucial to anti-corruption investigations in other countries, such as the ongoing "Car Wash" (*Lava Jato*) probe in Brazil.[119]

MACCIH officials also are working alongside a recently established anti-corruption unit within the public prosecutor's office (*Unidad Fiscal Especial Contra la Impunidad de la Corrupción*, UFECIC) to jointly investigate and prosecute high-level corruption cases. To date, their integrated criminal investigative teams have brought charges in eight cases that have implicated a former first lady as well as dozens of legislators and other government officials. In nearly all of the cases, Honduran officials allegedly diverted funds that were intended for social welfare programs to political campaigns or their own pockets.[120] According to press reports, the MACCIH is also supporting investigations into alleged high-level government collusion with the *Cachiros* drug trafficking organization, and possible corruption involving public contracts awarded for the controversial *Agua Zarca* hydroelectric project, which Berta Cáceres—a prominent indigenous and environmental activist—was protesting at the time of her murder.[121]

This tentative progress has generated fierce backlash. In January 2018, for example, the Honduran Congress effectively blocked a MACCIH-backed investigation into legislators' mismanagement of public funds by enacting a law that prevents the public prosecutor's office from pursuing such cases for up to three years while another government body (*Tribunal Superior de Cuentas*) conducts an audit of public accounts. This "impunity pact," combined with other obstruction from the Honduran government and a perceived lack of support from the OAS, led the head of the MACCIH, Juan Jiménez, to resign in February 2018.[122] OAS Secretary General Luis Almagro nominated Luiz Antonio Marrey, a Brazilian prosecutor, to succeed Jiménez, but Marrey was not sworn in until July 2018 due to resistance from the Hernández Administration. In March 2018, lawyers representing legislators accused of embezzling public funds challenged the constitutionality of the MACCIH's mandate. Although the Honduran Supreme Court agreed to hear the case, it ultimately ruled against the challenge in May 2018.

Despite these challenges, the MACCIH and the public prosecutor's office have continued to push forward. Their anti-corruption efforts are likely to face sustained resistance from all three branches of the Honduran government, however, and further progress will likely require continued financial and diplomatic support from the United States and other international donors. The MACCIH's mandate will expire in January 2020, unless the Honduran government agrees to renew the agreement.

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[117] OAS, MACCIH, *First Semiannual Report*, October 19, 2016.

[118] OAS, MACCIH, *Second Semi-Annual Report*, April 19, 2017.

[119] Rodrigo Janot, "Rodrigo Janot: The Lessons of Car Wash," *Americas Quarterly*, Vol. 11, No. 1, January 2018.

[120] See, for example, OAS, MACCIH, "UFECIC-MP/MACCIH-OAS Team Presents 'Open Ark' Case against 5 Honduran Deputies and 6 former Deputies," press release, December 11, 2018.

[121] "Honduras: Piden a Estados Unidos Asistencia por Caso Los Cachiros," *El Heraldo* (Honduras), April 5, 2017; and "MACCIH Investigará Proyecto de Agua Zarca," *El Proceso Digital* (Honduras), July 3, 2017.

[122] Juan F. Jiménez Mayor, "Carta Abierta al Pueblo Hondureño sobre la Situación Real de la Misión de Apoyo contra la Corrupción y la Impunidad en Honduras (MACCIH)," February 15, 2018.

Observations Regarding the Case Studies

The case studies reflect recent efforts by the United States to provide support to countries that have not finished their efforts to tackle corruption. In Brazil, the Justice Department was able to complement the work of Brazilian prosecutors. In Mexico, the United States has worked for years to strengthen the Mexican justice system and help to reform it, and also to support an integrated anti-corruption system, although both new systems have only partially been put into practice. Central America's struggle with public corruption has direct effects on the United States related to crime and immigration. The outside bodies of CICIG and MACCIH, with independent outside experts assisting national judicial and investigative bodies, has been challenging official corruption, such that the local citizenry have in many instances become these institutions' strongest supporters.

Issues for Congress

A March 2019 congressional hearing titled, "Understanding Odebrecht: Lessons for Combating Corruption in the Americas," shows the current interest of Congress in anti-corruption and rule of law programs to reinforce the Latin American response to public corruption, which has ousted former and sitting Latin American presidents.

U.S. assistance to increase justice-system proficiency has yielded some significant progress, according to some analysts. These programs may be provided through NGOs, or in exchanges and training organized by the U.S. Justice Department or USAID. Judicial system support and investigative assistance can also be provided by international bodies. Attitudinal coaching or education can help build a culture of integrity and respect for law enforcement. Those attitudes are supported by awarding the judiciary and law enforcement with salaries adequate to resist bribery; thus building respect for presumption of innocence, rejection of torture, and a commitment to equality before the law.

Technical assistance may also be needed to open government to citizen scrutiny. Digital public accounting systems can be employed to increase transparency for government auditors, journalists, and the interested public to help identify how public funds are spent and pinpoint corruption if it occurs. The improvement of government practices through training is the strategy behind threshold grants from the MCC, as in Paraguay in 2009 and 2010. The threshold assistance to enact anti-corruption improvements is to enable the country to become eligible for a large MCC compact award.

Recent U.S. Anti-Corruption and Rule of Law programs

The ability to apply sanctions is another significant policy approach beyond the U.S. programs discussed in the preceding case studies. In 2017 and 2018, the United States targeted sanctions against individuals involved in significant acts of corruption.[123] In recent years, the annual foreign operations appropriation has required that the Secretary of State ban entry by individuals (officials of a foreign government and immediate family members) if the Secretary has direct knowledge of their involvement in significant acts of corruption, such as gross violations of human rights or illicit practices tied to natural resource extraction. The process of "naming and shaming" individuals extends to visa denials by the State Department and targeted economic sanctions by the U.S. Department of the Treasury's Office of Foreign Assets Control.

[123] Corrupt actors can be denied U.S. visas under Section 212 of the Immigration and Naturalization Act (INA).

The U.S. government applied sanctions against officials in Venezuela, the Dominican Republic, and Nicaragua known to have committed acts of corruption, pursuant to Executive Order 13692 and to Executive Order 13818.[124] Analysts critique individually focused sanctions used to force top-level corrupt officials out of power, because they may not result in an end to corrupt behavior. Likewise, broader economic sanctions directed at a nation may be applied to mobilize the government to remove the corrupt individuals from power. Some analysts maintain such sanctions may fail to achieve their intended results, and they can be drawn out in ways that have unintended consequences. These critics point to U.S. economic sanctions against Venezuela's state-run oil company put in place in early 2019 which they maintain could reduce the hard currency needed for food and essential medicines and thus exacerbate the ongoing humanitarian crisis.

In May 2017, the House passed H.Res. 145, reaffirming that combatting corruption is an important U.S. policy interest in the northern triangle countries of Central America, acknowledging the important work of CICIG and MACCIH, and encouraging anti-corruption efforts in the northern triangle countries. In September 2017, the Senate Foreign Relations Committee reported S. 1631, a foreign relations authorization bill with a title focused on combating public corruption worldwide. In August 2018, Congress enacted the FY2019 defense authorization measure, P.L. 115-232 (H.R. 5515), with several Latin America provisions, which include required reports on narcotics trafficking, corruption, and illicit campaign financing in El Salvador, Guatemala, and Honduras, including identifying government officials involved in such activities.

In December 2018, Congress enacted the Nicaragua Human Rights and Anticorruption Act of 2018 (P.L. 115-335, H.R. 1918). The measure requires the United States to vote against loans from the international financial institutions to Nicaragua, except for the purpose of addressing basic human needs or promote democracy, and authorizes the President to impose sanctions on persons responsible for human rights violations or acts of corruption.[125]

Appropriations for FY2018 and FY2019

Congress also appropriated anti-corruption funding in the Consolidated Appropriations Act, 2018 (P.L. 115-141) with $6 million for CICIG and $31 million for MACCIH and the northern triangle's attorneys general. The House and Senate Appropriations Committees both recommended continued funding for CICIG, MACCIH, and the attorneys general in their FY2019 foreign aid appropriations measures. In the Consolidated Appropriations Act, 2019, the omnibus

[124] On December 20, 2017, President Trump issued Executive Order (E.O. 13818) to carry out the provisions of the Global Magnitsky Human Rights Accountability Human Rights Accountability (P.L. 114-328, subtitle F), which authorized the President to bar U.S. entry to and impose economic sanctions on individuals responsible for significant corruption or human rights abuse. For more, see CRS In Focus IF10576, *The Global Magnitsky Human Rights Accountability Act*, by Dianne E. Rennack. Executive Order 13692, issued by President Barack Obama on March 6, 2015, sanctioned individuals and officials in Venezuela for a variety of activities, including public corruption. For more, see CRS In Focus IF10715, *Venezuela: Overview of U.S. Sanctions*, by Mark P. Sullivan.

[125] The sanctions can be avoided if the State Department reports that progress has been made by Nicaragua in taking effective steps to hold free elections overseen by credible domestic and international electoral observers; promotes democracy and an independent judicial system and electoral council; strengthens the rule of law; respects the right to freedom of association and expression; combat corruption, including investigating and prosecuting corrupt government officials; and protect the rights of political opposition parties, journalists, trade unionists, and human rights defenders. It also requires the State Department to report on the involvement of senior Nicaraguan government officials in acts of public corruption or human rights violations.

legislation passed in February 2019, funding for CICIG was again $6 million, $5 million for MACCIH, and $20 million for the attorney generals of the northern triangle.

Trade-related Anti-corruption Measures

The 116th Congress may consider policy changes to NAFTA proposed in 2018 as part of the United States-Mexico-Canada Agreement (USMCA). The Trump Administration's objectives in the trade negotiations included anti-corruption measures that were included in Chapter 27, which sets forth integrated anti-corruption commitments in trade and investment for both the public and private sectors.[126] However, in the U.S. House of Representatives, some Members have raised concerns about the USMCA enforcement measures as well as provisions on pharmaceutical drugs and labor rights, while some U.S. Senators have indicated that tariffs on Canada and Mexico must be lifted as a precondition for further consideration of USCMA. As of late May 2019, it has not been taken up.

Congressional Considerations

The following presents some issues Congress may consider in determining the priorities for U.S. policies and assistance related to anti-corruption. Some Members of Congress remain concerned with weak rule of law in Latin America and corrupt practices in the public sector. Congress may wish to consider heightening its support for anti-corruption programs and supporting conditional assistance to bolster good governance and rule of law as a congressional policy priority.

Oversight and Conditioned Assistance

In its legislative and oversight roles, the U.S. Congress has appropriated foreign assistance with conditions on reaching or maintaining anti-corruption standards if future funding is to be released. This "carrot for good government" strategy is embodied in the Millennium Challenge Corporation's approach to reward those countries that reach anti-corruption standards and other qualifying criteria with large aid compacts. Since FY2016, U.S. assistance to the governments of El Salvador, Guatemala, and Honduras has been conditioned on 16 legislative concerns, ranging from those governments' efforts to improve border security to their protection of human rights.[127]

Sanctions, on the other hand, can be a tool to punish corrupt officials. However, if the desired change in behavior extends beyond the targeted individual(s) and their behavior, the desired end result may be less easy to achieve. Such sanctions are an example of coercive diplomacy to modify behavior of a nation's leadership; and the effectiveness of a sanction is only achieved if the desired behavior (i.e., removal of the corrupt officials) can be accomplished. Some analysts contend that sanctions to effect regime change may set the price of compliance too high (i.e., loss of office), so the desired behavior will not occur, and top leaders may refuse to leave office.[128]

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[126] For instance in the chapter there are legislative requirements to criminalize bribery of a public official; bribery of a foreign public official; soliciting or acceptance of a bribe as a public official; embezzlement, misappropriation, or another diversion by a public official of property entrusted to the public official; and aiding or abetting of or conspiracy in the bribery-related offenses mentioned. For further information, see CRS In Focus IF10997, *Proposed U.S.-Mexico-Canada (USMCA) Trade Agreement*, by Ian F. Fergusson and M. Angeles Villarreal.

[127] For more background, see CRS Report R44812, *U.S. Strategy for Engagement in Central America: Policy Issues for Congress*, by Peter J. Meyer.

[128] David S. Cohen and Zoe A.Y. Weinberg, "Sanctions Can't Spark Regime Change," *Foreign Affairs*, April 29, 2019.

Civil society activism seen across the region in recent years, due to a spate of corruption exposés and high-level scandals, may provide an opportunity to forge a new commitment to higher integrity standards that reject corruption. When the *Financial Times* editor for Latin America recently retired after a decade in his post, he observed that over the decade he had seen extraordinary changes for the better, "especially certain habits and expectations about justice and transparency, corruption and impunity."[129] Some analysts portray the new activism as a region-wide "anti-corruption movement," while others maintain it is a critical moment in the region's democratic progression, when an awareness of public officials behaving corruptly may progress beyond temporary fixes. Eliminating and arresting malign leaders is seen as an interim step that needs to be followed with the difficult—and, at times, laborious—task of crafting legislation that adapts or reforms institutions, in such areas as more transparent public procurement or campaign finance.[130] This would be be followed by building and applying the societal pressure to ensure implementation of those reforms.

Setting Expectations for U.S. Relations with New Leaders

Recently elected presidents in the region's most populous countries, Mexico and Brazil, who campaigned on promises to reduce corruption might be encouraged to fulfill their anti-corruption campaign pledges. For instance, Mexico's new Prosecutor General, appointed by the Mexican congress in early 2019, is envisioned as autonomous from the Mexican executive branch, and could seek to establish a reputation for resolving some key cases to reverse the widespread view of the prior Attorney General's office, which was widely seen as lacking independence, disregarding victims, and producing high levels of impunity.[131] The U.S. government could encourage Mexico's government to operationalize its National Anti-corruption System, which was developed in cooperation with Mexican civil society with USAID support.

Anti-corruption programs can build on country-based initiatives, and seek to put into practice existing credible laws that deserve full implementation. Programs to help foster a more vibrant civil society, capable of building the political will to help achieve higher accountability standards may also inspire courageous leaders who are willing to take on corruption. Congressional expressions of support for anti-corruption efforts in the region can be important for such efforts. Also, support for OECD and OAS anti-corruption conventions and mechanisms, and the importance of improving their implementation, can be another valuable measure because of the broad legitimacy such multilateral organizations and international standards may enjoy.

Anti-Corruption Metrics

Evaluating the success of anti-corruption programs is challenging due to the near impossibility of establishing causality in the development of democratic governance. The "sustainability" of anti-corruption efforts may depend on political and economic variables external to the provision of assistance. Many analysts note that there is no single anti-corruption solution, but that approaches

[129] See John Paul Rathbone, "LatAm Viva: a Decade Reviewed," at http://www.ft.com.

[130] For example, the IDB's Report of the Expert Advisory Group on Anti-Corruption, Transparency, and Integrity in Latin America and the Caribbean, calls for "bolder efforts toward systemic transformation" given the region's current predicament or malaise regarding corruption; while the view expressed in the Americas Society/Council of Americas' publication *Americas Quarterly*, identifies a "truly regional" movement, based on strong support from a majority of Latin Americans. See, op cit, Eduardo Engel, Delia Ferreira Rubio, and Daniel Kaufmann, et al., *Report of the Expert Advisory Group on Anti-Corruption, Transparency, and Integrity in Latin America and the Caribbean*, Inter-American Development Bank, IDB Mongraph-677 and "Latin America's Battle Against Corruption: A Path Forward," *Americas Quarterly/Council of the Americas*, April 10, 2018.

[131] Úrsula Indacochea and Maureen Meyer, *The Implementing Law of Mexico's National Prosecutor's Office: Progress and Pending Issues*, Due Process of Law Foundation and Washington Office on Latin America, March 5, 2019.

should be tailored to country-specific circumstances. The timeframe for change is also difficult to define and measure, and evaluating long-term sustainability may also be complex.

A key constraint on firms being barred from public works contracts because of corruption is the threat of bankruptcy. Bankruptcy of a major firm, such as the Odebrecht corporation, can lead to large numbers of unpaid employees and subcontractors thrown out of work. It can have destabilizing economic consequences, and result in loss of the crucial public infrastructure which the contractor was to provide. The cynicism about democratic governance derived from long exposure to widespread corruption, when all parties may come to be viewed as corrupt and most political leaders are seen as "on the take," can also create instability. In 2019, some Latin American governments are beginning to discuss how to recover from the serious consequences of the Odebrecht scandal, and move into a post-Odebrecht situation that is more stable.

Constraints for U.S. Anti-corruption Programming and Funding

In recent years, reductions in U.S. foreign assistance budgets have generally reduced anti-corruption funding and more broadly programs by USAID and others under the "governance" rubric. The Trump Administration has sought to reduce discretionary federal spending. Congress may consider that in confronting the challenges of trade and security presented by Russia and China in Latin America, as well as competition from European and Asian businesses, the reduction of corruption and the enhancement of the rule of law most benefits U.S. investors and businesses operating in the region. The cost for foreign assistance programs for good governance may also be more affordable than security assistance requiring costly equipment or other technology-based components.

Sustainable program funding is another concern. One feature of successful U.S. foreign assistance efforts is that they have been consistently funded. Perhaps this constancy of effort is best demonstrated by Plan Colombia, often cited as a success in the Western Hemisphere and even globally, and which endured for nearly two decades.[132] U.S. assistance to Plan Colombia helped a beleaguered country reach a peace agreement, reduce acts of terrorism, and homicides (to a 40-year low in 2017), and achieve a return to growth and broader stability. Although not an anti-corruption program, the Plan Colombia example suggests that bipartisan congressional support for a foreign assistance goal, through diverse U.S. administrations (and party majorities in Congress) may be a hallmark of an enduring foreign policy success.

Good Governance as a U.S. Policy Priority

Policies that champion human rights and prioritize governance and rule of law do not appear to be a central Trump Administration priority. The Administration's budgets have consistently sought to reduce foreign assistance overall and weigh improvement of democratic practices and good governance goals against other U.S. core interests. Instead of focusing on governance issues, the Trump Administration has prioritized security-related assistance, including for counternarcotics efforts. In contrast to prior administrations, it appears less eager to pressure governments on rule of law and transparency goals unless corruption is linked to other security interests, such as migration from Central America. At the same time, some analysts maintain that U.S. influence is decreasing in the Western Hemisphere due to the declining regard for U.S leadership (registered

[132] For more than 16 years, Congress funded Plan Colombia and its follow on strategies through foreign assistance appropriations that provided critical support to the program, although most of the costs for Colombia's development and security actually were paid by the Colombian government. For more background, see CRS Report R43813, *Colombia: Background and U.S. Relations*, by June S. Beittel.

in opinion polling) over the past couple years, although positive views of bilateral relations between a single nation and the United States are often rated more favorably.[133]

In addition, some observers warn that attacks on the motives and accuracy of the news media by senior U.S. leaders can reduce acceptance of U.S. assistance programs designed to protect freedom of the press and investigative journalism. In essence it undermines the position of free-press advocate that the U.S. government once held.[134] The Trump Administration has rarely applauded civil society activism in Latin America and Caribbean countries in response to high-level scandals and public corruption. Some of the regional and multilateral institutions, such as the Inter-American Development Bank and the IMF, have taken up advocacy of anti-corruption programming because it is no longer perceived as a top U.S. government concern.

[133] Pew Research Center, "Fewer People in Latin America see the U.S. Favorably Under Trump," April 12, 2018, and the Gallup World Poll of 21 Western Hemisphere countries from Gallup, "Rating World Leaders: 2018, The U.S. vs. Germany, China, and Russia."

[134] Remarks by Eduardo Engel suggested this point at the Symposium held at The Dialogue and co-hosted with the IDB, "Political Finance and State Capture in the Americas," Washington, DC, March 5, 2019.

Appendix A. Select Reports and Recommendations

Several foreign policy think tanks and the multilateral development banks have published analyses over the past three years examining broad corruption scandals in Latin American and Caribbean countries and the outpouring of civil society response. Some of these studies contend that donor assistance aimed at anti-corruption in recent times did not go far enough, or produce a measurable and enduring change in practices.

For example, in November 2018, the Inter-American Development Bank (IDB) published a report by an Expert Advisory Group on anti-corruption, transparency and integrity in the countries of Latin America and the Caribbean. The IDB authors proposed a more aggressive and integrated approach to combating corruption. The report describes earlier interventions encouraged by the IDB as well as the United States and several multilateral donors as "uneven and partial," and focused more on enacting reforms and making pronouncements, rather than on implementation and enforcement. It maintains that only an integrated and across-the-board framework for fighting corruption can actually transform the culture and practice of public corruption that pervades too much of the region. Calling for a transformative approach, the IBD authors maintain that it is essential that both supply and demand sides of corruption be understood and addressed. They call for public and private sector participation at the national, regional, and international level to replace weak or dysfunctional institutions and practices.[135]

The Americas program at the Center for Strategic and International Studies (CSIS), recommends key targets for reform in the region, which are: (1) political party and campaign financing; (2) public financial sector management; (3) government contracting and procurement, especially for critical infrastructure; (4) civil service reform and effective vetting of public officials; and (5) internal strengthening and oversight of public security and justice institutions. CSIS advocates peer exchanges to tap the knowledge and skills of veterans of reining in public corruption from countries such as Uruguay, Chile, and Colombia. Their transferable experiences can assist struggling nations in the Northern Triangle countries of Central America and elsewhere.[136]

The emergence and persistence of civil society activism to fight corruption may be attributed to several conditions. One is the region's expanded middle class, which grew to nearly 35% in 2015 from about 21% of Latin America's population in 2001.[137] The middle class is a bulwark against corruption according to the theory that the costs and inefficiencies of corruption take on greater salience when basic needs have been fulfilled. An analysis of the 2016/2017 Americas barometer study found that those individuals most apt to rank corruption as their nation's top problem were better educated, male, and more affluent.[138] However, when the link between corruption and

[135] See for example, Eduardo Engel, Delia Ferreira Rubio, Daniel Kaufmann et al., *Report of the Expert Advisory Group on Anti-Corruption, Transparency, and Integrity in Latin America and the Caribbean*, Inter-American Development Bank, IDB Mongraph-677, Washington, DC, November 2018. For reflections on how to make the next phase of anti-corruption activism effective, see Roberto Simon, "The Changing Face of Anti-corruption Protests in Latin America," *Americas Quarterly*, February 5, 2019.

[136] See Michael A. Matera and Mark L. Schneider, "A South-South Approach to Transparency, Good Governance, and Citizen Security," Center for Strategic and International Studies, CSIS Americas Commentary, January 2, 2019.

[137] USAID Administrator Mark Green, "U.S. Agency for International Development Administrator Mark Green's Remarks at Council of the Americas Event," Office of Press Relations, delivered at Carnegie Endowment for International Peace, Washington, DC, August 8, 2018.

[138] Julia Gabriel, *Interested, Educated, and Alienated: Who Says Corruption is the Most Serious Problem Facing Their Country?* Insight Series #136, U.S. Agency for International Development (USAID), Vanderbilt, Lapop, and AmericasBarometer, December 5, 2018.

economic problems and insecurity is made clear, citizens of any background may become energized to combat it.

Some analysts identify illicit campaign finance as the root of corruption. Guatemala's current President Jimmy Morales, a former TV evangelical and comedian, campaigned in 2015 on a pledge he was neither a thief nor corrupt. Morales financed his presidential campaign secretively, and was investigated by the U.N. supported anti-corruption body CICIG for undeclared campaign donations.[139] The Odebrecht construction company reported it paid bribes across the region to public office holders for financing their political campaigns in exchange for large infrastructure contracts. In addition, the amount of off-the-record political donations in many countries greatly outpace the reported donations. In Argentina President Mauricio Marci's successful 2016 presidential race, Macri reportedly expended about 11 times more than he publicly declared, while his opponent reportedly spent some 20 times as much as he declared.[140]

Bilateral U.S. assistance programs to bolster rule of law, encourage good governance, and eliminate bribery, extortion, and graft, have been common in Latin America. Several analysts assert that further progress in combating corruption and improving governance in the region may require a cultural shift, building on the numerous citizen-led anti-corruption social movements unleashed in 2015. These movements, some of which were nurtured by years of foreign assistance, may begin to look beyond prosecutions related to specific scandals and seek structural and institutional reforms.

Some practitioners who promote an inter-related set of program elements, what has been described as an "ecosystem" of integrity-enhancing efforts, also contend that the features of successful anti-corruption programs have features common to good development programming more broadly.[141] These could include efforts to

- **Abolish or seek to revise rules and regulations that obscure the workings of government.** Many government rules and processes can obscure budgets and reduce transparency, thus discouraging citizen oversight. One example that built more transparency and encouraged citizen participation is a technological solution in Mexico. LAB *Justicia,* an online collaborative tool funded by USAID, provides comprehensive information on the status of criminal justice in each state of Mexico. It draws data from open source government records and research by national and international NGOs.[142]
- **Recruit NGOs and corporations as critical partners in fighting corruption**. Businesses and their associations and nongovernmental groups can be important targets for assistance to build demand for honest government. These entities can encourage and benefit from information sharing via social media, strong independent journalism, and broader citizen electoral participation. The business community and the private sector may play a critical role to press for the expansion of information, education and support to sharpen government

[139] Kate Linthicum, "Guatemala in Political Crisis as Trump Administration Looks the Other Way, *Los Angeles Times*, January 12, 2019.

[140] Michael J. Camilleri, Director, Peter D. Bell Rule of Law Program, Inter-American Dialogue, Hearing testimony for "Understanding Odebrecht: Lessons for Combating Corruption in the Americas" House Committee on Foreign Affairs, Subcommittee on the Western Hemisphere, Civilian Security, and Trade," U.S. House of Representatives, March 26, 2019.

[141] Eduardo Engel, Delia Ferreira Rubio, Daniel Kaufmann et al., *Report of the Expert Advisory Group on Anti-Corruption, Transparency, and Integrity in Latin America and the Caribbean*, Inter-American Development Bank, IDB Mongraph-677, Washington, DC, November 2018,

[142] Lab Justicia: Herramienta Colaborativa de Datos, 2019, http://proyectojusticia.org/lab/.

transparency as commercial relations in a free market economy can only thrive with predictable economic rules.

- **Adapt successful models to local conditions.** Successful multilateral and regional efforts can become exemplars for other countries if the models are adapted to local conditions and dynamics. The CICIG was cited by presidential candidates in El Salvador in the early 2019 elections as an effort they would like to replicate. During the Mexican elections in 2018, candidates also considered the CICIG framework for possible replication in Mexico, and in May 2019 Ecuador announced it had launched an anti-graft commission with five outside the country experts.[143] The CICIG model also exemplifies that due to the complexity of grand corruption cases that international cooperation and support may be critical to success to supplement local resources in their battle with powerful corrupt networks.
- **Build anti-corruption momentum with strong independent journalism, social media, and whistleblower protections.** Investigative and independent journalists have always played a crucial role to uncover public and private corruption and criminality, inform the citizenry of the true costs of corruption, and mobilize the public to fight corruption. In Mexico, journalists have helped to mobilize rejection of criminal domination and the violence that crime groups perpetrate. They also have raised awareness of criminal impunity for both criminal leaders and government officials on the take. Journalists are needed to amplify the efforts of whistleblowers; and to build political will and support for anti-corruption investigations, prosecutions, and legislation.

[143] Renard Secton, "How Guatemala Achieved What Was Once Thought Impossible: Major Reductions in Homicides," *Washington Post*, November 13, 2018; International Crisis Group, *Saving Guatemala's Fight Against Crime and Impunity*, October 24, 2018; Elisabeth Malkin, "Latin America Risks Losing Potent Weapon Against Corruption," *New York Times*, May 19, 2019.

Appendix B. Implementation of the Inter-American Convention against Corruption (MESICIC)

In 2002, to support member states in implementing the IACAC, the OAS created the Mechanism for Follow-up on the implementation of the Inter-American Convention Against Corruption (MESICIC). The MESICIC serves primarily to measure how member states adhere to the convention and helps members achieve better implementation. The MESICIC provides activities that include technical cooperation, sharing of best practices, and tools for the harmonization of anticorruption legislation throughout the Americas. Including the United States, 33 OAS member states are party to the MESICIC. (Barbados is not a MESICIC signatory.)

The MESICIC's two main bodies are: The Conference of State Parties and the Committee of Experts. The Conference of State Parties exercises political and operational authority over the mechanism, and is comprised of representatives from all states which are party to the mechanism. The Committee of Experts manages and supervises the technical review process that steers the IACAC's implementation. It is composed of experts appointed by each state party. The OAS General Secretariat, which serves as the technical secretariat through the Department of Legal Cooperation of the Secretariat for Legal Affairs, supports the Committee of Experts.

During the country-specific evaluation process, the MESICIC drafts and adopts reports to recommend ways to better implement regulatory and institutional measures. The reports aim to align the commitments of each state signatory with the goals of the IACAC. They also provide indicators for the states to identify challenges and ways to overcome shortcomings. Civil society and NGOs participate in the IACAC review process by submitting information to the Committee of Experts for consideration. These groups may present specific proposals, methodologies, and questions for gathering information.

The Committee of Experts adopts a hemispheric report at the end of each technical review. The report summarizes the progress of implementing countries in meeting the recommendations formulated by the Committee in previous technical rounds, and makes recommendations of a collective nature. The Committee has adopted hemispheric reports in 2006, 2008, 2011, and 2015.

Some analysts note that the battle against corruption in the public sector appears to be more resilient than in the past. However, the elusive nature of corruption makes it difficult to draw a causal relationship between rejection of corruption in the Americas and the IACAC and MESICIC. These critics maintain that the instruments need updating to make the IACAC relevant for combating new corruption modalities, and to make the MESICIC more independent, transparent, empowered to penalize noncompliance, and technically competent.

Appendix C. Latin America Corruption Timeline from March 2014 through December 2018[144]

2014	**Mar. 17**	A police raid on a money laundering operation in Brasilia uncovers links to Petrobras, Brazil's state oil company. In time, this investigation grows into the *Lava Jato* or "Car Wash" probe, the largest corruption scandal ever uncovered in the world.
	Nov. 9	A Mexican news outlet, uncovers the "*Casa Blanca*" scandal, exposing contracts the administration of President Enrique Pena Nieto awarded to a company that built his family a U.S.$7 million home.
2015	**Feb. 11**	Son of Chilean president Michele Bachelet, Sebastian Davalos, resigns as socio-cultural director of the Chilean presidency over "*Caso Caval*"—allegations that his wife benefited from undue influence over planning regulations in a $10 million real estate transaction.
	Mar. 23	Chile's tax agency files a lawsuit against mining company Sociedad Quimica y Minera de Chile (SQM) over tax fraud, allowing the public prosecutor's office to include the firm in a probe investigating illegal campaign financing.
	Apr. 16	The United Nations-backed International Commission against Impunity in Guatemala (CICIG) uncovers the La Linea scandal, exposing a customs corruption ring controlled by members of the Otto Perez Molina administration.
	May. 27	Julio Rocha, the former president of Nicaragua's soccer federation and a former development official at FIFA, is arrested on corruption charges in Switzerland.
	Jun. 19	Marcelo Odebrecht, the former CEO of Brazil's largest construction company, is arrested and later sentenced to over 19 years of prison.
		Otavio Azevedo, CEO of Brazil's second-largest builder Andrade Gutierrez, is arrested in connection with corruption at Petrobras, and is later sentenced to 18 years in prison.
	Nov. 27	Jovino Novoa, a former senator, is the first politician charged in Chile's Pentagate scandal, which exposes an illicit campaign-financing network. He is sentenced to three years in prison.
	Dec.	Venezuelan executives Roberto Rincon and Abraham Sheira are arrested on corruption charges as part of a U.S. Department of Justice investigation into Venezuelan state-owned oil giant PDVSA.
2016	**Mar. 28**	Former Honduran President Rafael Callejas pleads guilty to racketeering and corruption charges, admitting that he took bribes for media and marketing rights to Honduran World Cup qualifier matches.
	Apr. 3	The international Consortium of Investigative Journalists (ICIJ) publishes documents from Panamanian law firm Mossack Fonseca, detailing financial and attorney-client information that exposes large-scale money laundering operations throughout the world. Known as the Panama Papers, the leak implicates key political and business leaders. Mossack Fonseca announced in March 2018 that it will shut down.
	Apr. 11	Alfredo Hawit, former interim president of the soccer federation for North America, Central America, and the Caribbean, pleads guilty to four conspiracy counts.
	Sep. 12	Eduardo Cunha, the former speaker of Brazil's lower house is removed from Congress. He is accused of accepting as much as U.S.$40 million in bribes and is sentenced six months later to over 15 years in prison.
	Nov. 17	Former Rio de Janeiro state governor Sergio Cabral is arrested on corruption charges for accepting bribes. Cabral allegedly charged 5% per contract awarded to construction giant Odebrecht. On June 13, 2017, Cabral is sentenced to 14 years and two months.
2017	**Mar. 14**	Colombian President Juan Manuel Santos apologizes for illegal campaign contributions made to his campaign, but denies having had knowledge of the payments at the time.

[144] The timeline captures major corruption scandals, or "high level" corruption incidents, spanning 2014 through December 2018. It draws extensively from "Latin America's Battle Against Corruption: A Path Forward," *Americas Quarterly/Council of the Americas*, April 10, 2018, and was created by Research Assistant Edward Y. Gracia.

	Mar. 17	Brazilian authorities launch Operation Weak Flesh or *Carne Fraca*, an investigation into JBS and BRF, the world's largest beef and poultry exporters, revealing sales of spoiled products to global retailers. JBS' controlling shareholder pays a fine of over U.S.$3 billion, as a result.
	May. 23	Gabriela Zapata, the former girlfriend of Bolivian President Evo Morales, is arrested and sentenced to 10 years in prison for influence-peddling.
	Jun. 27	Luis Gustavo Moreno Rivera, the former national director of anti-corruption in the Colombian attorney general's office, is arrested for conspiring commit wire fraud, launder money, and promote foreign bribery.
	Jul. 12	Former Brazilian President Luiz Inacio Lula da Silva is convicted of corruption and money laundering stemming from charges that he accepted U.S.$1.1 million in favors from a construction company in exchange for Petrobras contracts.
	Aug. 27	Guatemalan President Jimmy Morales declares Ivan Velazquez, head of the U.N.-backed International Commission against Impunity in Guatemala (CICICG), persona non grata and orders him to leave the country.
	Nov. 28	A civil court finds former President Mauricio Funes of El Salvador (2009-2014) guilty of illegal enrichment. Funes and his son are banned from holding public office for 10 years and ordered to pay over U.S.$400,000 in restitution to the government. In January 2018, the private secretary of former President Tony Saca is convicted of the same charge and ordered to return U.S.$17.8 million to the government.
	Dec. 13	Former Ecuadorian Vice President Jorge Glas receives a six-year prison sentence for accepting U.S.$13.5million in bribes from Odebrecht in exchange for government contracts.
	Dec. 22	Jose Maria Marin of Brazil and Juan Angel Napout of Paraguay are convicted of racketeering and conspiracy in New York. Both are found to have taken bribes in exchange for lucrative media rights for FIFA events. Marin and Napout were arrested in 2015 and are scheduled for sentencing on May 30, 2018, and June 11, 2018, respectively.
2018	**Feb. 15**	Juan Jimenez Mayor announces his resignation as head of the OAS-backed Mission to Support the Fight against Corruption and Impunity in Honduras (MACCIH) citing a lack of support from the OAS, among other challenges.
	Mar. 21	Peruvian President Pedro Pablo Kuczynski steps down after lawmakers claim he misrepresented his financial relationship with Odebrecht.
	Apr. 3	An Argentine judge charges Julio de Vido, former planning minister under Presidents Nestor and Cristina Kirchner, of carrying out incompatible deals while in public office.
	Apr. 20	Finance ministers from several Latin American nations, Europe, and the U.S. agree to work jointly to locate and seize the proceeds arising from corruption by Venezuelan government insiders.
	May 5	Guatemalan authorities arrest three current and former army officers on suspicion of corruption involving the Guatemalan Defense Ministry.
	Jun. 8	A Salvadoran Judge issues an arrest warrant for former President Mauricio Funes.
	Jun. 13	Police in El Salvador arrest former first lady Vanda Pignato for her alleged participation in a multimillion-dollar embezzlement scheme run by her husband, ex-President Funes.
	Jul. 9	A Peruvian online news outlet publishes recordings that implicate the country's judiciary in a bribery scheme. The public prosecutor's office opens an investigation into suspected influence peddling, and ten days later, Peru's Supreme Court chief justice resigns.
	Jul. 24	Former President of Colombia Alvaro Uribe submits his resignation for his seat in the senate after the Supreme court discloses that it is widening a criminal investigation of him.
	Aug. 1	Argentine Newspaper *La Nacion* exposes a corruption network implicating former presidents Nestor and Cristina Kirchner, important business leaders, and public officials.
	Aug. 7	Argentina's former vice president, Amado Badou is sentenced to nearly six years in prison after being found guilty of "passive bribery" while serving under former President Cristina Kirchner.
	Aug. 7	Former president of El Salvador Elias Antonio Saca (2004-2009) pleads guilty to embezzlement and laundering $301 million in public funds.

Aug. 10	Guatemala's attorney general and the U.N.-backed International Commission Against Impunity in Guatemala (CICIG) move to lift President Jimmy Morales' immunity for a third time so he can be investigated for alleged illicit campaign financing.
Aug. 27	Prosecutors accuse Fernando Haddad, the man in line to replace presidential candidate Luiz Inacio Lula da Silva as the Brazilian Workers' Party standard-bearer, of receiving indirect payments to his 2012 campaign for Sao Paulo mayor.
Sep. 5	Guatemalan President Jimmy Morales bars the director the U.N.-backed International Commission Against Impunity in Guatemala (CICIG) from returning to the country, accusing him of abusing his authority. Days later, he announces that the CICIG's mandate would not be renewed.
Sep. 27	Brazilian firm Petrobras agrees to pay $853.2 million to settle corruption investigations in the United States. Payments include a tentative deal to pay $682.6 million to a Brazil fund, and an additional $170.6 million equally split between the U.S. Justice Department and the U.S. Securities and Exchange Commission.
Oct. 9	Guatemala's former Vice President, Roxana Baldetti, is found guilty of fraud for involvement in a fake multimillion-dollar scheme to clean up a contaminated lake.
Oct. 22	Jovenel Moise, Haiti's President, removes 17 government officials for their alleged involvement in a corruption scandal linked to Petrocaribe, an oil alliance between many Caribbean countries and Venezuela.
Nov. 1	Keiko Fujimori, former Peruvian President Alberto Fujimori's daughter, recent presidential candidate, and opposition leader, is ordered to remain in jail while prosecutors investigate claims that she ran a money laundering racket with her party, Fuerza Popular.
Nov. 14	Colombia's Attorney General, Nestor Humberto Martinez, is accused of taking bribes from Brazilian construction giant Odebrecht while serving as a legal counsel to the Aval Group, a New York Stock Exchange-listed banking conglomerate run by Colombia's most wealthy individual.
Dec. 11	Honduran prosecutors present a case to the country's supreme court accusing current and former public officials of embezzlement. Among those accused, five are current members of congress.
Dec. 20	Brazilian Prosecutor General Raquel Dodge charges outgoing President Michel Temer with corruption and money laundering—his third fraud charge.

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