



[Other Topics](#)

A Shadow of the Past?

Latin America's Fight against Corruption

Marie-Christine Fuchs

News stories about corruption cases in Latin America are ubiquitous. Most recently, the bribery scandal relating to the Brazilian construction company Odebrecht made headlines worldwide. Despite or maybe because of these frequent bad news stories there has been a significant increase in anti-corruption measures in Latin America since the beginning of this year. The continent still has a long way to go in its efforts to fight corruption effectively. But there are signs that a turnaround may for the first time finally be possible.

Instances of corruption in Latin America have proliferated in the global headlines of late. While Petrobras and the Panama Papers were the talk of the town already, things really heated up from 21 December 2016 onwards. That was the day when it became public knowledge that the Brazilian construction company Odebrecht had acquired public contracts by paying bribes worth millions to high-ranking public officials throughout the Latin American continent between 2005 and 2014. The allegations and investigations against leading Latin American politicians pertaining to their involvement in the Odebrecht scandal or similar corruption cases spread ever wider.¹ Most recently, the spotlight fell on former head of state Luiz Inacio “Lula” Da Silva, who was sentenced to nine years and six months in jail for corruption and money laundering in July. The presiding judge deemed it to have been proved that Lula had received a luxury apartment in return for giving preferential treatment to the construction giant OAS. Lula can, however, appeal and remains out of prison for now.² On 13 July, Peru’s former president Ollanta Humala and his wife Nadine Heredia were remanded in custody. The couple is accused of having used illegal moneys, some from Odebrecht but also some from the Venezuelan state coffers, to fund Humala’s 2006 and 2011 election campaigns.³ Since the beginning of this year there are reasons to suspect that the recent election campaign of Colombia’s president Juan Manuel Santos, who received the Nobel Peace Prize for the peace negotiations

with the FARC rebels as recently as 2016, has been funded with bribes running into the millions.⁴

Latin America appears to be sinking into a morass of corruption. This impression is reinforced when you consider that the limits of what are trivial offences in the eyes of the judiciary and society are often still fluid. Former Colombian president Julio César Turbay for instance said during his term in office that corruption merely needed to be reduced to the ‘right proportions’.⁵ With this statement he suggested that politics involve corruption as a matter of course.

However, the worldwide reaction to the above-mentioned scandals illustrates that Latin American politicians can no longer ignore the efforts made in the fight against corruption for years by international organisations such as the United Nations (UN), the Organization of American States (OAS) and the Organisation for Economic Co-operation and Development (OECD) with its Latin America Anti-Corruption Programme or non-governmental organisations such as Transparency International. In response to media pressure and increasing unease among the population, intensive efforts to combat corruption have been in evidence this year in many Latin American countries. Government programs are being set up, penal laws are being tightened and public anti-corruption bodies are being established. Corruption has become a political issue and will figure as a key topic

in the 2018 presidential election campaign in Colombia and Mexico, for instance. It appears that Latin America has finally woken up from its deep slumber.

What Exactly Does Corruption Entail?

Corruption is the perversion of the rule of law and human rights. It stands in direct opposition to values such as equal opportunities and the separation of powers. But what exactly is corruption? According to the anti-corruption organisation Transparency International, the term corruption is as opaque as the structures in which it flourishes. The organisation therefore defines corruption generally as the “abuse of entrusted power for private gain”.⁶ Consequently, perpetrators can be state actors in politics and the judiciary as well as private individuals in business and other parts of society. The crucial criterion is the abuse of power.

In criminological research, corruption is defined in much more concrete terms. It is the “abuse of a public office, a position in the economic sector or a political mandate in favour of a third party, upon their instigation or one’s own initiative to obtain an advantage for oneself or a third party, with the occurrence or in the expectation of the occurrence of damage to or a disadvantage for the general public (in official or political functions) or for an enterprise (if the offender holds a pertinent position in the economic sector).”⁷ Corruption offences can therefore be active or passive in nature. According to the German Penal Code (*Strafgesetzbuch*, StGB), both granting and accepting a bribe (sections 331 and 333 StGB) and giving bribes and taking bribes (sections 332 and 334 StGB) constitute a criminal offence. The persons granting or accepting the benefit can be public servants, public sector employees or other person entrusted with special public service functions who abuse state power. But they can also be politicians or business functionaries.

The benefit need not necessarily accrue to the perpetrator him- or herself. The action also constitutes an offence if it benefits a third person.

According to the definition used here, the provisions cover not only the actions of persons obtaining personal gain from the abuse of power but also the conduct of independent third parties who knowingly benefit from the corrupt practices of others.⁸ The provisions in Latin America are no different, and corruption is generally defined very broadly.⁹ It is not clear whether tax evasion is covered by the term of corruption in the narrow sense. According to the definition used by Transparency International, this would not be the case as there is no abuse of power involved. That said, tax and corruption offences have a number of similarities and frequently go hand in hand.¹⁰

One characteristic of corruption crime is that it is a “victimless” crime, which is regularly conducted in a relationship between two perpetrators, the “corrupter” and the “corrupted”. As a matter of principle, these two parties are not interested in the criminal activities coming to light. The actual victims, frequently the public purse and therefore ultimately the taxpayers, are generally not party to the relationship and have therefore no knowledge of the perpetrators’ activities. That makes corruption a very difficult crime to solve.

The Damaging Effects of Corruption

The material damage done by corruption worldwide is enormous. It is considered the greatest obstacle to economic and social development.¹¹ Every year, approximately one trillion U.S. dollars are paid in bribes,¹² while states lose an estimated 2.6 trillion U.S. dollars through corruption.¹³ That corresponds to more than 3.5 per cent of global GDP.¹⁴ The losses on the Latin American continent are in a similar ratio. According to the organisation Global Financial Integrity, some 143 billion U.S. dollars are lost each year due to corruption.¹⁵ This means that governments lose out on extensive revenues that could be put to good use for education, healthcare and social services. At the same time, the circumvention of market mechanisms and disruption of fair competition result in overpriced or low-quality products and services.¹⁶

The enormous financial losses from corruption are outweighed by the immaterial losses.

What is potentially even more serious is the immaterial damage that corruption inflicts. When large numbers of corruption scandals become public, citizens will assume that politics and business are in cahoots to engage in corrupt practices. They will lose confidence in government institutions and in politics. The state is soon seen as the enemy and rapidly becomes unstable as it no longer has the citizens' backing. The repercussions include the violation of basic values of the democratic and social rule of law as well as human rights,¹⁷ the blocking of development and innovation, encouragement of the black economy and increasing degradation of political morality.¹⁸ In addition, corruption produces disappointment and a lack of commitment among those who cannot obtain any benefit for themselves. It fosters inequality with respect to the distribution of power and prosperity and ultimately results in bolstering populists, who benefit from the fact that the electorate is losing faith in the established parties.

National and Regional Regulatory Framework

Because of the serious damage caused by corruption, the need for action was already recognised at an international level over a decade ago. The UN consequently adopted the UN Convention against Corruption (UNCAC) in December 2005. This agreement is the first contract under international law that is globally binding; it has been signed by 181 states (as at December 2016), including all Latin American states.¹⁹ It obligates the contracting parties to punish various forms of corruption involving officials and to engage in international cooperation. It includes implementation obligations for the contracting states in areas including corruption prevention (see Chapter II UNCAC, which contains a list of the

preventive measures specified by the UN), criminalisation and criminal prosecution. The implementation of the contractual obligations by the individual member states is evaluated by means of a so-called Peer Review Mechanism created in 2009.

At the regional level, the members of the OAS adopted the Inter-American Convention Against Corruption even earlier, namely in 1996.²⁰ With the exception of Cuba, all OAS member states have signed the agreement. Since 2002, the Mechanism for Follow-Up on the Implementation of the Inter-American Convention against Corruption (MESICIC) has been in place. But both conventions lack a court of law where action could be taken against the member states for any violations of the respective convention.

The Prevalence of Corruption in Latin America

Not least because of the lack of legal enforcement measures for international and regional anti-corruption agreements, their ratification by member states has so far not made the envisaged contribution to solving the problem. This can be seen from the current corruption index of Transparency International, which provides an informative picture of corruption in Latin America. The index rates countries by the degree to which the civilian population is aware of corruption among public officials and politicians. In 2016, the average figure for the Latin American countries was 44 out of a maximum 100 points, with figures below 50 indicating that the government had in fact failed in the fight against corruption.²¹ Uruguay, Chile and Costa Rica are the only countries in the upper third percentile of the ranking.

Considering Venezuela's current political, social and economic situation, it comes as no surprise that it is one of the world's 15 most corrupt countries and has dropped a further eight places to 166 since last year.²² Inflation is at an all-time high, people are suffering from a lack of food and need to

pay high bribes to obtain basic food at all as well as the most essential medicines. In addition, the investigations in the Odebrecht scandal have shown that the construction giant sent slush funds to Venezuela as well.²³ Whistle-blowers have mentioned a payment of three million U.S. dollars for the illegal funding of Nicolas Maduro's election campaign from 2012 to 2013 in this context.²⁴

While Venezuela ranks bottom within Latin America, Mexico has seen the strongest deterioration in 2016 within the continent, dropping from 95th to 123rd place. One illustration of Mexico's rapid drop in the corruption index and the entanglement of politics and organised crime in the country is the alleged conduct of the governor of the federal state of Veracruz, Javier Duarte, whose government has been accused by Mexico's Office of the Comptroller General of having embezzled at least 1.7 billion U.S. dollars. The national government had looked the other way for years.²⁵

Latin American countries regularly occupy places in the middle and lower percentiles of corruption rankings.

Colombia has also experienced a number of setbacks in recent years, as far as corruption is concerned, dropping from 83rd to 90th place. The Odebrecht scandal, in which some senior Colombian politicians appear to be involved as well,²⁶ has been in the headlines for months and is set to act as a sword of Damocles in the 2018 presidential election campaign. President Santos' former election campaign manager is accused of having received bribes totalling a million U.S. dollars for Santos' re-election in 2014.²⁷

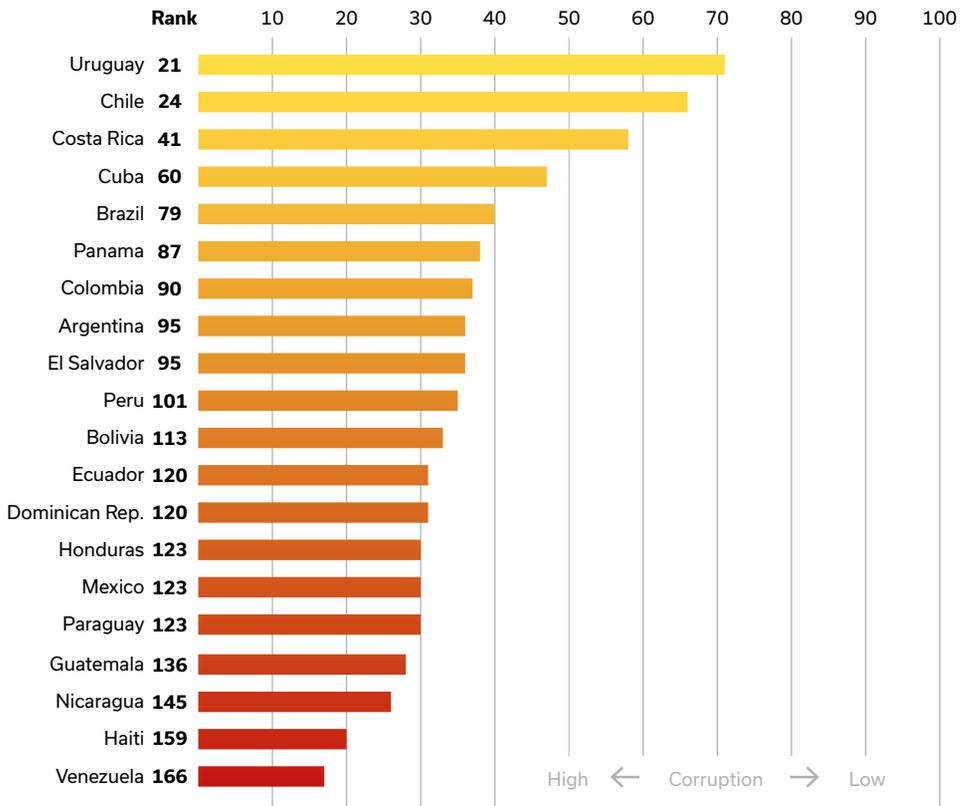
The Petrobras scandal had already produced negative media reporting on Brazil; in connection with the Odebrecht scandal, the country has now turned into the stage of the largest

corruption scandal in Latin American history. And since May 2017, Brazil's current president Michel Temer himself has been in the crossfire of the investigations. He is being held responsible for allowing hush money to be paid to the former president of the Chamber of Deputies, Eduardo Cunha, and is under investigation by Brazil's Federal Supreme Court on that account. However, at the beginning of August, the Brazilian parliament decided that no further action should be taken against Temer for the time being although there appeared to be clear proof against him.²⁸ While the country dropped a few places in the index – from 76th to 79th – the uncovering and rigorous prosecution of these corruption cases by the investigating authorities can be counted as a partial success.

The Latin American “most improved” country of the year in terms of the fight against corruption is Argentina. Despite being embroiled in the Odebrecht scandal and corruption allegations relating to the entourage of former President Cristina Fernández de Kirchner, the country was able to rise twelve places, from 107th to 95th, owing to a strict new anti-corruption program and now figures in the mid-section of the index.

The ranking further shows that three countries have been able to maintain consistent values for years. Ranked 21st, a place that it has been able to maintain since the last Transparency International Index 2015, Uruguay is in the vanguard of the fight against corruption in South America. Chile follows in 24th place and Costa Rica in 41st. The positive values of these three countries may well have to do with their higher GDP and per capita income compared to other Latin American states. However, there is still no unanimity in discussions on theory and practice as to whether a country's wealth alone can allow conclusions to be made about the level of state corruption.²⁹ Argentina is a case in point. At some 14,000 U.S. dollars, the country's average income is higher than that of Costa Rica and Chile,³⁰ but it lingers in 95th place of the corruption index. This suggests that it is

Fig. 1: Latin American States in Global Ranking of Corruption 2016



Source: Own illustration based on Transparency International 2017: Corruption Perceptions Index (CPI) 2016, n. 21.

the distribution of the wealth that matters, as this is relatively even in Uruguay in particular. In this context, the economist Hans Peter Grüner, for instance, stresses that once the income distribution becomes too imbalanced this jeopardises social cohesion and encourages corruption.³¹ And in fact, many countries in Latin America are still characterised by a great disparity between rich and poor.

Search for the Root Causes of the High Corruption Rates in Latin America

The causes and factors that facilitate corruption in Latin America are many and diverse. According to one explanation, it is fostered by the enormous financial benefits offered by

high positions in public office, and particularly in politics, in Latin America. While a political career in Western Europe and the USA – particularly compared with private sector jobs – frequently does not seem very lucrative, a high-ranking position in Latin American politics provides access not only to power but also to money. That has historical reasons, seeing that the state has frequently been seen as the origin of wealth in Latin America since colonisation. Latin American countries traditionally generate modest revenues from manufacturing. Their main source of income is mining. Half of the world’s most important exporting countries dealing in mineral resources, for instance, are located in Latin America, and a third of all global mining takes



Obscure: Dubious structures and the entanglement of politics and economy characterise corruption and make the fight against it so difficult. [Source: © Ueslei Marcelino, Reuters.](#)

place in this region.³² As the state frequently was and still is responsible for the allocation of land rights, the population soon found out that it requires above all good relations with the state, rather than physical and intellectual effort, to gain access to prosperity.³³

Once acquired, the political elites seek to retain their privileges across the generations. Nepotism and family networks are common. Political posts are passed on within the family in some instances. In this context, political parties appear to be mere vehicles to serve the interests of their leaders.³⁴ The way this influences recruitment in the political sector means that the deciding factor is loyalty rather than objective attributes such as education and training and professional experience. This makes a restructuring of the government apparatus almost impossible.

Finally, the fact that the bureaucracy operates at a sluggish pace throughout the continent encourages citizens to try and speed up the services provided by public authorities through corruption. In the Doing Business Index of the World Bank, for instance, which looks at obstacles encountered by start-ups in their dealings with the national authorities, almost all Latin American countries are ranked towards the bottom. Argentina, for example, is ranked 116th, Brazil 123rd and Venezuela as low as 187th. Ranked 47th, Mexico is the only Latin American country among the top 50. This indicates that society generally sees corruption as a legitimate solution to overcoming such deficiencies in the public sector.³⁵

In some cases, the moral justification of corruption goes so far that political parties in fact deem it necessary, for instance to be able to finance



election campaigns from funds provided by private sources. Such generosity from businesses is subsequently often rewarded by government contracts. There are now regulations on state funding for political parties in place in many Latin American countries. Section 109 of the Colombian constitution, for instance, imposes a limit on state funding for political parties. The problem is that transparency, regulation and capping of private party funding are frequently inadequate. In this context, Chile has found a possible solution by adopting Law 20900 in April 2016, implementing an extensive ban on party donations by legal entities.

Corruption is also furthered by a lack of effective prosecution of corruption offences and ultimately by myriad instances of impunity in many Latin American countries. Often the financial means are simply not available nor is there sufficient commitment on the part of the state to fight corruption.³⁶ According to the Global Immunity Index, charges are only filed in seven out of a hundred cases of corruption in Mexico and over 99 per cent of the offenders get away scot-free.³⁷ As long as the judicial authorities cannot guarantee objective, politically independent and effective investigations, bribery and favouritism will continue to represent a lucrative business model.

Noticeable Increase in Anti-Corruption Measures in Latin America – Is the Tide Turning?

That said, the most recent corruption scandals, which brought the astonishing scale of the problem very clearly to public attention, and increasing pressure from the civilian population now appear to have woken many governments as well as judiciaries on the continent from their complacency. There have been signs of a veritable “anti-corruption activism” in many countries of late. One fact that gives cause for cautious optimism is that anti-corruption efforts are increasing, particularly in those states that figure in the middle and lower sections of the Transparency International index.

One small country has been acting as a trailblazer in the fight against corruption for some years now: 2006 saw the founding of CICIG (*Comisión Internacional contra la Corrupción e Impunidad en Guatemala*) in Guatemala, an international commission against impunity that operates under the aegis of the UN. CICIG investigates corruption offences perpetrated in the country as an independent body working in collaboration with the Public Prosecutor’s Office. Its activities are intended to strengthen the judicial system and advance the fight against crime, thereby helping to reduce the flagrant impunity in the country. As a body involved in international cooperation, CICIG does not have any prosecution authority and cannot influence the Public Prosecutor’s Office directly. But it assists and advises judges and public prosecutors in their work.³⁸ In April 2015, the commission’s work helped to uncover a high-ranking corruption network in the area of customs and taxes, in which former president Otto Pérez Molina and the vice president were involved.³⁹ After the findings of the investigation were made public, there were large demonstrations by the middle class, organised in part via social media such as Facebook. Due to public pressure, the president resigned in September 2015 and has since been charged.

An agreement to set up an international anti-corruption mission was also established in Honduras, this time under the patronage of the OAS. This mission was initially to run for four years. International experts, selected by the OAS, have been working on the ground in Honduras since April. This step was prompted by anti-corruption protests in 2015 and took into account the results from a dialogue with civil society moderated by the OAS at the government’s request. The mission’s remit envisages legal experts to monitor corruption proceedings and judicial reforms, to supervise the activities of the justice system and to provide advice.⁴⁰

Under massive pressure from civil society, Mexico’s government has also made efforts for some time to control corruption through a number of reforms. In the spring of 2015, for instance, a constitutional reform involving the

introduction of a comprehensive set of anti-corruption measures was implemented, resulting in the creation of the so-called National Anti-Corruption System (*Sistema Nacional Anticorrupción*, SNA) among other things.⁴¹ The SNA envisages the establishment and expansion of various national bodies with the intention of improving cooperation between state institutions at national and regional level in matters relating to corruption and enabling a better exchange of information between the different authorities.⁴² A further innovation is stronger citizen participation through the founding of a citizens' committee (*Comité de Participación Ciudadana del SNA*).⁴³ Only people who held no political office and were not members of a political party were eligible for serving on the committee. These innovations were instigated above all by the action group #Ley 3de3.⁴⁴ However, one of the group's most important demands, namely that all public servants would have to disclose their assets and income, was rejected by the senate on the grounds of privacy.⁴⁵ It remains to be seen whether the new institutions, which took considerable public funds to set up, will actually prove to be able to make inroads against corruption or whether it was merely a case of creating an additional "administrative monster".

Some of Latin America's most corrupt states have drastically expanded their anti-corruption efforts of late.

To bolster Colombia's ambition to join the OECD, the Colombian government ratified the OECD's anti-corruption convention back in 2013 and joined the Open Government Partnership initiative.⁴⁶ The latter involves a concrete commitment on the part of the government to foster transparency, strengthen citizen participation, fight corruption and make use of new technologies to strengthen governance within a so-called National Action Plan. In addition, the national Secretariat for Transparency (*Secretaría de Transparencia*) was created. Citizens can report

incidents of corruption to this department and access information on ministers' and delegates' incomes at its offices.⁴⁷

In Brazil, the instrument of plea bargaining, *delação premiada*, which was used in the course of the investigations relating to the Odebrecht scandal, brought the procedural breakthrough. As emphasised by Sérgio Moro, the criminal court judge who gained in popularity through the Odebrecht prosecution, the fact that corruption is a "victimless" crime means that only the perpetrators themselves can help bring cases of corruption to light and provide the necessary information.⁴⁸ This leniency policy allowed for those involved in the corrupt system to act as witnesses for the prosecution in return for milder sentences. With a reformed Public Prosecutor's Office and judiciary working independently, Brazil has already succeeded in charging dozens of leading politicians and businesspeople and sentencing some of them to long prison sentences. This type of action against corrupt individuals in the top elite is unprecedented in Latin America.⁴⁹

In the course of the investigations and criminal prosecution of this case, also referred to as *Lava Jato* (Car Wash), a special Public Prosecutor's Office and a team of eleven criminal supreme court judges were established, who worked exclusively on this case and conducted investigations particularly against the private sector representatives involved in the corruption scandals. Brazil's Federal Supreme Court, on the other hand, is responsible for the investigations of high-ranking corrupt politicians. The Brazilian Federal Supreme Court judge Teori Zavascki played a particularly sensitive role as he oversaw the investigations against some 200 high-ranking politicians active at national level, who all appeared to be embroiled in the *Lava Jato* case. Shortly before the investigation documents were due to be made public, the judge was killed in a plane crash. All the more remarkable that his designated successor Edson Fachin published a list of 76 leading politicians involved in the Odebrecht scandal in April 2017, clearing the way for official investigations against them to be initiated.



Argentina's new government, elected in 2015, has also committed itself to take more vigorous action against corrupt practices and is therefore rightly seen as Latin America's most improved state in the fight against corruption as confirmed by the corruption index. The government of new President Mauricio Macri enacted a law for promoting transparency in public administration and improving access to information and also introduced plea bargaining. More effective

criminal prosecution of corruption cases by the Argentinian judiciary also helped to improve matters.⁵⁰ And finally, the newly created Argentinian anti-corruption office has developed legislation on the criminal responsibility of legal entities in connection with corruption offences involving public administration personnel. The fines imposed on companies can be as high as 20 per cent of their annual gross turnover, which makes them an effective deterrent.⁵¹



Arrest: Especially resolute prosecution – as seen here against a senior prison officer – is required to successfully fight corruption. Source: © Jose Cabezas, Reuters.

By these measures, Macri has succeeded in making a start in regaining the trust in state institutions that had been lost under his predecessor Cristina Fernández de Kirchner.

When one looks at Uruguay, Chile and Costa Rica, it becomes clear that overcoming the problem of corruption in the long term and sustainably requires solid state institutions and a functioning separation of powers, which these three countries possess. In addition, it requires an independent and effective criminal justice system that is not subject to any political influences. In Chile, corruption was acknowledged as a serious problem as early as 1994 and appropriate measures were taken from then on. An ethics committee (*Comisión Nacional de Ética Pública*) was founded over 20 years ago, which enacted various laws to curb corruption. This included the introduction of transparent processes for awarding public contracts.⁵²

Conclusive Assessment and Outlook

Neither the ratification of international conventions nor the enactment of national laws or the creation of commissions or other institutions to fight corruption are by themselves likely to be immediately successful. Instead, progress depends on the will of governments and economic elites to act in a manner consistent with the rule of law. There have been calls of late for a change in leadership in all Latin American states. Some people believe this is the only way to break up fossilised structures and put an end to nepotism. However, a wholesale changing of the guard appears unrealistic because – as the saying goes – who would want to bite the hand that feeds them? The uncovering of the corruption scandals has also made the public extremely disillusioned about politics, which has the effect of preventing the rejuvenation of the political class. Citizens refuse to become engaged in politics themselves.⁵³ What needs to happen, therefore, is to do everything possible to increase the motivation among the existing leadership elites to act in line with the rule of law. Consequently, it will be enormously important to use judicial reform and changes

in legislation to set up control mechanisms and to make people contemplating corruption think twice for fear of detection.

The mobilisation potential of social media could also be used in the fight against corruption.

Considering that the topic of corruption is riding high in the media throughout the continent, Latin America currently has a historic opportunity of finally conducting an effective fight against corruption. One key to success could be the possibility of using social networks to mobilise large numbers of people against corrupt public officials at relatively low cost, as happened in Guatemala in 2015. When looking at the big picture, there have never before been as many protests in the streets and on social media on the Latin American continent. According to Transparency International, the pressure exerted via social media will force the Latin American governments to create more transparency in the next few years if they want to ensure social peace in their societies.⁵⁴

In addition, fundamental institutional changes would be desirable. The principle of merit must be applied more strongly in the public sector once again. This goes for all three powers of the state, which means judges and public prosecutors must be nominated in a transparent process. Applying a “political bias” to become a member of electoral committees for judges must be avoided. And to ensure effective monitoring of the principle of merit, it may be helpful to allow legal action by competitors, a concept known in Germany as *Konkurrentenklagen*: if a competitor for a job believes they are better qualified for a vacancy than the person selected they can bring a legal case against the employment of the competitor – potentially involving an injunction. This type of “social monitoring” of recruitment decisions in the public sector has proved extremely effective in Germany. In addition, all

public servants and judges must receive an adequate salary to reduce the incentive to accept illegal payments. Courts must be forced to operate with transparency and accountability. The length of court proceedings must be reduced. The awarding of public contracts must be conducted via a transparent system of public tenders.

Furthermore, the election systems on the continent and the rules on private party donations must be subject to critical appraisal, and not only at election time. National and international election monitoring as well as curbing the possibilities of influencing voters will reduce potential election manipulation. In any case, election campaign funding should be kept in check by setting upper limits for campaign spending and reforming the electoral systems. The same applies to party funding in general. Private donations should be limited and more emphasis should be placed on state funding. Political parties should also be subject to stricter rules on disclosure and accountability.

The majority of citizens have come to realise the need for a comprehensive change to a culture of legality.

Turning away from corrupt practices and embracing rule-of-law structures and transparency appear feasible. Throughout Latin America, there are signs of an increasing awareness that corruption is a cause of poverty and responsible for deficiencies in public transport, poor conditions in hospitals and a lack of money to fund state schools.⁵⁵ People appear to have realised that there is a need for comprehensive social change on the continent, moving from an institutional and structural culture of corruption to a culture of legality. Future decision-makers must be made aware of the fact that the state is neither their enemy nor an end in itself and that a commitment to the common good contributes

to everybody's wellbeing. But this is only possible if people observe the law and pay their taxes in return.

In order for citizens to regain trust in the state, the state must convince them that observing legal stipulations will benefit them. That can only be achieved through a comprehensive strengthening of the welfare state as well as basic economic and social rights by guaranteeing things such as a minimum income, adequate healthcare and affordable access to education. In addition, it will require healthy economic growth, for instance through foreign investments to strengthen the secondary and tertiary industries, which are virtually non-existent in many Latin American countries, as well as technological progress. That is the only way to reduce the dependence of Latin American industry on mineral resources and therefore on volatile factors such as oil and gold prices and its dependence on the goodwill of the state apparatus distributing the resources.

Latin America has a long journey ahead of it. But the way politicians and civil society have put corruption on the agenda in recent months suggests that Latin America appears to be seizing the historic opportunity of finally tackling this phenomenon comprehensively and sustainably.⁵⁶

Dr. Marie-Christine Fuchs is Head of the Rule of Law Programme Latin America of the Konrad-Adenauer-Stiftung based in Bogotá, Colombia.

- 1 Cf. Semana 2017: América Latina: La corrupción hace metástasis, 16 Jul 2017, in: <http://bit.ly/2eLW3wH> [24 Aug 2017].
- 2 Cf. Herrmann, Boris 2017: Brasiliens Ex-Präsident Lula wegen Korruption verurteilt, Süddeutsche Zeitung, 12 Jul 2017, in: <http://sz.de/1.3585700> [24 Aug 2017].
- 3 Cf. Grundberger, Sebastian / Hallmann, Flora 2017: Ein schwieriges erstes Jahr für Präsident Kuczynski, in: <http://kas.de/wf/de/33.49740> [24 Aug 2017].
- 4 Cf. Semana, n. 1.
- 5 Cf. Semana 1995: Pecado de Palabra, 27 Feb 1995, in: <http://bit.ly/2xRbWcT> [24 Aug 2017].
- 6 Transparency International: What is Corruption?, in: <http://bit.ly/2vSOvVH> [8 Sep 2017].
- 7 Bundeskriminalamt: Korruption, in: <http://bit.ly/2wP4O1m> [24 Aug 2017].
- 8 Cf. Nève, Dorothee 2011: Korruption und Demokratie – Perspektiven der Politikwissenschaft, in: Achathaler, Lukas / Hofmann, Domenica / Pázmándy, Matthias (eds.): Korruptionsbekämpfung als globale Herausforderung, Wiesbaden, pp. 129-147, here: p. 131.
- 9 Cf. Saiz Vélez, Jorge Enrique / Mantilla Bautista, Sergio Iván / Cárdenas Beltrán, Jesús María 2011: Corrupción: una descripción del concepto y de las limitaciones metodológicas para su medición, *Gestión & Sociedad* 1/2011, in: <http://bit.ly/2wNc7YT> [24 Aug 2017].
- 10 Cf. Circular decree by the Ministerium für Inneres und Kommunales Nordrhein-Westfalen 2014: Verhütung und Bekämpfung von Korruption in der öffentlichen Verwaltung, in: <http://bit.ly/2j9DBmJ> [24 Aug 2017].
- 11 Cf. International Chamber of Commerce / Transparency International / United Nations Global Compact / World Economic Forum Partnering Against Corruption Initiative 2008: Clean Business is Good Business, in: <http://bit.ly/2xQYMfT> [24 Aug 2017].
- 12 Cf. The World Bank: Six Questions on the Cost of Corruption with World Bank Institute Global Governance Director Daniel Kaufmann, in: <http://go.worldbank.org/KQH743GKF1> [24 Aug 2017].
- 13 Cf. International Chamber of Commerce / Transparency International / United Nations Global Compact / World Economic Forum Partnering Against Corruption Initiative, n. 11.
- 14 Cf. Statista 2017: Weltweites Bruttoinlandsprodukt (BIP) in jeweiligen Preisen von 2007 bis 2017 (in Billionen US-Dollar), in: <http://bit.ly/2eLXLYz> [24 Aug 2017].
- 15 Cf. El Tiempo 2016: Corrupción, un pesado lastre para América Latina, 15 May 2016, in: <http://bit.ly/2xhkzKJ> [24 Aug 2017].
- 16 Cf. Islekoglu, Perihan 2013: Korruption – Organisationsbezogene Ursachen und Konsequenzen. Analyse und Erkenntnisse auch am aktuellen Beispiel ThyssenKrupp, p. 41, in: <http://bit.ly/2wNrcu8> [24 Aug 2017].
- 17 On this topic see: Rojas, Claudio Nash / Campos, María Luisa Bascur / Bascuñán, Pedro Aguiló / Meza-Lopehandía, Matías 2014: Corrupción y derechos humanos, Centro de Derechos Humanos, in: <http://bit.ly/2f8MZT2> [24 Aug 2017].
- 18 Cf. Kilian, Gottfried 1994: Korruption im Bauwesen oder: Mafiose Praktiken in Perfektion, in: *Kriminalstatistik* 48:4, pp. 249-254, here: p. 249.
- 19 Cf. United Nations Office on Drugs and Crime (UNODC) 2003: United Nations Conventions against Corruption, in: <http://bit.ly/2xaJLIO> [24 Aug 2017].
- 20 Cf. Organization of American States, Secretariat for Legal Affairs, Department of Legal Cooperation: Anti-Corruption Portal of the Americas, in: <http://bit.ly/2wMPqol> [24 Aug 2017].
- 21 Cf. Transparency International 2017: Corruption Perceptions Index 2016, 25 Jan 2017, in: <http://transparency.org/cpi2016> [8 Sep 2017]. For this survey, countries with more than three million inhabitants were taken into account. There are no data available for Puerto Rico.
- 22 Cf. Loos, Melanie 2017: Venezuela droht jetzt der wirtschaftliche Kollaps, *Welt*, 1 Aug 2017, in: <http://bit.ly/2gNu00l> [24 Aug 2017].
- 23 Cf. Brühwiller, Tjerk 2017: Petrobas-Ermittlungen stehen auf dem Spiel, in: *Neue Zürcher Zeitung*, 21 Jan 2017, p. 7, <http://nzz.ch/ld.140985> [8 Sep 2017].
- 24 Cf. Alessi, Gil 2017: Odebrecht revela la corrupción sistémica en Latinoamérica, *El País*, 4 Jan 2017, in: <http://bit.ly/2eRoddA> [24 Aug 2017].
- 25 Cf. Marti, Werner J. 2017: Korruption in Lateinamerika-Gift und Lebenselixier, in: *Neue Zürcher Zeitung*, 18 Jan 2017, in: <http://nzz.ch/ld.140397> [24 Aug 2017].
- 26 Cf. Semana, n. 1.
- 27 Cf. El Tiempo 2017: Bula no dio documentos sobre supuesta entrega de recursos a Prieto, in: *El Tiempo*, 8 Feb 2017, in: <http://bit.ly/2wNya1B> [24 Aug 2017].
- 28 Cf. Lichterbeck, Philipp 2017: Brasiliens Parlament schützt den Präsidenten, *Der Tagesspiegel*, 3 Aug 2017, in: <http://bit.ly/2xb1Ypz> [24 Aug 2017].
- 29 Cf. Semana 2017: Nos comió la serpiente, 29 Jan – 5 Feb 2017, p. 18.
- 30 Argentina's per capita GDP is 13,926 U.S. dollars. Cf. Auswärtiges Amt 2017: Argentina, in: <http://bit.ly/2vSMJ59> [24 Aug 2017]. Costa Rica's per capita GDP is 10,936 U.S. dollars. Cf. Auswärtiges Amt 2017: Costa Rica, in: <http://bit.ly/2eLeCRL> [24 Aug 2017]. Chile's per capita GDP is 13,340 U.S. dollars. Cf. Auswärtiges Amt 2017: Chile, in: <http://bit.ly/2vSvgeU> [24 Aug 2017].
- 31 Cf. Storbeck, Olaf 2011: Das Problem der Schere zwischen Arm und Reich, *Handelsblatt*, 31 Jan 2011, in: <http://bit.ly/2xTyYRb> [24 Aug 2017].
- 32 Cf. Vollrath, David 2014: Bergbau-Boom in Lateinamerika, Forschungs- und Dokumentationszentrum Chile-Lateinamerika, in: <http://bit.ly/2eLml1Z> [24 Aug 2017].

- 33 Cf. Marti, n.25.
- 34 Cf. Keppeler, Toni 2016: Nur Populismus? Politische Kultur in Lateinamerika und das Erbe der linken Ikonen, Aus Politik und Zeitgeschichte 39/2016, Federal Agency for Civic Education (bpb), 23 Sep 2016, in: <http://bpb.de/234219> [24 Aug 2017].
- 35 Cf. Marti, n.25.
- 36 Cf. Eglau, Victoria 2017: Das Volk wehrt sich, in: Deutschlandfunk, 18 Apr 2017, in: <http://bit.ly/2vSm4p2> [24 Aug 2017].
- 37 Cf. Global impunity index: UDLAP: IGI-MEX, in: <http://udlap.mx/igimex> [24 Aug 2017].
- 38 Cf. Comisión Internacional contra la Impunidad en Guatemala (CiCIG): Sobre CiCIG, in: <http://cicig.org/index.php?page=sobre> [24 Aug 2017].
- 39 Cf. Marti, n.25.
- 40 Cf. OEA: Misión de Apoyo contra la Corrupción y la Impunidad en Honduras, in: <http://bit.ly/2wN3vRW> [24 Aug 2017].
- 41 Cf. Arredondo Pico, Oscar 2016: ¿Qué es el Sistema Nacional Anticorrupción? in: Animal Politico, 3 Jun 2016, <http://bit.ly/2vKBvuu> [24 Aug 2017].
- 42 Cf. Gob.mx: Sistema Nacional Anticorrupción, in: <http://bit.ly/2f9jD7o> [24 Aug 2017].
- 43 Sociologist Jacqueline Peschard was recently voted chair of this committee and will work for the monitoring, expansion and improvement of the system with her four colleagues over the next few years. Cf. Pávila, Patricia 2017: Jacqueline Peschard encabeza el comité ciudadano del Sistema Nacional Anticorrupción, in: Proceso.com.mx, 30 Jan 2017, <http://bit.ly/2eLubZL> [24 Aug 2017].
- 44 Cf. 643,000 people had come together under this name to fight for greater transparency within the state apparatus. Cf. Hernández, Elizabeth 2016: Lanzan iniciativa ciudadana ‘Vamos por más’, in: Capital México, Aug 2016, <http://bit.ly/2xTTalL> [24 Aug 2017].
- 45 Cf. Garduño, Roberto 2016: Discuten diputados reforma al artículo 32 de ‘Ley 3 de 3’, La Jornada, 6 Jul 2016, in: <http://bit.ly/2eSAcHH> [24 Aug 2017].
- 46 Open Government Partnership (OGP) is an international initiative that a total of 75 countries have joined since it was founded in 2011. To become a member, the participating countries must support ambitious ‘starred commitments’, work out a national action plan and pledge to provide independent reports about their progress. Cf. Open Government Partnership: Starred commitments, in: <http://opengovpartnership.org/participants> [24 Aug 2017].
- 47 Cf. Secretaría de Transparencia: Presidencia de la República Colombia, in: <http://bit.ly/2xRsql3> [24 Aug 2017]; see also the *Observatorio Transparencia y Anticorrupción* created by this commission, in: <http://bit.ly/2xbdOeu> [24 Aug 2017].
- 48 Cf. Eglau, n.36.
- 49 Cf. Marti, n.25.
- 50 Cf. La Nación 2017: Leve mejoría en la percepción de la corrupción, 4 Feb 2017, in: <http://bit.ly/2wNAWUG> [24 Aug 2017].
- 51 Cf. La Nación 2016: Lucha contra la corrupción: una ley indispensable, 21 Sep 2016, in: <http://bit.ly/2vSyCwR> [24 Aug 2017].
- 52 Cf. Section 11 para. 3 Ley Orgánica Constitucional de Bases Generales de la administración del Estado, Chile.
- 53 Cf. Eglau, n.36.
- 54 Cf. Ebrard, Jessica: Americas: Sometimes bad news is good news, Transparency International, 27 Jan 2017, in: <http://bit.ly/2weeP63> [24 Aug 2017].
- 55 Cf. Eglau, n.36.
- 56 Cf. KAS Peru Office 2017: “Lateinamerika kann den Kampf gegen die Korruption gewinnen“ – CICIG-Chef Iván Velásquez zu Gast in Peru, 31 May 2017, in: <http://kas.de/wf/de/33.49058> [24 Aug 2017].