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Panama Papers Expose Latin America’s Networks of Financial Secrecy

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The International Consortium of Investigative Journalists (ICIJ) will release on May 9 a full, interactive database consisting of 11.5 million documents from the Panamanian law firm Mossack Fonseca. The clients named in the database, who were exposed by media outlets across the world on April 3 (SourceMex, Apr. 13, 2016), have been the subject of a scandal that has revealed the extent of politicians’ involvement in the offshore financial industry.

The anonymous leak to the ICIJ contains evidence of more than 214,000 offshore companies created by Mossack Fonseca for its clients since the firm was founded in Panama City in 1977. In the documents, 140 politicians from more than 50 countries are connected with offshore companies. The scandal has led to resignations of top ministers and the launch of investigations into many other public figures.

As many have jumped to point out, not least Mossack Fonseca itself, the creation of offshore companies is a legal practice. In a statement issued in response to the leaks, Mossack Fonseca strove to differentiate between the legal—though morally questionable—practice of tax avoidance, and tax evasion, which is a criminal offense. The firm claims the former is a normal practice for “tax optimization.” However, the implications of politicians’ involvement in offshore companies, which are notoriously a vehicle for illicit activities, have been highly damaging.

Public Officials under Scrutiny

In Latin America, the scandal has centered on the list of high-profile public figures named in the documents and the global spotlight on Panama as a tax haven.

The highest ranking Latin American official named in the documents is Argentine President Mauricio Macri. He was listed as a director and vice-president of a firm owned by his father, Franco Macri, called Fleg Trading Ltd., which was registered in the Bahamas between 1998 and 2009. However, Mauricio Macri did not include his involvement with this company in his sworn declaration when taking office as mayor of Buenos Aires in 2007 or as president in 2015. While he claims he was never a shareholder and received no income from the firm, investigations are underway by the public prosecutor’s office and the anti-corruption office into whether his failure to declare it was “wrongful” and whether the company conducted any improper activities. The Buenos Aires daily La Nación later reported that Macri also formed part of another offshore company, Kagemusha S.A., which was incorporated in May 1981 and is still in existence. The revelations have damaged Macri publicly, with protesters outside the presidential palace demanding his resignation just four months after he took office.

Also in Argentina, Néstor Grindetti, mayor of the Lanús district of Buenos Aires and former secretary of the treasury for Buenos Aires under Macri’s mayorship, was named as controlling an offshore company in Panama called Mercier International between 2010 and 2013. Grindetti claims that the company never had financial movements and was quoted by La Nación denying the
relevance of the revelations for his work in Buenos Aires. “It is a personal issue of mine with the justice system,” he said.

In Venezuela, questions have been raised about an offshore company incorporated in the Seychelles by late President Hugo Chávez’s security chief Adrián Velásquez just four days after President Nicolás Maduro took office in April 2013. In Colombia, Carlos Gutiérrez Robayo, the brother-in-law of former Bogotá mayor Gustavo Petro, made headlines for having opened a network of 12 offshore companies between 2007 and 2014, according to the Colombian media source Connectas. And Gonzalo Delaveau, the director of Chile Transparente—the local branch of anti-corruption NGO Transparency International—resigned from his post after being listed as having key roles in at least five offshore firms registered in the Bahamas, according to information released by the Chilean journalistic research center Ciper.

Other high profile officials and individuals named from across the region include the former governor of Ecuador’s central bank Pedro Delgado, the former head of Panama’s state owned bank Riccardo Francolini, the former head of Peruvian intelligence César Almeyda, Peruvian presidential candidate Pedro Pablo Kuczynski, and prominent Mexican businessmen Juan Armando Hinojosa and Ricardo Salinas Pliego (SourceMex, Apr. 13, 2016).

Finally, the ICIJ reported that Uruguayan lawyer Juan Pedro Damiani represented offshore companies linked to former FIFA vice-president Eugenio Figueredo and Hugo and Mariano Jinkis, who have all been accused of corruption and bribery. Damiani himself resigned from the FIFA ethics committee on April 6.

Panama on the world stage

The Panama Papers scandal has shined a spotlight on Panama’s financial industry. According to the transparency standards of the European Commission and the Organization for Economic Cooperation and Development (OECD), Panama is still considered an offshore tax haven. The strength of its financial sector, buoyed by this industry, has helped keep the country’s economic growth rates among the highest in Latin America. The recent scandal has caused clear embarrassment for Panama’s government, with President Juan Carlos Varela hurriedly announcing the formation of an independent commission to strengthen financial and legal transparency and a willingness to cooperate with international efforts. Also, perhaps due to international pressure, the government carried out a raid of Mossack Fonseca’s offices on April 12; the raid did not uncover any evidence of illegitimate activity. The OECD has been scathing in remarks on the country’s lack of action on tax evasion: “The consequences of Panama’s failure to meet the international tax transparency standards are now out there in full public view,” it said.

The spotlight on Panama has also drawn attention to the closeness of both of Mossack Fonseca’s founding partners to the top echelons of the current government and to Varela himself. Jürgen Mossack was on Panama’s National Council of Foreign Relations but resigned from this position on April 7. Ramón Fonseca, meanwhile, had stepped down from his position in the cabinet as a presidential adviser in February, following the launch of an investigation into the firm’s alleged involvement with the Lava Jato corruption scandal in Brazil. Brazilian prosecutors filed criminal charges against five employees of Mossack Fonseca’s office in Brazil in January for alleged money laundering and bribery for Petrobras contracts through offshore companies created by the Panamanian firm.
Damage for the region

The sheer scale of the evidence of tax avoidance by Latin Americans is damaging for the region. Most obviously, the lack of transparency and corruption has an impact on public perceptions and the levels of trust in elected leaders and the political class. In a highly unequal region facing varying degrees of political upheaval, including threats to remove presidents in Brazil and Venezuela, it is damaging for democracy. Disillusionment and anger can lead to alienation of the electorate, distrust of political processes and disconnection from democratic participation. This is worse when the leaders involved have specifically campaigned on the basis of transparency and fighting corruption.

The issue of privilege has also been highlighted by the scandal. In addition to the tax issue, part of the embarrassment has been the exposure of the sheer levels of wealth that many Latin American politicians either possess or have inherited. Though their wealth may be entirely legitimate, the revelations are a reminder of the distance between many politicians and the electorate in terms of economic influence and power. This high concentration of wealth amid rife social inequality places these named politicians in the seat of privilege rather than being authors of social change as many claim to be.

The ICIJ also points out the consequences for those who are denied basic public services when taxes aren’t paid. Public health, education and social service provision is severely stretched in almost all Latin American countries due to the limits of state funding. Economist Gabriel Zucman estimates that US$7.6 trillion is held in offshore accounts globally. Of this, many millions should have been paid as tax in Latin America and as a consequence, the most vulnerable in society are the victims of the deficiencies in public services.

Another, darker side to the offshore financial industry is the direct facilitation of criminal activity. The ICIJ reported that the documents include “an alarming list of clients involved in bribery, arms deals, tax evasion, financial fraud, and drug trafficking” and “at least 33 people and companies that are blacklisted by the US government because of evidence that they’d been involved in wrongdoing.” And if the connections between Mossack Fonseca and the Lava Jato scandal currently engulfing Brazil are proved, the firm will have helped facilitate one of the most serious political crises in Brazil’s democratic history.

Mossack Fonseca has consistently denied all knowledge of criminal activity and says it conducts a risk analysis of prospective clients before working with them. In an interview on Panamanian television, Fonseca insisted, “We are not responsible for what [our clients] do with the companies.” However, the ICIJ argues that “the documents show that banks, law firms, and other offshore players have often failed to follow legal requirements that they make sure their clients are not involved in criminal enterprises, tax dodging, or political corruption.”

The Panama Papers scandal has led to renewed international efforts to combat international tax crime and corruption, with tax officials from 28 countries meeting on April 13 in Paris to develop a collaborative strategy to respond to the revelations. In addition, the International Monetary Fund (IMF), the World Bank, the UN, and the OECD have announced the formation of a group for international cooperation on tax evasion in developing countries. If the current international pressure on Panama pushes it to accept that its regulation of offshore activity is insufficient compared with international standards, the Panama Papers leak will have gone some way toward enabling progress.
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