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Region Declares End To Corruption By 2010, But The Definition Of Corruption Is Questioned

by LADB Staff

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Guatemala hosted the 12th International Anti-Corruption Conference (IACC) in the capital Nov. 15-18. The biennial affair first convened in 1983 and has since become the most prominent international forum for anti-corruption exchanges. Some 1,500 officials of 164 governments and nongovernmental organizations (NGOs) attended the meetings. The presidents of the isthmus utilized the meetings to announce plans for a region free of corruption by 2010.

This would be a tall order on its own, considering the countries of the region's unimpressive standings in Transparency International's (TI) Corruption Perceptions Index (CPI), but it is further complicated by competing visions of what constitutes corruption. An analysis by Inforpress Centroamericana on the subject identifies two opposing visions.

One is the hegemonic vision

TI focuses on that considers corruption as an obstacle to foreign investment. The other, counterhegemonic, sees corruption as a structural problem that deprives citizens of their rights to education, health services, adequate housing, and other attributes of a just society. TI makes no excuses for its focus. From its beginnings in 1993, it has had its sights set on international trade and, before becoming Transparency International, considered calling itself the International Business Monitor, said Inforpress. TI's founder was Peter Eigen, a World Bank (WB) official who was dissatisfied with the bank's failure to deal with corruption in the projects it financed.

TI looked at corruption on the grand scale, emphasizing bribery and other irregular financial practices between the multinational corporations that carried out the World Bank projects and the state officials of developing countries. Most of TI's financing comes from governments.

In 2004, 79% of the organization's budget came from the European Union (EU), the Foreign Ministries of Finland and Germany, and from the US Agency for International Development (USAID). Only 5.5% of the budget came from the private sector, including the Norwegian state company Norsk Hydro, an energy and fertilizer giant, Shell Oil, Anglo American, a global mining company, Deutsche Bank, and Sovereign Asset Management, a financial organization. The rest of the TI budget comes from foundations and development agencies.

A civilizing mission

For economist Peter Lamour of the Asia Pacific School of Economics and Governance at the Australian National University, the TI view of corruption constitutes a "civilizing mission" imposed by economic, rather than military, means. It is a colonialist doctrine in which TI functions as a

kind of indirect government among developing nations in fear of losing international investment. In Central America, the effect is to promote above all others the system of values that reflect the interests of capitalism in a context where the Central America Free Trade Agreement (CAFTA), Plan Puebla-Panama (PPP), and similar arrangements are presented as the only means for alleviating the ravages of poverty.

In this view of corruption, the government will always be seen as the corrupt agency and the private sector's corrupting influence will be ignored, says former Guatemalan foreign minister Edgar Gutierrez, "since a government of businessmen will always have the understanding of businessmen, and a government of the left will be the target of their prejudices."

In practical terms this means that the systematic withholding of social services from the poor is exempt from the definition of corruption. "From this alternative perspective," says the Inforpress analysis, "corruption could also be considered as an indirect form of homicide, since it exacerbates economic inequality and prohibits access to education, health, and housing to thousands of Central Americans."

Rating the isthmus

But even within the narrow definition of corruption imposed by TI, the countries of Central America are not doing particularly well on the CPI. From best to worst, Costa Rica leads the region on TI's 2006 list. Costa Rica slipped from 51 to 55 of the 159 countries rated. The country has no law of access to public information, even though there have been high-court decisions guaranteeing access. The office of the attorney general is credited as independent and efficient in prosecuting corruption cases but faulted for long lapses between investigations and prosecutions. Regulation of private-company finances extends only to businesses listed on the stock exchange. There are good laws to regulate public contracts but many ways to evade them.

For political parties, the law requires transparent accounting, but this is disobeyed with impunity. El Salvador, at position 57, also slipped from 2005, when it tied with Costa Rica. Its present score qualifies it as moderately corrupt. Among the problems, there is no law on public-information access. The attorney general has an Unidad Anticorrupcion y Delitos Complejos, but it is not considered independent. The public-contracting law does not function to stop irregularities in the public-bidding process.

Political interference occurs in the selection of presidents of the Corte de Cuentas de la Republica (CCR), and public prosecutors are removed capriciously. Legislative deputies are not subject to scrutiny of gifts received, nor are allegations concerning this kind of corruption investigated. Political parties are not required to give public accounting of any kind. El Salvador's judicial branch, by contrast, is said to have made important advances. Among them, the Corte Suprema has undertaken a transparency policy and discloses financial information even though there is no law requiring it.

Panama is in 84th place on the list. Its scores have not changed since 2004. Its public-accounting system calls for two separate auditing offices, one for external audits and one for internal. TI sees

this as effective to control direct losses of government goods and resources but not good for major investigations of systemic corruption. The public has little knowledge of government expenditures or of the efficiency of utilization of resources.

A law of public contracting exists but is weak against certain fraudulent practices, such as a single supplier operating several companies to offer goods or services at different prices to different government entities. The law provides prison terms for conflicts of interest. Influence peddling and nepotism are punishable as crimes, but there is no control of gifts to officials. The Contralor de la Republica is not hired on merit and may be a political party member. Political parties and candidates are legally obligated to divulge campaign contributions, but in practice donations only become a public issue when they are linked to drug traffickers or money launderers.

Panama also loses points as the Latin American country where journalists are penalized most for criticizing public officials (see NotiCen, 2001-05-03). Guatemala falls far below these three countries at position 111. It is faulted for a "parallel system of public finances with no regulation or oversight". About 40% of public investment is channeled through this system, including the social funds, public trusts, and spending moneys from international agencies and NGOs.

There is no law of access to public information. The Contraloria de Cuentas is structurally weak, submits no annual operating plan, and does not reveal the results of its audits. The attorney general is not independent and suffers interference from the executive, making it nearly impossible to go after government corruption. Among the most serious offenses, the public prosecutor does not enforce the law regarding state contracting at the defense ministry or with regard to single-source contracting.

At the local level, Guatemala does not enforce the right to citizen input as required by the law of development consultation. Financing political campaigns goes on without public scrutiny or transparency, and candidates take contributions from unknown sources. The judicial branch lacks independent judges, the system is choked with bureaucracy, and there is no public confidence in the justice system.

Nicaragua remains in 111th place, the same as last year and the same as Guatemala. Despite constitutionally mandated laws requiring officials to declare their financial status, and a law against receiving gifts, bribery is common, and there is little enforcement or indictment. The legislature maintains a budgetary category of confidential expenses that go entirely unreported and unexamined. The executive is entitled by constitutional amendment (2000) to interfere in the operations of the Contraloria.

Political parties are required by the electoral law to provide financial records to the Contraloria, the Ministerio de Hacienda, and the Credito Publica, but only do so sporadically, without penalty. The judicial branch is highly politicized in the nomination of judges and magistrates, and high officials, including the president, vice president, deputies, CSJ, and Consejo Superior Electoral (CSE) magistrates, ministers, comptrollers, and others have immunity from prosecution while in office. The process for depriving one of these officials of their immunity is so cumbersome that this

immunity amounts to virtual impunity. Nicaragua is further faulted for lacking a civil-service law, which allows parties in power to remove current employees and replace them with party members.

Honduras occupies position 121 on the list, higher only than Venezuela, Ecuador, and Haiti, and slipping this year below Guatemala, Nicaragua, Bolivia, and Paraguay in Latin America. Honduras has laws permitting citizens to sue the state for administrative malfeasance, but doing so is virtually impossible. The Contraloria General de la Republica does not provide annual accounting of public spending, and the Contralor is an elected member of the ruling party, leading to bias and favoritism in the office. The law permits selective audits at the behest of this functionary. High officials are exempt from laws prohibiting gifts and emoluments, while lower-level public employees are subject to firing for the same behavior. A law governing public contracts is traditionally ignored, with the result that certain families and companies monopolize public works and provisioning. Competitors are excluded through bribing decision-making officials.

At the local level, municipalities are legally bound to publish budgets and other financial data semiannually, but routinely fail to do so. Political parties are not required to provide financial records, nor are they inspected by the Contraloria or by the electoral authorities. Anonymous donations are accepted, and links to money laundering and narco trafficking have been observed or alleged. Businesses are coerced to donate to campaigns to maintain a privileged relationship with the government.

Executive interference in the judiciary and in the selection of Corte Suprema de Justicia (CSJ) magistrates compromises the independence of the branch. Lower-court judges are politically nominated and work under economic and political pressure.

The countries of the isthmus have signed onto a Declaration of Guatemala for a Region Free of Corruption to overcome these issues by the year 2010. Its 14 points call for national policies to promote transparency and to guarantee open books in public institutions. Free access to public information is another point of the accords, as is creating mechanisms for denouncing acts of corruption and legal protections for those who bring charges against public figures.

The signatories to the declaration also committed to programs of public education to promote a culture of ethical values. Political parties will have their ethical bar raised as well under the terms of the declaration. It mandates "the adoption of norms that establish systems of control for financing electoral politics."

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