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The Role of the Anti-Corruption Office in Argentina

Lessons on Corruption and Anti-Corruption: Policies and Results



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Corruption

Corruption is a serious threat to democracy. It weakens and eventually destroys the moral foundation of the political system. By altering the notion of equality before the law, bribery and corruption undermine the building of trust between citizens and public officers. The problem is particularly severe for transitional democracy, because it creates an impediment to the consolidation of the rule of law.

At the same time, it is well known that a link between corruption and poor economic growth exists. High levels of corruption are associated with low levels of income and growth. Corruption reduces the efficiency of industrial policies and encourages negotiations through unofficial channels, thus violating regulations and law. Additionally, foreign direct investment is discouraged since corruption implies extra costs.

Both the institutional and economic consequences of corruption make this problem a central priority for new democracies and emerging economies. Given the complexity of corruption, policies aimed at reducing its influence should consider the particular economic, institutional and social environment of the host country.

The Anti-Corruption Office of Argentina

The Anti-Corruption Office of Argentina was created by law N° 25.233. Its principal mission is to enforce the provisions of the Interamerican Convention Against Corruption. The institutional design of the office reflects the basic structure of the Convention, which establishes preventive as well as punitive policies.

The Office is divided into two functionally independent but complementary areas. The Department for Investigations deals with allegations of corruption within the National Public Administration and related agencies. If there is evidence of wrongdoing, it can bring charges and request prosecution. The Department for Transparency Policies has the distinct task of designing policies to enhance transparency and deter corrupt prac-

tices. It also administers the system of financial disclosure forms for public officials.

The Office is under the leadership of the Public Administration Attorney who is responsible for coordinating and supervising both departments, which includes defining lines of action and setting priorities for specific policies.

The Office staff was recruited using the highest professional standards and with the goal of assembling a diverse talent pool. Lawyers, economists, political scientists, sociologists, auditors, and engineers are some of the professions represented. *An interdisciplinary, highly skilled team is our response to the complex challenges corruption poses.*

The Impact of the Office's Effort: Cases and Investigations

The Department of Investigations has 21 investigators divided into working groups. The working groups conduct investigations in the areas of illicit enrichment, fraud, embezzlement, bribery, and offenses against government property. Investigations are initiated by claims filed by private parties or public officials. The Department of Investigations also has the authority to open a case.

The Department for Transparency Policies has 16 experts. The workload of the Department consists of responding to requests from different agencies interested in increasing the transparency of their operations and enhancing the level of accountability of their employees. The Department also runs the Financial Disclosure Unit that is in charge of the management of the Financial Disclosures System for public officials, detects conflicts of interests and documents preliminary findings of illicit enrichment.

How the Anticorruption Office Works

The activities of the Anticorruption Office are primarily the investigation of allegations of corruption and the analysis of financial disclosure forms.

The Department of Investigations is selective in determining whether to begin an investigation. The criteria used by the Department require the case to have an economic, institutional or social significance. By the end of May 2001, the Office had received over 1400 allegations. Of these, almost 500 were rejected because they did not meet the definition of corruption outlined in the Convention, another 254 cases were referred to other investigative agencies, and 309 of the cases were prosecuted. The Office is acting as a claimant in 39 of these cases. To date, the Judiciary has not dismissed a case. Currently, 356 are under investigation.

Table 1 shows the frequency of the penal classification of the cases brought to trial.

Identifying the Cause of Corruption

During the year 2000, the Office carried out a study of corruption in the public administration. The purpose of this study was to determine structural conditions that permitted corrupt practices in procurement and human resources administration. Some of the findings of the study include:

- Lack of effective controls
- Excessive discretion
- Lack of transparency and accountability

TABLE 1. Frequency of the Penal Classification

Judicial Explanation (*)	Total	Accusations 2000	Accusations 2000	Denounces 2000	Denounces 2001
Fraud against Government	42	18	3	12	9
Impermissible Negotiations	22	5	—	11	6
Embezzlement of Public Funds	13	5	2	5	1
Abuse of authority	9	2	—	7	—
Fraudulent Administration	10	9	—	—	1
Non-compliance with public official duties	15	8	1	1	5
Illicit association	4	1	1	2	—
Illegal extraction	3	1	—	1	1
Falsification of public documents	2	—	—	2	—
Illicit enrichment	2	—	—	2	—
Concealment	2	1	—	—	1
Bribery	4	—	—	1	3
Non-compliance with Financial Disclosure	1	—	—	1	—

(*) According to the Argentinean penal code. The figures for year 2001 reflect the first semester status only.

The findings uncovered by the study suggest that successful measures to combat corruption include widening access to information, controlling official discretion, improving the quality of administrative decision-making, instituting public hearings and implementing rule-making procedures.

The study also suggests that for the corruption-curbing policies to be effective, it is necessary for officials to learn how to manage resources, apply strategic planning techniques, define clear goals, and quantify the results obtained using objective indicators.

The Financial Disclosure System and the Conflicts of Interest

The Anticorruption Office had the task of redesigning the financial disclosure system. The Financial Disclosure System tracks changes in the public functionary's wealth and detects possible cases of conflict of interest.

The original system operated on paper forms, with a limited access to information for citizens at large. Furthermore, there was no significant tradition of pursuing cases of conflicts of interest or illicit enrichment.

The Department of Transparency Policies designed and implemented a new system of financial disclosure forms using software that provides a user-friendly design for public officials to complete the electronic form. The software was defined after conducting a brief diagnostic of the technological capabilities of the 158 different agencies in which public officials are requested to complete these forms. These agencies vary significantly in size, technological capacity and level of decentralization.

The level of compliance with the new financial disclosure system is close to 96%. The number of cases of conflicts of interest undertaken is now at 331. And the cost of administration per form has fallen almost ten fold. Since the new system has been in place, 624 requests to access financial disclosure forms have been answered. Many of these requests come not only from the media, but also from non-governmental organizations and public officials.

Under the new system, the Anticorruption Office has a superior preventative capacity. For example, if the official has sources of income other than his salary, then his interests may conflict. The early detection of such a conflict protects the government from adverse decision-making and the official from being suspected of inappropriate dealings. Table 2 provides some information comparing both systems.

Civil Society and the Private Sector: Rule Making, Public Hearings, and Procurement Documentation Drafts

Civil society plays a key role in the struggle against corruption. Several policies and procedures of the Anticorruption office guarantee openness and transparency.

TABLE 2. Financial Disclosure System

	Former System	New System
Compliance	67%	96%
Cost per form	\$70	\$8
# of Conflict of Interest cases	40	331
# of Financial Disclosures requested	66	664

Rule-making procedures put into practice by the Office gather information and opinions on legislation that has a direct impact on transparency and corruption, such as the new procurement legislation, the Lobby Act and the Freedom of Information Act. The underlying idea is to encourage participation in the process of public decision-making and to increase transparency in the process itself.

The International Agenda

International cooperation is critical in fighting corruption. Argentina is bound by both the Interamerican Convention Against Corruption of the Organization of American States (OAS), as well as the Convention Against Bribery of Foreign Public Officials in International Transactions of the Organization for Economic Cooperation and Development (OECD). The imperatives of these Conventions include not only exchanging experiences but also reaching specific institutional and legal standards. The Anticorruption Office is responsible for applying the majority of the provisions outlined in both legal documents.

To fulfill this mandate, the Office remains in continuous contact with the OECD, the OAS, as well as with the World Bank, the United Nations Interregional Crime and Justice Research Institute (UNICRI) and the Interamerican Development Bank.

Some of the results and activities concerning the international agenda are shown in Table 3.

Conclusions

Controlling corruption is a permanent duty of government. Given the nature of the problem, different agencies and policies should be created and implemented to provide an effective environment of control. The Anticorruption Office is one element of this complex strategy.

The effectiveness of these agencies in complying with their institutional mandate depends both on their operative capacity and structure. The Anticorruption Office is a recent creation, but some indicators demonstrate its capacity to control corruption and reduce the opportunities for wrongdoing.

TABLE 3. Results and Activities Concerning the International Agenda

Organization of American States (OAS)	<p>Participation in the "Working Group on Probity and Public Ethics of the Committee on Judicial and Political Affairs of the Permanent Council of the OAS" in charge of controlling the stage of instrumentation of the ICAC</p> <p>OAS General Assembly approves the Resolution AG/RES. 1723 (XXX-0/00) on Argentina's and Canada's proposal.</p> <p>Creation of the follow up mechanism for the ICAC</p> <p>Redaction of a commented Agenda of all the Group actions taken since September 2000 until June 2001.</p> <p>Workshop on "Support for the Ratification and the Implementation of the Interamerican Convention Against Corruption (ICAC)" to control the stage of implementation of the ICAC in Argentina.</p>
Organization for Economic Development and Co-operation (OECD)	<p>Channels of Technical Co-operation were established.</p> <p>Contact with the PUMA was established in anticipation of Argentina's application for membership in PUMA.</p>
United Nations	<p>The Department for Transparency Policies helped in the design of an Anticorruption Toolkit.</p>
Convention Against Bribery of Foreign Public Officials in International Transactions.	<p>Ratification, at the Office's instance, of the Convention subscribed in December 1997.</p> <p>The Department for Transparency Policies is elaborating an Act in order to adapt the internal legislation to the Convention.</p> <p>Full participation in the Bribery in International Business Transactions Work Group.</p>
Summit of the Americas	<p>Proposal of policies for transparency and prevention of corruption to be included in the Final Declaration next year.</p>
Cooperation with Foreign Governments	<p>Subscription to the Memorandum of Understanding on Efficiency and Transparency in Government Matters between the United States and Argentina, and implementation of this memorandum with the United States' Office of Government Ethics and Inspector General of State Department.</p>

The Anticorruption Office recently helped draft and promote the adoption of a peer-review mechanism (see www.jus.gov.ar ICAC Conference [Conferencia CICC]) for the Interamerican Convention Against Corruption. The purpose of this mechanism is to analyze the effective implementation of the Convention at the local level.

Feasible anticorruption measures are cost effective. Some anticorruption measures are relatively simple or involve one-time costs, such as implementing transparent processes that deter officials from wrongdoings. On the other hand, investigating allegations of conflict of interests

and deterring conflicts of interests, demands specialized skills, which often require investing in human resources and expanding institutional capacity. Nonetheless, in the long run, conflicts of interests or tolerance towards corruption are more costly for citizens. 🏠

The fight against corruption not only helps control the use of public resources and the exercise of public office. When successful, it strengthens governance and the rule of law.