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Mexico's Historic Opportunity to Fight Corruption: Changes, Challenges, and Opportunities

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Historically, campaigns against deep-seated corruption have been a normal part of elections and new presidential administrations in Mexico. True to the historic pattern, former President Enrique Peña Nieto promised changes, championed reforms, and jailed some leaders of the prior administration—yet in the end, he left a legacy of corruption and impunity that far surpassed his predecessors and set the stage for the election of Andres Manuel López Obrador in July 2018.

But the environment in Mexico for an incoming president is quite different now. López Obrador has assumed office at a unique time in the history of the nation with respect to anticorruption efforts. Much of today's situation is the result of the corruption, impunity, scandals, and, ironically, the anticorruption reforms that took place under Peña Nieto. Combined, these factors present the new government with challenges and great opportunities in the fight against corruption.

A UNIQUE AND HISTORIC MOMENT IN MEXICO

First, this is the first time that a president has assumed office when corruption is considered Mexico's most important public issue. According to exit polls by Parametria, corruption surpassed crime and the economy in July 2018 as the "most important issue in the election," with 29% of respondents citing it as their main concern. By contrast, corruption was not among the top concerns in 2012 and was the third-most important issue in the 2015 midterm election.[1] The anticorruption reforms that dominated the public debate in 2018—a product of the corruption and massive scandals during the Peña Nieto period—and the electoral campaign of López Obrador present the new president with a clear political mandate and the popular support needed to enlist the public's involvement in anticorruption initiatives.

Second, for the first time in many years the new president takes power with not only the support of a majority of voters, but perhaps more importantly, majority support in both houses of congress. Of the 128 seats in Mexico's Senate, López Obrador´s Movement for National Regeneration, MORENA, controls 59 seats while its allies in the We Will Make History alliance, the Workers Party, PT, has 6 seats, and the Party of Social Encounter, PES, has 5 seats. Of the 500 seats in the lower Chamber of Deputies, MORENA has 256 seats, the PT has 28, and the PES has 30.

The last time a presidential candidate received a majority was in the fraud-riddled election of Carlos Salinas in 1988, who officially received 50.3% of the vote; the last time a party enjoyed a majority in both chambers of congress was in 1994 when the PRI held 95 of the 128 Senate posts and 300 of the 500 slots in the lower chamber.

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The importance of the last point relates to a major factor in combating corruption: political will. In 2000, for example, President Vicente Fox (2000–2006), having defeated the decades-long rule of the PRI, was widely expected to fundamentally change the authoritarian system and curtail corruption. Yet this did not happen, in large part because his National Action Party lacked majority control of congress. This forced him to negotiate with the PRI, the largest political bloc in both chambers (though it also lacked majority control), to achieve many of his political initiatives. In the end, Fox refused to pay the steep political costs necessary to take on the entrenched interests. But López Obrador will not have this problem.

A third exceptional component of the López Obrador transition is that, for the first time, a new president comes to power with a newly crafted anticorruption system already in place. Unlike past administrations, the new government inherits the National Anticorruption System (SNA), created in 2015–2016. The SNA enhanced the power of existing oversight agencies, created a new special attorney's office and court to handle corruption cases, improved the role of citizen involvement, and established similar institutions and powers in all of Mexico´s 32 states. The SNA represents a broad, integral approach to corruption that is far more autonomous and has greater enforcement power than government entities in the past.

A final distinction of note—and yet another product of the developments in corruption and anticorruption during the Peña Nieto *sexenio*—is that López Obrador assumes the presidency when anticorruption initiatives in Mexico for the first time encompass the presence, expertise, mobilization capabilities, and autonomy of civic society organizations and government agencies dedicated to combating corruption. Having gained valuable experience and credibility during the struggle to create the SNA—including a massive public initiative campaign for the #3by3 reform that requires officials to make public their patrimony,

tax filings, and conflicts of interest—these groups have established themselves as a fundamental part of the anticorruption scene in Mexico.[2] According to a report by Mexican think tank Fundar, "The greatest advance during the *sexenio* in terms of the fight against corruption was the result of the mobilization of civil society, academia, and the private sector."[3] This assemblage includes TM (Transparencia Mexicana), IMCO (Instituto Mexicano de Competetividad), MCCI (Mexicanos contra la corrupción y la impunidad), and the over 40 organizations affiliated with RRC (Red por la Rendición de Cuentas), among many other academics and think tanks focused on the issue. These organizations will continue to try to assert their influence as they did during the creation of the SNA. As they have done in the recent past, they will continue to work to maintain and direct public interest in the issue, mobilize support, promote reforms, and expose and denounce irregularities in government conduct.

The significance of this distinction is that in the past, president–led anticorruption campaigns were carefully managed from the top down. Presidents restructured government institutions, unleashed public relations campaigns against corruption, and jailed certain leaders from the prior administration, but all efforts remained under the control of the president. Neither civil society, which was weak and disorganized, nor state institutions, which largely lacked autonomy, was able to influence the direction or scope of campaigns or reforms. This allowed presidents to determine the limits of the reform initiatives and prevent them from challenging entrenched interests or presidential authority. As a result, the initiatives did more to help the president consolidate power and gain legitimacy through simulated (or purported) anticorruption programs than curtail corruption.

CHALLENGES FACING LÓPEZ OBRADOR'S ANTICORRUPTION EFFORTS

López Obrador thus inherits a situation that presents a unique set of challenges and opportunities. The first challenge is to understand the scope of the public's demands regarding corruption, and to utilize and maintain their support. While the public wants an end to corruption, it is not entirely clear what type of corruption they are concerned about or how they want the government to proceed. A November 2018 poll by Parametria provides some clues, however. It revealed a strong public preference (86% "in favor" or "very much in favor") for harsher prison sentences for politicians stealing public funds, for the prosecution and imprisonment of corrupt former presidents (84%), and for the creation of an autonomous special counsel to investigate allegations of corruption and, when warranted, to prosecute wrongdoers (62%).[4]

In the same vein, the government's battle against corruption is jeopardized if its acts are contrary to public demands. In this regard, for example, López Obrador's proposed "zero point" approach—which focuses on investigating future corruption while overlooking crimes of the past—may undermine public support. As it now stands, he has agreed to hold a referendum on whether to investigate former presidents and high officials. The November Parametria poll just cited, however, suggests that the public's response may differ from the president's. Further, López Obrador faces the challenge of maintaining public confidence: the same poll also showed that only 30% of respondents believed that corruption would decline "a little" or "a lot" in 2019.

A second major challenge relates to the massive task of implementing the new SNA. Fundamentally, this requires the development of state capacity, such as the strengthening of oversight agencies, the training and staffing of the new special anticorruption counsel's office and new administrative tribunal, and the creation of state anticorruption systems, among other tasks. While Mexico now has the institutional and legal framework to fight corruption, it still has a long way to go in terms of developing the expertise needed to thoroughly and successfully conduct special corruption investigations, secure evidence, and present cases to the specialized court. The court itself needs officials who specialize in the area of anticorruption.

Mexico also faces the massive task of changing the culture within administrative offices so that public officials cooperate with anticorruption investigations. According to Ernesto Canales Santos, the former anticorruption special counsel in the northern state of Nuevo Leon and first anticorruption counsel in the country, this internal culture presents immense obstacles to the implementation of the new system.[5] Enhancing state capacity and training, and developing detailed processes and procedures will take time; accordingly, a culture change inside the government will take time. The issue is compounded by the rather low political profile of anticorruption activities—frankly, it is not sexy nor does it make the front page. The problem is the rhythm of such efforts may not match the drumbeats of the public demands for change.

A third challenge facing the new government is managing anticorruption initiatives in coordination with civil society groups and autonomous government agencies that have more power and independence than ever before. As noted, prior presidents did not face this environment, thus allowing them to control the scope of anticorruption efforts to protect their own interests. Today, any government anticorruption initiative will have to coexist with nongovernmental mechanisms of accountability. This includes mature, influential civil society organizations with the resources and expertise to demand transparency and accountability and to provide independent sources of information to the public.

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Even within the government, the administration will have to work alongside horizontal mechanisms of accountability, including a more autonomous ASF (internal accounting agency), INAI (autonomous institute for freedom of information), INE (autonomous institute managing elections and parties), and a newly crafted and autonomous Ficalia (attorney general). These groups outside and within government—all part of the anticorruption army—will be attentive, active, and critical of the work of López Obrador and his administration, but they will also be potential allies. As they have done in the recent past, despite political support for the president´s programs, they will expose irregularities, offer reports and analyses, investigate progress, and pressure the government for results. In stark contrast to his predecessors, López Obrador will have to coordinate and lead rather than control these organizations and entities or dictate their actions.

One result of this more inclusive environment in the anticorruption arena is the elimination of the refuge of simulation. As noted, in the past, presidents, with the exception of Peña Nieto, were able to control and carefully manage anticorruption efforts, preventing them from actually challenging the entrenched interests surrounding the president. The result was largely a simulation that gave the impression the government was serious (finally) about rooting out corruption—a fiction that had few results in the end. Such political simulations will no longer work in the present environment. Though dedicated to eradicating corruption like no other recent president in Mexico, López Obrador will also feel more pressure publicly and politically to produce results than his predecessors.

HISTORIC OPPORTUNITIES FOR CHANGE

Despite the challenges, this unique period offers great opportunities for change. There is consensus in the literature about the requirements of an effective anticorruption effort. First, the government must have the political will to take on entrenched practices and increase the risks of corrupt activity. Second, the government must have public support; anticorruption programs should involve the public's participation. Third, autonomous entities within the government should have oversight to secure horizontal mechanisms of integrity. Fourth, civil society organizations should actively demand accountability and play a key role in the process. Today, for the first time, Mexico has all four key components.

Mexico's presidents have usually initiated an anticorruption drive upon taking office, yet such programs have ended in failure. Today, a unique combination of factors arising during the Peña Nieto period has produced a different environment, resulting in the historic election of López Obrador in 2018—and in a significant moment in the fight against corruption, one that gives López Obrador a real chance to break the historic cycle. Of course, his government will not be able to eliminate corruption in six years. However, if within that period it can at least point to a clear reduction in the levels of corruption; dismantle corrupt government networks; free the state from the control of outside forces; produce a government that is seen as serving the public's interests rather than those of its leaders; and begin to change the culture to one predisposed to collaborate with anticorruption investigators and denounce corruption—or to one where individuals no longer seek a corrupt avenue to "arrange" things with the government—then it will indeed be a major transformation for Mexico, a change that will bear fruit in many areas of government and society. The government undoubtedly has a long way to go, but this is clearly the nation´s best opportunity in modern history to tackle corruption.

ENDNOTES

1. "Identidades, candidatos, campañas, y corrupción" ("Identities, candidates, campaigns, and corruption"), Parametria, July 19, 2018, http://www.parametria.com.mx/estudios/identidades-candidatos-campanas-y-corrupcion/.

2. Information on #3de3 can be found on its main platform at https://www.3de3.mx/.

3. "Fue un mal año. No, menos, como seis" ("It was a bad year. No, less, like six."), Fundar, 2018, http://fundar.org.mx/fue-un-mal-ano-no-menos-como-seis/, p. 11.

4. "El Presidente y la corrupción" ("The President and Corruption"), Parametria, November 2018, http://www.parametria.com.mx/carta_parametrica.php?cp=5076.

5. Ernesto Canales Santos, *¿Cómo nos arreglamos?: Testimonio del primer fiscal anticorrupción en México (How do we fix ourselves?: Testimony of the first anti-corruption prosecutor in Mexico)* (Mexico: Grijalbo, 2018).

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