

The role of democratic oversight in combating corruption : the Peruvian experience

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International data about corruption

- According to the World Bank's studies, corruption represents 7% of the world economy, i.e , 2.3 billion dollars.

Corruption in Perú :historical background

- Unfortunately, corruption in Perú is as old as the foundation of our Republic. After obtaining our Independence Declaration, between 1822 and 1824, representatives of the Peruvian government were responsible for the negotiation of our external debt with United Kingdom. A group of them took advantage of their position getting personal benefits, and this was one of the first corrupt acts in our republican history.

The first anticorruption legislative initiatives after Peruvian independence

- In 1822, the Board of Government of Peru, approved the procedure known as the Residence Trial as mandatory for all public servants. This was one of the first legislative initiatives to be taken in order to face the need of accountability from elected or nominated members of government in a young republic.

Perú 1992-2000 : Alberto Fujimori and a corrupt organization inside the government.

- During Alberto Fujimori's and Vladimiro Montesinos' (his powerful and corrupt advisor) regime, corruption reached a high level of sophistication. State structures were used as a way to gain personal benefits for the members of government in an organized and apparently legal form.

Undermining democracy to avoid control over corruption

It is very important to highlight the fact that the first step that Fujimori took to eliminate check and balances was the military coup he organized on April 5th, 1992.

Judiciary Power's political intervention

A main consequence of the military coup was that a large number of judges and members of the Supreme Court were fired by the government and replaced by provisional magistrates. At the end of Fujimori's administration, 80 % of the judges had such status making them vulnerable to political influence. Many of them are under judiciary processes accused of committing corruption crimes.

Controlling the press

An important method used by Fujimori to avoid the publicity of corrupt acts in the press, was to "buy" the owners of the private TV stations, and to do the same thing with the owners of "yellow newspapers" to attack members of the political opposition.

According to the testimony of Vladimiro Montesinos' accountant, the National Intelligence Service had an annual budget of 9 million dollars. Much of them went into the pockets of the broadcasters.

Parliament and social demand for accountability

After the military coup of April 1992, due to international pressure, Fujimori called for elections to install a Constituent Assembly to produce a new Constitution. Being a majority, the governmental group passed laws affecting the judiciary independence and giving much more power to the Intelligence Service. This instance also had oversight duties. Opposition groups presented the first cases of human rights violations produced during the regime: Barrios Altos and La Cantuta (to be described later on)

The role of opposition in Parliament (1995-2000)

- Opposition groups , based on information delivered by civil society organizations, whistle blowers from Public Agencies and Armed Forces, and on investigations published by independent journalists, were able to present accusations related to crimes like drug trafficking, illegal phone calls´ taping, human rights violations and irregular procurement processes. It was as member of the Armed Forces who delivered the video in which Vladimiro Montesinos is giving money to a congress member; in order to control his voting decisions.

Seeking international support

- The governmental group blocked the congressional investigations about them. As a consequence, the parliamentarian opposition took the cases to international instances such as the Inter-american Commission of Human Rights of the OAS and presented reports about governmental corruption to international civil society organizations like Transparency International. The opposition was also active in presenting the situation to international parliamentarian forums such as the European Parliament, which sent a delegation to Perú to observe the use of public resources during the year 2000 general elections.

Parliamentarian Research Commissions about crimes committed under Fujimori's regime (2000-03)

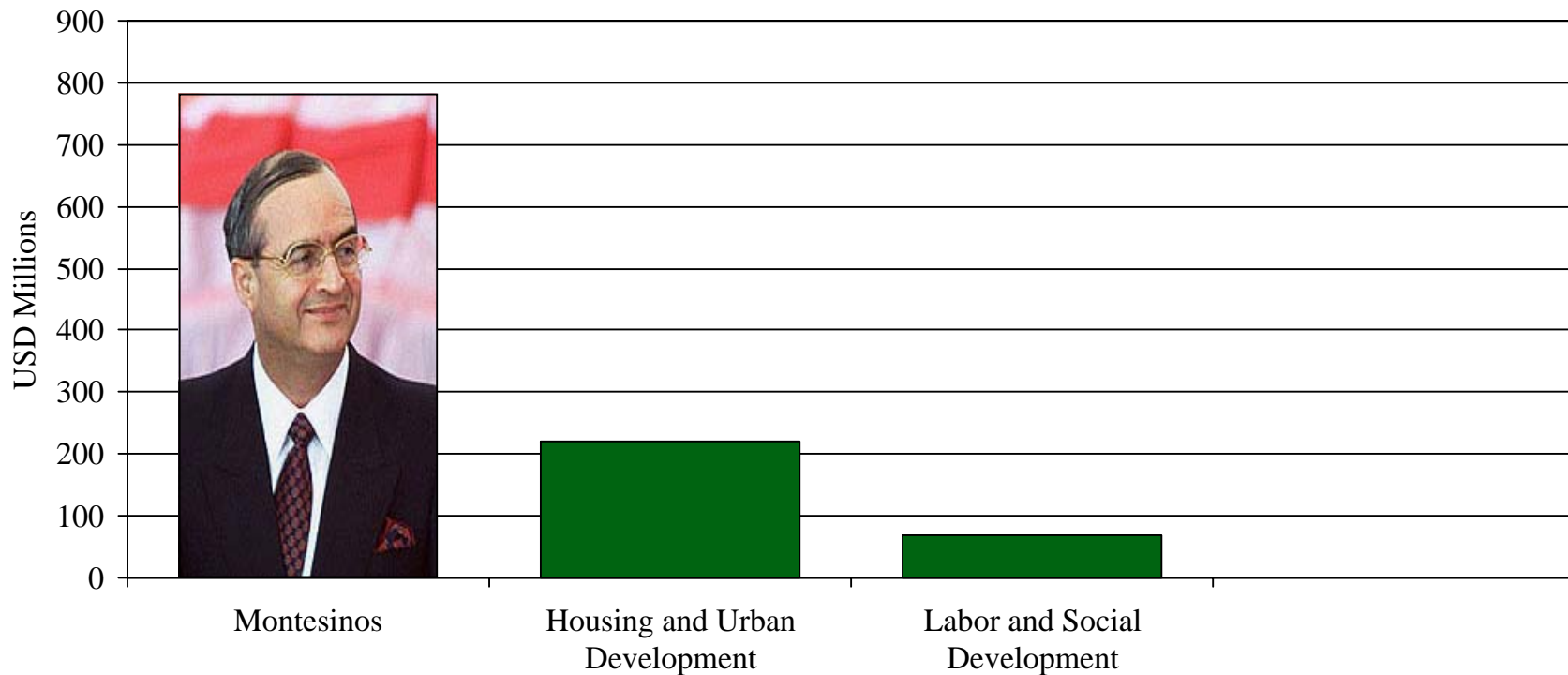
Between November 2000 and June 2003, six parliamentarian commissions performed an investigative duty to establish evidences about corruption and human rights crimes produced under the political direction of Alberto Fujimori and Vladimiro Montesinos.

Parliamentarian contributions to Judicial investigations about Alberto Fujimori.

- The research work done by Parliamentarian committees permitted the transferences of evidences to the Judiciary Power. As for December 2005, anticorruption judges had presented charges against 1509 persons involved and U\$ 197,628,788 had been recovered by Perú from secret bank accounts located overseas.

Montesinos stole more than ten times what Perú spent in labor and social programs

Comparison of Montesinos and Partners' Select Transactions (1997-2002)*



Alberto Fujimori's extradition : the cases

1. Massacre of students in La Cantuta University and killing of a whole group of neighbors in Lima (under the suspicion of the presence of members of terrorist groups among them) by the paramilitary group named Colina, which had the economical and political support of the military authorities and Fujimori.

Alberto Fujimori's extradition ; the cases (cont)

2. Bribery on Congress members, done by Vladimiro Montesinos under the command of Alberto Fujimori.
3. Illegal arrest of two civilians kept in custody at the Army Headquarters.
4. Unlawful entry to Vladimiro Montesinos' house.
5. Unlawful taping of phone communications.
- 6 . Unlawful payment to broadcasters .
7. Illegal retirement payment to Vladimiro Montesinos.

All of these cases have their origins in the already mentioned parliamentarian commissions.

The link between corruption and human rights violations in the Peruvian case

- The illegal use of public money to finance a paramilitary group and the purchase of equipments to tape communications of opposition leaders and independent journalists shows how corruption can give economic support to human rights' abuses.

Intergovernmental cooperation against corruption in the Peruvian experience

- After the installation of the first Parliamentary Committee of Research about the criminal actions produced by Fujimori's and Montesinos' regime, it counted with the cooperation of the American Government in the area of disclosing secret bank accounts.
- In the year 2001, one of the Parliamentary Special Committees of Research about the Peruvian Congress received the disclosed documents from the American State Department related to Fujimori and Montesinos.

Main legislation promoting anticorruption and transparency approved in Perú (2000'06)

- Law establishing benefits for the efficient collaboration of individuals involved in crimes.
- Law establishing the protective procedures in favor of crimes' witnesses.
- Law that permits a longer period of arrest of accused individuals if they are involved in complex cases.
- Law creating "Fedadoi", the Special Fund of the Justice sector administration of money obtained in an illegal way.

Legislation promoting transparency in the public sector.

- Access to Information law.
- Law regulating the functioning of lobbies.
- Law regulating the political parties' system in Perú establishing the external oversight of their financial resources.
- Decree creating the National Anticorruption Office.

Main current challenges

- For the Judiciary Power : the performance of an objective trial for Fujimori, without accepting economical and political pressure.
- The economic and political influence Fujimori still has and can use to obtain favorable conditions in his trial.
- To take measures to reduce the time taken by the Judiciary Power in processing corruption cases. Between the year 2000 and 2006, only 40 cases out of 246 linked with the corrupt organization led by Fujimori and Montesinos.
- According to the calculations of the General Comptroller's Office, 15% of the national budget is lost annually due to corruption.
- 60% of the procurement contracts do not get the necessary publicity and are not under an open competition.
- According to Transparency International, Perú is in position 68 in the international index of perceptions about corruption.

Some actions to be taken

- Approve the elimination of the Statute of limitations or periods of prescription for corruption crimes.
- Restriction of parliamentary immunity.
- Reform of the public procurement system.
- Provide the General Comptroller Office with a larger budget.
- Approve the Law creating a Civil Service.
- Open a debate about public funding for political campaigns, to avoid the interference of unlawful or dirty money among them.
- Internationally : at the inter-American level, have an active role towards the implementation of the Inter-American Convention against Corruption.
- Follow the recommendations given annually by Follow up Mechanism of that Convention.