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São Paulo, slush funds and sleaze

Latin America's long history of corruption

How would you feel about an attorney-general who was once a senator for the party he's supposed to be keeping tabs on? And what would you think if this same man registered his Ferrari not at home but in a neighbouring state (where car tax is lower), at an unoccupied house where three more luxury cars are registered? And how would you feel if this man became his country's first anti-corruption prosecutor? What about if the government spied on his critics?

These questions aren't just hypothetical. They reflect what is actually happening in Mexico. The man in question is Raúl Cervantes. He's a member of the governing Institutional Revolutionary Party (PRI) which is determined to see him head up a new anti-corruption system - installed under pressure from NGOs and businesses after countless scandals.

Let's now turn to Guatemala where the public prosecutor's office is investigating illegal campaign funding received by three major parties including the ruling FCN. President Jimmy Morales, whose brother and son are both on trial for fraud, is incensed. He has tried, and failed, to expel Iván Velásquez, the Colombian who leads the International Commission Against Impunity in Guatemala (CICIG), from the country.

Meanwhile, Guatemala's supreme court wants to lift Morales's immunity from prosecution. This could make Morales, who was FCN secretary-general when the alleged illegal funding took place, the second president in a row to be impeached for corruption. His predecessor Otto Pérez is currently behind bars for his role in a corruption scheme masterminded from the presidential palace.

Which leads us neatly on to Brazil – another country whose president faces possible impeachment. Michel Temer stands accused of taking kickbacks and perverting the course of justice.

But Temer is a master survivor. He has withstood a corruption vote in Congress (the rumoured exchange of seven-figure sums may have helped)

and narrowly avoided impeachment proceedings.

In Brazil as elsewhere, politicians are not resting on their laurels when it comes to avoiding transparency and the rule of law. Legislators constantly propose amnesties for those facing corruption allegations. Meanwhile, Temer is hoping to fill recent vacancies in the public prosecutor's office and supreme court with cronies. Congress is also debating possible voting reforms based on the system used by Afghanistan and Vanuatu. Under the new system, voters would directly elect candidates for individual districts, which would de facto favour incumbents.

Latin American newspapers are filled with headlines of corruption at the highest level. Ecuador, Argentina, Panama, Peru... the list goes on. Conservatives like to claim it's left-wing governments that have caused graft to blossom over the last decade. In fact, those facing corruption allegations come from across the political spectrum. As Marcelo Odebrecht – whose father's building conglomerate is accused of bribing officials, tax evasion and illegal party donations – wryly noted: 'I don't know any Brazilian politician who won an election without a slush fund'.

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The problem of corruption – and its twin sister impunity – has plagued Latin America for centuries. In Transparency International's corruption index, Latin America scores an average 44 points on a scale from 0 (totally corrupt) to 100 (totally transparent). However, but there is a huge gulf between the best (Uruguay) and worst (Venezuela) countries. 'Corruption and inequality are closely linked, and create a mutually reinforcing vicious circle,' warns the NGO.

Findings from the World Justice Project, which measures rule of law, paint an even more depressing picture. Apart from Uruguay, Costa Rica and Chile (which scored highly) and Argentina and Brazil (middling), all other Latin American countries are in the bottom third.

One big problem is impunity: the judicial system is completely ineffective at bringing wrongdoers to justice. In Mexico, over 95 per cent of offenders get off scot-free, including those charged with murder and rape. Only 7 percent of offences are reported in the first place. Prisons are overflowing with petty criminals and drug dealers, 43 per cent of them on remand. Most cases are based not on evidence but on dubious witness statements or confessions that were often extracted through torture. There are only 4.2 judges per 100,000 population.

A study by the Universidad de las Americas found that, out of 13 countries that scored worst for impunity around the world, nine were in Latin America: Mexico, Peru, Venezuela, Brazil, Colombia, Nicaragua, Paraguay, Honduras and El Salvador.

The Cold War years of the seventies and eighties saw a string of bloody civil wars in Latin America between left-wing liberation movements and US-backed right-wing military regimes. Following these conflicts, the chief priorities were democratic transition and consolidation. The nineties were marked by neoliberal ideas, which focussed on wealth creation and economic modernisation. This period lasted until the 1999 election of Hugo Chávez, a socialist, in Venezuela. Soon, left-wing governments were installed across most of the continent, on a promise to distribute wealth more fairly. Meanwhile, transparency and the rule of law were put on the back-burner. This refusal to prioritise values that promote and uphold democracy has come back to bite the continent's politicians. Surveys show crime and corruption top the list of voter concern.

The struggle to establish the rule of law has taken very different forms in different countries. At the forefront are states like Chile, which reformed its legal system in the 1990s with assistance from countries such as Germany. Elsewhere, the process has taken longer. Guatemala reached an agreement with the UN in 2006 that led to the founding of the International Commission Against Impunity in Guatemala (CICIG). During its 10 years of existence, the commission has taken down drug cartels and mafia-like organisations in the security services and state institutions, and put previously 'untouchable' offenders behind bars – including former and serving presidents.

In Brazil, a small paragraph in a 2013 reform to criminal law has proved crucial. It introduced plea bargaining and reduced restrictions on surveillance in organised crime investigations. Politicians didn't realise the reform would implicate them a year later, when a federal judge used the new powers in a seemingly small-scale money-laundering case. The case, known as Operation Car Wash, is still ongoing, as prosecutors attempt to get to the bottom of a web of illegal party funding and links between business and politics. An estimated €11 bn has been embezzled, and 277 culprits have been sentenced to a total of over 1,500 years in jail.

In Mexico, an alliance of NGOs and business associations is spearheading the battle against corruption. Judicial reforms were introduced in 2008 that replaced the existing written inquisitorial procedure in criminal proceedings (inspired by the Spanish Inquisition) with oral trials. After a long transitional phase, these reforms came into force across the country

in 2016. In 2015, a national anti-corruption system was introduced that incorporates a raft of proposals from experts, the UN and NGOs. They include creating an independent prosecutor general's office, a law on conflicts of interest among state officials and prompt auditing of federal and state budgets.

It's all very uncomfortable for an elite accustomed to a climate of kickbacks and dirty deals. A particular problem in many Latin America is campaign funding, which is linked to corruption, money laundering and organised crime (this report by the CICIG is worth a read).

The situation in Latin America merits international attention. The continent is at a crossroads, and transparency campaigners need all the support they can get. 'We are under siege,' said Mexican businessman and anti-corruption activist Claudio X González in an interview with The New York Times, when asked about government intimidation. 'But we will continue to denounce corruption and impunity whenever we find it, be it public or private. Mexico is not condemned to be corrupt.



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