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# Drugs and Corruption in Latin America

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All the ingredients required to produce highly profitable illicit drugs can be found in Latin America. Ecuador, Peru and Bolivia provide the coca plantations. Chemicals come from Brazil. And the powerful organisations and their laboratories are in Colombia. In the narcotics context, there is not a great difference between countries: practically all the countries of Latin American are involved in some way, in some scale. Each country participates with its specific contribution: from production, to transformation, to processing and, finally, distribution. Latin America is a melting pot for organisations such as the Cartels, Italian and United States Mafia, Lebaneses and Nigerian syndicates and even newcomers from Eastern Europe.

These activities are performed by nationals of virtually all the countries which, in association with those involved in each stage of the production process, strive to achieve the most secure trafficking route to consumers. To the traditional destinations in Europe and North America, have been added the more recent, but no less important, markets in the Middle East and Eastern Europe. The transshipment from Mercosul (Brazil, Argentina, Uruguay, Paraguay and Chile) to the new transshipment points in Africa (South Africa, Nigeria) has been consolidated, and even destinations as far away as Australia and the Far East have become increasingly common. This is the inevitable consequence of globalization, unification of markets, the creation of economic blocks, and the consequent free movement of persons, goods and services, leading to the diminution, or even abolition, of frontiers. Notwithstanding that considerable drug enforcement efforts have been invested in reducing the areas of coca plantation, the final balance demonstrates the

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opposite: cultivation has in fact increased, with new areas being planted and even new varieties of drugs being developed. The best example is the “ameropoula” plant (the name comes from “American Poppy”), which has proved highly effective for the production of Latin American heroin.

On the other side of the coin, the global narcotics market balances out. Excess Latin America cocaine is exchanged in the Middle East for heroin, which is sent back to the Latin American kingpins who re-route it to traditional destinations.

The drugs trade continues to flourish with intensity, generating extraordinary revenues, estimated at around US\$ 500 billion for 1994. This enormous amount of money has become integrated, at least partially, in the formal economy through a complex web of money laundering activities.

Initially, the violence connected with organised crime linked to drug trafficking was the primary instrument adopted to open, develop and maintain narcotics markets. However, the criminal organisation must establish adequate self-protection systems, not only to prevent erosion of its market position from competing organisations, but also to defend itself from the authorities, law enforcement and the criminal justice system. From this standpoint, violence has not by itself guaranteed the expected results in any Latin American countries. The more intelligent way of obtaining the required protection is itself a mandatory component of organised crime. It has always been utilised extensively at the retail end. Increasingly, it is becoming an important ingredient in the wholesale process. It is of course corruption!

The practice of narcotics-related corruption has attained previously unimagined levels of scale, deeply wounding the State at its very heart, penetrating its key institutions like a cancer, eating away at their flesh, subverting the highest levels. It is the attempt by the criminal State to overwhelm the legal State, according to the classic Italian concept of organized crime.

Examples are numerous, some reflecting mere suppositions, others loaded with heavy political components. It will always be extremely difficult, if not impossible, to establish the real truth. However, we may conclude that remarkably strong ties have been established, over the years, between the narco-business and the authorities. Governments are involved at all levels: from county, to State, to Federal levels, encompassing even the Judiciary.

The media is abounding in this denunciation of the scandals which have brought to the public eye the so-called-drug-Mafia-corruption matrix. As we can see from Argentina: “where so

many high level politicians are accused of being involved with the traffickers” or:

the major problem is that in the Southern part of Latin America - not counting the cocaine which comes from Brazil, originating from the Colombian and Bolivian Amazon, which reaches São Paulo, Rio de Janeiro and Northern Brazil - the Argentinean authorities close their eyes to the traffic which passes through the country

and also:

the truth is that only for diplomatic reasons the US Government does not exert the same pressure over Argentina and Paraguay, which it does over Colombia and Bolivia - besides the fact that drugs, normally passing through the Mercosul, are destined for Europe.<sup>1</sup>

The same is true in Paraguay. The recent insubordination of one of the leading army generals almost precipitated the return of that country to military rule.

Journalists also remembered past cases such as: “suspicious relations, involving the former President Andre Rodrigues and his follower, the rebel General Lino Oviedo,” or: “the military regime of General Alfredo Stroessner (1954-1989) which was involved with narcos, his son Gustavo Stroessner being accused.”<sup>2</sup>

This is further reflected in the statement by retired army Colonel Luiz Rojas, arrested for denouncing the criminal activities of his colleagues in the military: “there is a military tolerance and cover for the narco.”<sup>3</sup>

Robert Gelbard, Assistant Secretary for International Narcotics Affairs, US State Department stated before a Subcommittee of the House International Relations Committee Washington D.C.:

Paraguay was mentioned for a lack of credible action against official corruption. Paraguay is subject to certification because it is used as transit route for cocaine shipped primarily from Bolivia to Argentina, Brazil and eventually to the United States.

Our interest in stopping this shipment through interdiction and the arrest and incarceration of traffickers who arrange to transport them. In Paraguay and other transit countries we are

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1. *Traffic Always Changing - Mercosul Intense Activities*, JOURNAL DA TARDE SÃO PAULO (Uruguay), July 7, 1996.

2. Emanuel Neri, *Fear Narcotraffic Prevented Coup D'Etat*, FOLHA DE SÃO PAULO, Apr. 28, 1996.

3. *Id.*

concerned about the trafficking efforts to protect operations, by suborning Government officials. Unchecked corruption will destroy the best anti-narcotics operations, regardless of the level of resources and planning that goes into them, thwarting known - corruption is not costly it is more a reflection of Government will and commitment than ability and resources.

It was the prevalence of serious corruption suspected among Paraguayan officers in the government and army forces last year and the Government's lack of will to respond. . . . Several high level officials in the Government and the army forces, are suspected of facilitating the transit of illicit drugs and in engaging in encouraging and facilitating the laundering proceeds from illegal transactions.

. . . Despite the vows to combat corruption, the Government of Paraguay did not undertake aggressive investigations to punish corrupt officials and prevent further cases of malfeasance."<sup>4</sup>

Peru and Bolivia are considered the largest producers of coca leaves. Together these countries grow more than 70 percent of the world's illicit coca - 108,600 hectares in Peru, and 48,100 hectares in Bolivia in 1994. The increase of coca plantation and production is due to the failure of Peru and Bolivia to undertake any effective eradication measures. Coca bush cultivation and coca leaf production patterns remained unchanged throughout 1995. The largest coca leaf producer continues to be Peru, followed by Bolivia.<sup>5</sup>

Much of this production is refined into intermediate base paste, and flown clandestinely to Colombia for final processing into cocaine. However there are increasing signs that criminals in both countries are becoming more involved in cocaine processing and trafficking. " . . . This raises the spectre of both countries becoming more involved in international distribution, further complicating international country efforts."<sup>6</sup>

This situation justifies some conclusions on Peruvian corruption, as shown by Prof. Jose Hurtado Pozo:

The institutionalised corruption is also a result of drug trafficking, and the reason is that Peru is not only the most important coca leaf producer but also the place where base paste, is produced.

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4. Robert Gelbard, *International Narcotics Control Efforts in the Western Hemisphere*, U.S. State Department Dispatch, Apr. 17, 1996, Vol. 6, No. 16, at 340.

5. U.N. REPORT OF INTERNATIONAL NARCOTICS CONTROL BOARD, U.N. E/C.1/674 (1995).

6. *Id.* at note 4.

These illicit activities permit trafficker to obtain significant political influence in all social organisations and all State levels

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... Top police officers and authorities have been directly implicated in trafficking or in protection of trafficking networks. This infiltration in all layers of society makes it impossible to distinguish the wealth originating from legal activities from wealth resulting from drug trafficking.

... The functioning of the economy is totally distorted by the flow of dirty money which dictates the economics and politics of the entire nation.<sup>7</sup>

The same situation is seen in Bolivia where recently two Supreme Court Judges were suspended by Congress, having been charged with corruption related to narcotraffic.<sup>8</sup>

Recently, narcotraffickers were apprehended attempting to take off in President Fujimori's DC-8 with 174 kilos of pure cocaine. They proved to be Peruvian Air Force Officers. They confessed that they had used the Presidential plane several times for this purpose.<sup>9</sup>

Today, Mexico alone supplies the US with 20 percent of all heroin, 60 percent of its marijuana, and nearly all its LSD, according to the US Drug Enforcement Agency. The DEA estimates that 70 percent of all cocaine that enters the US enters through Mexico. Cocaine received from drug barons in Colombia is transported across the border into the US. It is a multi-billion dollar business, estimated to be around US 59 billion per annum.

Experts suggest that the combination of Mexico's shared border with the US and its history of political corruption have allowed the drug industry to explode. In 1989, the DEA made the largest seizure ever: more than 21 tons of cocaine smuggled from Juarez into El Paso, Texas.

The volume and sophistication of smuggling, points to high level participation. Critics charge that corruption reaches into Mexico government with top police officers and politicians taking pay-offs from drug dealers.<sup>10</sup>

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7. José Hurtado Pozo, *Corruption - El Caso Peruano*, in CORRUPTION: PENA Y ESTADO, REVISTA LATINO AMERICANO DE POLITICA CRIMINAL-EDITORIA PUERTO 158 (1995).

8. Gelbard, *supra* note 4.

9. *Drugs in Presidential Flight*, VEJA, July 31, 1996, at 45.

10. John Di Consiglio, SCHOLASTIC UPDATE, Nov. 17, 1995, at 8.

The suspicion against former President Carlos Salinas is ugly: corruption financed by drugs. . . . During Mr. Salina's tenure, drug bosses consolidated their fields . . . by and large they were not violent, they preferred to buy up entire police forces, army and politicians.<sup>11</sup>

Andrew Reding, writing for *The Nation*, refers to the web of corruption in Mexico, when investigation concerning the assassination of two prominent Politicians and a Cardinal, led in one of the cases to the brother of former President Carlos Salinas de Gortari. "The investigators seem to be deliberately avoiding leads that indicated a web of collusion among high ranking Government officials and kingpins of the country's blooming cartels."<sup>12</sup> The corruption also flowed through the law enforcement machinery: "[a]fter raiding the office of a top law enforcement agent police found 15 cars and 5 million dollars in cash, all drug pay-offs police say."<sup>13</sup>

In Colombia, since the late 1970's, the drugs trade has come to constitute an increasingly complex and intense threat. As the Colombian traffickers have moved from large-scale marijuana production and smuggling, to cocaine and now also heroin, they developed the most sophisticated, most violent and wealthiest organised crime structure in the world. Even after the fall of the notorious Medellin syndicate, and the death of Pablo Escobar, with other drug barons dead or in prison, the threat persists:

The stakes . . . for many parts of the world these organisations have penetrated remain extremely high. The Cali network and their well known leaders have absorbed and expanded the Medellin trade. They are now waging a similarly destructive, but less visible campaign of bribery, and intimidation and misinformation's to destroy anti-drugs efforts . . .<sup>14</sup>

The concern is that the kingpins and their vertically integrated trafficking organisations continue to operate with virtual impunity.

Corruption in the Colombian Government has been highlighted by the international media in the midst of an unprecedented political crisis. The centre of the problem was the election campaign for President Ernesto Samper Pizano.

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11. 387 INTERNATIONAL 7945, at 3040 (1995).

12. Andrew Reding, *Narco-Politics in Mexico*, THE NATION, July 10, 1995.

13. Di Consiglio, *supra* note 10.

14. Gelbard, *supra* note 4.

According to Fernando Botero, Pizano's campaign co-ordinator and former Defence Minister, who was forced to resign and was subsequently imprisoned:

President Ernesto Samper not only knew that the Cali cocaine cartel had donated around US\$ 6 million to his political campaign but also authorised and had an active participation collecting those resources . . .<sup>15</sup>

Admitting their astonishment at these revelations, DEA agents declared that Colombia has already become "a real narcodemocracy".<sup>16</sup>

President Pizano claims that it all happened without his knowledge. He declared during an interview with *Time Magazine*: "The polls show that everyone believes the narco financed not just my campaign, but every campaign in the last 15 years."<sup>17</sup>

The steps taken by the Attorney-General to expose the cosy relations between Congress and the Cali cartel have stunned even the most cynical Colombians. Investigations were opened into eight Congressmen, all from the ruling Liberal Party. Among others, a former Senator and a journalist have been arrested.<sup>18</sup>

In Brazil, all indicators point to a worsening of the situation concerning illegal drugs. The consumption levels in major cities, although one cannot rely absolutely on available data, suggest a rising curve. The traditional drugs, marijuana, cocaine and synthetics, have opened the floodgates for a range of composite drugs which have attained an alarming degree of penetration. Crack showed its face a very shy way four years ago and has now become one of the most popular, judging by the quantity of users, and has spread throughout the social spectrum with devastating effect. The prevention campaigns rank poorly when compared with the rising figures of new users and occasional consumers. Traffic is booming!

Drugs are sought intensely, not only for the domestic market, which itself has become more attractive due to the new financial order brought about by economic stabilisation, but more significantly for the avid international market.

Considering Brazil's 13,000 km of borders with the major producers of coca leaf, coca paste and cocaine, any attempt at

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15. *Drugs and Society - Narcotraffic and Politics: the Colombian Case*, IPS, Apr. 4, 1996.

16. *Id.*

17. *The Besieged President Speaks Out*, *TIME*, June 19, 1995.

18. See *TIME*, Sept. 18, 1995; See also *THE ECONOMIST*, Apr. 29, 1995, at 56.

preventing the flow of drugs into Brazil represents a daunting challenge, almost impossible to realise. Brazil constitutes one of the most prominent points for transshipping, for both small and large quantities. Airports and ports are the exit gates for couriers (mules) or containers, respectively, packed with drugs or concealed among export goods.

The country is also known to be the largest regional producer of chemicals, which are illegally transferred to coca processing laboratories, mainly in the Amazon region.<sup>19</sup>

When it comes to financial operations, Brazil is no less attractive. Inadequate financial legislation and regulations, lack of co-ordination between enforcement agencies and other Government bodies, complemented by strict legally guaranteed banking secrecy, facilitate money laundering activities. Controlling suspect accounts is an almost impossible task. Money laundering and suspect transitions have been estimated by the UNDCP - United Nations Drug Control Programme, to be between US\$ 4 billion and US\$ 10 billion.<sup>20</sup>

The DEA considers Brazil to be the most extensive base for transportation to the Colombian cartels.

The international press has pointed out that since 1991, when the Brazilian Congress dedicated all its efforts to the impeachment of President Fernando Collor for corruption, it seems to have forgotten the war against organised crime-related activities and has allowed the country to become a target for traffickers and money launderers, both national and international.<sup>21</sup>

Recent legislation passed by Congress purportedly to deal with organised crime has been severally criticised for its doubtful effectiveness not only by the entire law enforcement and justice apparatus but also by academic and other commentators. It is clear the law will require fundamental modification in order to start to achieve its objective.

Notwithstanding this, drug related corruption in Brazil is local and disparate. The U.S. State Department is emphatic: “[w]e are unaware of the existence of any high level authority involved in or incentivating such (drug related) activity . . . Local and state corruption levels continue to be a problem . . .”

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19. U.N. REPORT, *supra* note 5.

20. Annual Field Report - Brazil, UNDCP Field Office, Brasilia, July, 1994.

21. *U.S. Criticises Brazil's Anti-Drugs Policies*, JOURNAL DA TARDE, Mar. 11, 1996.

It is a regrettable fact that Rio de Janeiro has become a negative example, demonstrating the worsening of narcotics related violence to the point that, in the words of the President of the State Superior Court: "Rio has become overtaken by islands of chaos where authority and justice are in hands of criminals . . . only the Armed Forces can re-establish order . . ."<sup>22</sup>

The strongest criticisms made regarding Brazil were the object of recommendations by the Narcotics Control Board:

"The Board notes with concern that existing legislation does not ensure the prevention of money laundering activities and the prosecution of persons engaged in such activities. The Board urges the Government of Brazil to undertake, as soon as possible, the development, adoption and implementation of adequate legislation because the country's situation makes it attractive to persons who engage in money laundering."<sup>23</sup>

As is common with complex social phenomena, the majority of efforts to elaborate a universally accepted definition of corruption have not achieved the desired success. The term corrupt is derived from the Latin "*rumpere*", which refers to wickedness, perversion, or deterioration of moral principals, loss of purity or integrity, bribery. It is a word rooted in the idea of "rupture": the tearing apart of society and social order at the seams.

The fundamental question is why societies, which have traditionally tolerated corruption in government and the private sector, have suddenly lost their patience. Why are citizens, all of a sudden, prepared to take to the streets to overthrow governments and demand the eradication of high officials accused of profiting through dishonest activities?<sup>24</sup>

The answer is probably that complex societies and their institutions could not exist without the delegation of power to trusted individuals. Otherwise, social groups would be limited to small communities, villages or families. The very idea of corruption denotes a betrayal of this trust. Corruption could not exist without the trust. It is its *alter ego*. For this reason, corruption is a basic component of political theory, intimately connected to the delegation of power and responsibility.

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22. See VEJA, Feb. 1, 1995.

23. U.N. REPORT, *supra* note 5.

24. This analysis of the concept of corruption is adapted from Moses Naim and Norman Gall, *Corruption and Democracy*, BRAUDEL PAPERS, Document of the Fernand Braudel Institute of World Economics, No. 13, 1996.

Corruption has always existed and will never be completely eradicated. However, if current global trends continue, a steady decline of corruption may occur in many countries. The struggle against corruption must pass through three phases:

1. Disclosure of Public outrage.
2. Political action to change laws and institutions.
3. Enforcement.

The best defences against corruption are: an independent Parliament and Judiciary; a vigorous political opposition to the party in power; and a free press.<sup>25</sup>

Whilst the opportunities to reduce corruption are increasing, the success of such efforts requires a clear appreciation and understanding of the socio-political nature of corruption in the context of international trends in politics and business. The narcotics trade has led to the propagation of corruption on a new and previously unthinkable scale. Money laundering related to narcotics trafficking constitutes a categorically different type of corruption than the money laundering resulting from corruption of government officials involved in procurement of large public works. Using the same approach and institutions to combat both situations is less effective than targeting each case with strategies directed at specific characteristics of the situation in question.<sup>26</sup>

A positive example in point is the US attack on money laundering aimed at denying narcotic traffickers the use of legitimate banking channels to send their profits back to their home countries. Companies involved in organised crime are created for the purpose of breaking the law. While a legitimate private corporation may occasionally engage in corrupt practices, organised crime exists to break the law deliberately and constantly. However, as the profits from organised crime - especially the profits from narcotics trafficking - have soared, the natural tendency is for companies established for criminal purposes to diversify. Investments are made in legitimate businesses whose survival and prosperity are not dependent on illegal activities. Yet, because immoral and unethical acts are the basic business tools of these groups, they do not hesitate to - and in fact actively seek to - corrupt government officials.

The words *corrupt* and *corruption* have a strong moral component. The real struggle against corruption involves the combating

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25. *Id.*

26. *Id.*

of criminal organisations. The classically adopted method of prevention is by legislation. In almost all cases, such legislation has the side effect of reducing civil rights.<sup>27</sup> As in all areas of policy-making involving a strong moral element, it is necessary to make certain sacrifices for the preservation of the integrity of the society as a whole.

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27. Winfred Hassemer, *Possibilidades Juridicas, Policiales y Administrative de una Lucha mas Eficaz contra la corrupcion*, Essay in No. 1, INSTITUTO DE ESTUDIOS COMPARADOS EN CIENCIAS PENALES Y SOCIALES, Buenos Aires (1995).

