



Private Sector Ideas for Fighting Corruption in Latin America

Anti-Corruption Working Group

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Latin America's recent crackdown on corruption has brought the role of prosecutors, judges and other public officials to the fore. For the region to truly consolidate recent gains and build stronger capacity to combat corruption, the private sector will also play a vital role. Companies will have to help create institutions and norms to better detect, punish and prevent corruption.

Looking at this challenge, Americas Society/Council of the Americas' Anti-Corruption Working Group (AWG) convened a meeting of senior private sector leaders from diverse industries—from retail and infrastructure to banking and telecommunications—to have a frank discussion about how governments, together with other stakeholders, can do better in fighting corruption.

The proposals offered vary in size, scope and focus. Some are more general, such as harnessing the power of technology to increase transparency in areas like government procurement and licensing. Others are narrower, addressing challenges such as campaign finance or the use of local intermediaries by multinationals. Our idea was not to come up with a comprehensive checklist or with a ranking of the most urgent steps to be taken. Instead, we wanted to call attention to policies capable of addressing some of the issues behind Latin America's high levels of corruption.

Here are nine ideas of where to start:

1. Use technology to record as many payments as possible

Technological advances offer policymakers and the private sector many new tools to reduce opportunities for corruption. One simple way is through a concerted effort to digitize transactions between the public and the private sectors, and among companies—imposing, for instance, obligatory electronic invoices. Channeling payments through online platforms allows flows of money to be precisely recorded and monitored, drastically reducing the risk of money laundering, tax avoidance and other financial crimes. Also, electronic invoices are low-cost and ultimately increase economic efficiency.

Increased capacity to fight money laundering has allowed authorities to crack down on “grand corruption” schemes. Cases like Lava Jato in Brazil, or SQM and Penta in Chile, started with law enforcement agents following money trails. The next step is to increase controls and curb financial crimes that are not necessarily related to grand corruption, but sometimes to smaller-scale cases.

2. Public and accessible data for government contracting and licensing

Technology and innovation are also critical to bring greater transparency to areas like government procurement and licensing. Governments need to publish contracts and licensing processes online and maintain updated information on where they stand. If easily accessible and accurate, these data give citizens, civil society, regulatory agencies and market agents an easy way to track bidding processes and hold governments to account if they detect irregularities.

Several governments in Latin America recognize the opportunity and have been investing in public portals with accessible data on government procurement, such as ArgentinaCompra (Argentina), ChileCompra (Chile), Honducompras (Honduras) or ComprasPúblicas (Ecuador). Yet more attention and investment are needed, including to cover state and municipal entities.

3. Focus on corruption at the local level

Anti-corruption policies are often designed and implemented at a national level, and with good reason: Buy-in from presidents and national legislatures is essential in making regulatory and legal environments less conducive to corruption. But the task of building anti-corruption frameworks at lower levels of government is often ignored. Throughout Latin America, corruption at state and municipal levels—particularly outside capitals and big cities—is usually more pervasive than at the national level.

The challenge to curb corruption at the local level has mainly two dimensions. The first is creating a legal framework and policy tools that take into account (or in some cases prioritize) states and municipalities. These include transparency and contracting requirements that can be adapted to local entities, or decentralizing judicial systems. The second is increasing governance capabilities at the state and municipal levels: in most cases, local entities have the responsibilities, but not the human and institutional resources necessary to build a stronger anti-corruption environment. In other words, federal governments must actively help local executive branches and regulatory bodies to build transparency bodies or train public servants; experienced prosecutors and judges cannot remain only in big cities.

4. Better, clearer lobbying rules

Lobbying remains officially taboo in most of Latin America—in some places, companies avoid using the word altogether. But the truth is that the private sector interacts with government all the time, both formally and informally. The question, then, isn't whether to try to ban lobbying altogether, but how to create a regulatory framework that minimizes the risk of private interests undermining the public good.

Simple and creative ideas on this front abound. Countries should build a transparent and fair system to register consulting firms and individuals authorized to lobby. Their actions should be governed by a realistic set of rules, including disclosure requirements (who exactly are they representing?), clear red lines and how violators should be punished. There are also simple rules adopted by some companies that could inspire simple policies. The four-eyes principle, for example, requires that at least two employees of a firm be present in any meeting with a government official.

5. Better rules to finance campaigns

Latin America's rules to finance political campaigns are still, on average, murky and not rigorously enforced—a deficiency that drastically increases corruption risk. Some countries, like Argentina and Chile, have adopted clearer and more enforceable rules in recent years. But in most cases, the financing of increasingly expensive electoral campaigns has numerous gray areas or is simply being done illegally under the current frameworks.

One key challenge is to avoid limiting the discussion to questions that don't have a right or wrong answer from an anti-corruption perspective—such as whether companies should be able to donate money to candidates (there are good arguments on both sides). Other objective elements are much more important: the strength of the electoral body in charge of controlling campaigns, access to data about campaign donations, and strong punishment of violators (including removal from office).

More broadly, campaign finance reforms can also help level the playing field in interactions between the public and private sectors. Clear, easy-to-follow rules regulating political donations from corporations can help moderate the relationship between money and politics. This is of particular importance in a region where illicit financial incentives have historically been used to exert influence over policymakers.

6. Stricter rules for local intermediaries and “fixers”

When multinationals want to do business in Latin America, they often hire local intermediaries or “fixers.” The practice helps business get done—but can also lead to corrupt practices.

In some cases, intermediaries are used as vehicles for corruption, creating liability problems for the companies that hire them. Many Latin American jurisdictions have tried to ban the use of these agents, especially when bidding for public tenders. But eliminating the use of agents that are familiar with local conditions can significantly disadvantage any multinational wanting to break into Latin American markets.

Instead, companies should be transparent about their use of agents, disclosing their presence and any payments made to intermediaries in contracts with governments or local partners. Oversight and rules regulating the use of intermediary agents can

also be improved. For example, intermediaries should be required to receive payments in local bank accounts or in accounts that aren't otherwise sheltered in tax havens.

7. Educate the private and public sectors about corruption

The Latin American private sector needs better tools and education to understand the costs of corruption and make that understanding a regular part of corporate culture. The continued existence of corporate misconduct shows that corruption remains prevalent in the private sector despite fallout from recent high-profile corruption cases.

In response, compliance programs within companies must be strengthened to enhance accountability. But employees must also be made to understand the broad social and economic costs that corruption fosters not just within companies themselves, but in all aspects of the public sphere.

To a large extent, the same is true for the public sector. Governments need to be more creative in providing anti-corruption training to local and federal administrations, including to those who are not directly involved in legal activities.

Entities such as the American Chambers of Commerce and, most of all, local business associations must communicate this message in every Latin American country. Case studies should be widely read and distributed in board and break rooms. The region's future corporate leaders should also learn from in-region examples about the costs of corruption while at business school. By studying corruption cases in Latin America, business school students can enter the workforce armed with the knowledge that corruption does not belong—and is indeed counterproductive—in corporate culture.

8. Promoting good examples and progress

The private sector can't change behavior solely by cracking down on bad behavior; positive examples of corporate policies to fight corruption should be celebrated and replicated. By communicating the success of such policies, the private sector can both facilitate best practices and earn public trust, by showing that it is moving in the right direction on the anti-corruption front.

Part of this strategy should be to showcase companies that play by the rules and are ethical and compliant with both the spirit

and the letter of anti-corruption regulations. For this effort to be credible, private sector players must first own up to past mistakes. But highlighting success in fighting corruption could help change attitudes surrounding the private sector in Latin America and create awareness about good corporate practices.

9. Increased contact between companies and law enforcement

The private sector in Latin America needs more formal and informal opportunities to dialogue with law enforcement agencies. That means creating new avenues for cooperation and building on existing modes of collaboration. Deeper and more regular contact between the parties would have benefits for both sides. Greater oversight from national financial investigative units, for example, would help companies take a more active role in detecting corrupt behavior before it spreads.

This effort has to be a two-way street, with each party educating the other about its strategies to prevent financial crimes such as embezzlement and money laundering. Sharing data, collaborating to track suspicious behavior and exchanging best practices will allow both law enforcement and the private sector to more successfully fight corruption.

There are numerous ways to increase contact between companies and law enforcement, including national conferences, anti-corruption courses for mid-career professionals and leadership at renowned academic institutions, and more publications dedicated to connecting these two worlds. Local business associations could play a key role in fostering these shared spaces.