
Combating Corruption in Guatemala



FUNDESA
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MEJOREMOS GUATE

Purpose Of Brief

The purpose of this brief is to highlight the views of the entities that make up Mejoremos Guate, a national strategy promoting the country's development. We hope to achieve good governance and governability by helping to identify the gaps in the system, while providing solutions to help support the institutions that are combating corruption and impunity in the nation.

A Private Sector Perspective

Corruption is a worldwide phenomenon. According to the World Bank Institute of Global Governance, it is estimated to be a trilliondollar disease that for decades, the consequences of corruption in developing countries has had a monumentally devastating impact on governance, rule of law, prosperity, security, and overall poverty reduction. It is a cancer that has victimized countries like Guatemala, a nation afflicted with a weakened government and justice system, an uncertain business climate despite great economic potential. We risk endangering the economic welfare of present and future generations. In order to restore trust and strength in our institutions, industries and society, Guatemala must make anticorruption, accountability and transparency a priority.

However, in order to achieve good governance and democracy, **“we need to have an effective rule of law, an efficient criminal justice system and proper mechanisms in place to guarantee legal certainty respecting the country’s constitution,”** said Tony Malouf, President of the Coordinating Committee of Agricultural, Commercial, Industrial and Financial Associations (CACIF).

Sources: 1. www.worldbank.org

To date, the support from the International Commission Against Impunity (CICIG) has proven to be a valuable mechanism on the fight against corruption and impunity. Yet, we still have a long road ahead if we are to transform Guatemala into a prosperous, secure and peaceful nation.

The business community acknowledges the contributions of the CICIG and the international community, however, like any unprecedented experiment the CICIG can be perfected. Both the CICIG and the international community can contribute to generate greater advancements towards strengthening rule of law in Guatemala by focusing on current areas of opportunity:

- a. **Prioritize attention towards bottlenecks in the Judicial part of the process.**
- b. **Strengthen habeas corpus. Promote and reinforce due process.**
- c. **Protect the rights of the accused from unwarranted media coverage.**

“Corruption is the enemy of development, and of good governance. It must be rid of. The government, private sector, civil society and the international community must come together to achieve the national objective for the good of all.”

Pratibha Patil



Security and Criminal Justice Identifying the bottlenecks

In 2015, as the country was struggling to overcome the revelations of high level government corruption involving money-laundering and bribery schemes. The organized private sector continued its crusade to find mechanisms to combat corruption. That year October at the National Business Forum, led by the Foundation for Development of Guatemala (Fundesa), the institution revealed the Flowchart for Criminal Justice. A USD \$750,000 private sector investment to help improve the judicial system in the country. According to Salvador Paiz, a successful entrepreneur and Vice President of Fundesa, this was the first ever initiative in the history of Guatemala which helped identify and view their troubled legal system as a unified chain with endless bottlenecks.

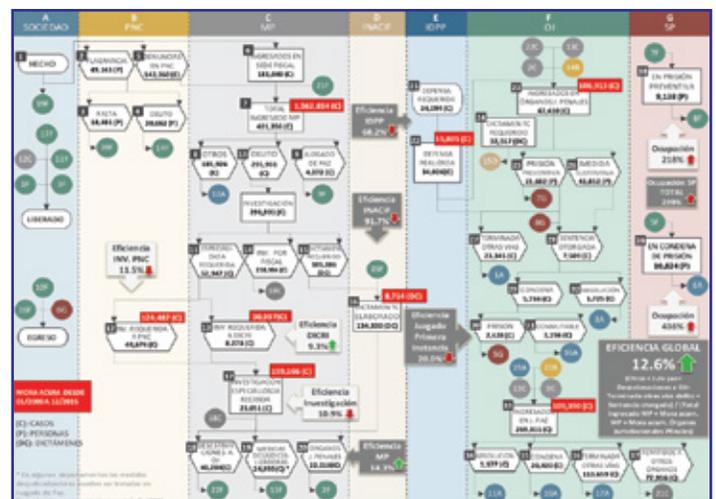
The Justice System: Weak Rule of Law

Guatemala has been struggling with weak rule of law for decades. Roberto Ardon, Executive Director of CACIF stated that the justice system lacks an auditing mechanism that provides checks and balances, is plagued by poor professional academic formation, and insufficient funding and resources to provide an adequate legal system to support a country made up of 8 regions, 22 departments, 340 municipalities, and a population of more than 15 million people.

Effective rule of law combats corruption, reduces poverty, and protects from injustices. It is the foundation for peace, government accountability and respect for fundamental human rights. Good governance and governability require proper mechanisms such as: modern institutions, coherent public policy with clear longterm objectives and guidelines, career civil servants, and legal certainty, to achieve an efficient criminal justice system.

Identifying the Bottlenecks

Mejoremos Guate has invested in the fight against corruption and impunity through the Criminal Justice Flowchart and other projects.



Source:

2-<https://www.nytimes.com/2016/06/12/opinion/sunday/a-corruption-crusade-in-guatemala.html?mcubz=3>

3-http://www.fundesa.org.gt/content/files/publicaciones/l/informe_Estado_de_derecho_2014.pdf

The anti-corruption effort took international experts from the Brazilian company, Falconi six months to map-out and populate the chain of the Guatemalan criminal justice system.

The effort helped map and connect all of the country's legal institutions in order to help identify procedural case obstruction. This greatly important initiative provided all the institutions, including the Attorney General's Office and the International Commission Against Impunity (CICIG in Spanish) an unprecedented tool to help facilitate efficiency

as the institutions worked to uncover criminal structures. The results from the analysis revealed the main bottlenecks in the system are associated with the judicial and penitentiary sections, and not necessarily with the accusatorial part of the system. Almost half of the country's inmates are in preventive prison. This is in part due to the fact that the Office of the Attorney General and the Judicial Branch do not execute at the same speed.

This generates a backlog of cases where 46% of the inmates in the country remain in preventive prison. The bottlenecks obstruct the correct application of the law. According to Guatemala's Criminal Procedural Code, the preventive prison term is one year. Currently in the country a great number of inmates have already exceeded the maximum term.

According to Paiz, "Unified collaboration between public and private sector to strengthen rule of law can really make great strides towards resolving bottlenecks and improving the country's legal system." He adds, "the international community is an important ally in the fight against corruption. Understanding where the bottlenecks are helps identify where support is most needed." In fact, the findings of the flowchart revealed a 12.6% global efficiency of the criminal justice system driven largely by inefficiencies in the courts, suggesting that financial backing is most needed in the Judicial Organism Institution (OJ).



Inmates in Guatemala remain in preventive prison for more than five years.

CRIME STOPPERS GUATEMALA

AYUDENOS A PARAR EL CONTRABANDO DE CIGARROS

Modern, Pine, Esse Exchange, Raquel, Royal y muchas más son marcas de contrabando. El país pierde impuestos y las pandillas ganan mucho dinero.

DENUNCIE AHORA >

Su denuncia es anónima.

(www.tupista.gt)

Crimestoppers International

This year Guatemala's National Police, the Attorney General's Office, the Ministry of Interior, in partnership with "Ciudades Seguras" (Safe Cities) launched Crimestoppers Guatemala. An effort to replicate a best-practice that has proven positive results in El Salvador in the fight against corruption. The initiative in Guatemala, supported by Fundesa and various private sector donations is helping to build a bridge of trust amongst citizens and the local police. Crime Stoppers International has been successful in cracking down corruption, extorsions, gang violence, drug-trafficking, and illicit-trade. This initiative will involve the training of law enforcement personnel, and the building of specialized teams while delivering a safe, anonymous and secure platform to promote citizen engagement throughout the country.



Guatemala Visible

Guatemala Visible is a platform used to raise awareness and provide transparency to the process of leadership appointments at the helm of institutions governing justice and transparency. This non-for-profit organization serves as a checks and balances tool for the people of Guatemala. The objective is to strengthen the institutions by providing greater visibility, transparency, efficiency and meritocracy in the justice system. Furthermore, it promotes the importance of having authorities comply with their duties and obligations, while strictly adhering to the laws of the country.

Guatemala Visible seeks to strengthen the country's institutions through three main initiatives: citizen training, communication, and auditing. In partnership with citizens the entity seeks to develop innovative tools and technologies to improve governmental performance while promoting transparency. Additionally, the institution monitors and communicates the selection and election processes of public appointees. The organization prides itself in involving citizen participation through volunteer and social activism efforts.

Sources: 4- www.tupista.gt 5- <https://csiworld.org>



The Construction Sector Transparency Initiative (JGC)

Globally the construction sector is ranked as one of the most corrupt. In Guatemala the Chamber of Construction of Guatemala implemented an international mechanism to avoid bribery schemes and, conversely, to promote transparency and accountability during the planning, execution and settlement of public work projects by using the CoST data standards to help eliminate corruption. Adopting and implementing these obligatory standards in the construction sector was momentous, as Guatemala was recognized as the first country to join CoST International.

A regulatory initiative issued under Governmental Agreement 540-2013, Regulatory Standards of the Organic Law for the Fiscal Budget, established on Article 20, Section A, that all entities executing public work projects must comply with disclosure standards as mandated by the CoST Transparency Initiative, led by the construction sector in Guatemala.

Anti-Corruption Citizen Observatory

In partnership with the Organization of American States, the Foundation for Development in Guatemala (Fundesa), Guatemala First and the Latin

American Youth Network for Democracy (JuventudLAC) launched the first Anti-Corruption Citizen Observatory under the umbrella of the regional campaign, **“Do not be an accomplice! Corruption kills.”** The purpose of this initiative, launched in Washington on September 26, 2017, is to establish a mechanism to help promote the fight against corruption and impunity in Latin American countries. It is also a measure to help prevent an economic crisis, help incentivize investment, job creation, promote transparency, and restore integrity and trust in state institutions in the region.

The observatory will work through a digital platform as an educational and informational tool encouraging citizen participation.

Guatemala is the first country to launch this tool to help empower citizens. This will be a joint effort between civil society, state institutions and non-governmental entities. An initiative that will serve as a best practice to replicate throughout other emerging countries in the Latin American region.

Sources:
6.- <http://www.constructiontransparency.org>
7.- <https://www.theguardian.com>

Mejoremos Guate (Let`s Make Guatemala Better) is an initiative led by the Foundation for Development of Guatemala. The ambitious platform promises transformational changes in the country. Intermediate cities and infrastructure for development are an integral part of the initiative and a critical component on the roadmap towards boasting job creation, a more prosperous country with greater investments focused on social needs, citizen security, justice and peace.
