

Americas

Judiciary is perceived to be corrupt

- According to TI's *Global Corruption Barometer 2006*, the majority of people in nine of the ten Latin American countries polled perceive the legal system/judiciary to be corrupt. In Bolivia, Mexico, Paraguay and Peru, 80 percent or more of respondents described the justice system as corrupt.
- A 2004 poll showed that more than 70 percent of Americans believe that judicial campaign contributions have some influence on judges' decisions; 51 percent of African Americans believe that contributions carry a 'great deal' of influence.

Persistent problems in the region

- Political influence in judicial processes
 - **Argentina:** The executive is increasing its control of the judicial council, which is responsible for the appointment, transfer, training and discipline of judges.
 - **Dominican Republic:** A merit-based selection process seems to have improved the quality of the bench and temporarily decreased corruption. However, there are complaints of slippage, and recent Supreme Court appointments have been highly politicised.
 - **Guatemala:** Some judges, especially in the Supreme Court, have talked of receiving 'instructions' on how to resolve certain cases if they wish to remain in their posts. The appointment process for judges in higher and lower courts is highly politicised.
 - **Mexico:** The dependence of the public prosecutor's office on the executive diminishes its ability to conduct independent investigations against officials who belong to the same political party as the government in power.
- Poor resources and sometimes dangerous working conditions make judges more susceptible to corruption.
 - **Mexico:** Judges handling drug trafficking cases receive little protection and are susceptible to coercion and corruption. Among traffickers, it is common to assess how amenable a judge might be to corruption by asking "*Plata o plomo?*" ("*Silver or lead?*" What will make a judge comply with a corrupt demand: money or a bullet?)
- Corruption in the broader judicial system
 - **Guatemala:** The prison system and the national police have a reputation for corruption, creating further obstacles to justice.

- **Venezuela:** Studies show that the most common manifestation of judicial corruption involves tampering with evidence by prosecutors for personal gain.

Judicial reforms have had mixed results

- **Panama:** The public prosecutor's office has contributed to a deterioration of the justice system's image. Since 2005, a series of investigations were carried out in an attempt to counter the perception of corruption in the office, which led to the dismissal of a number of prosecutors.
- **Chile:** The judiciary drove the process of reform, which has led to greater transparency, modernised administrative procedures and better trained judges and court staff, particularly in the criminal justice system. However, the executive remains a significant influence in the appointments process, and reforms have yet to be extended to the civil justice system.
- **Costa Rica:** The judicial system is considered one of the least corrupt in Central and South America. Various reforms have been undertaken to build its capacity to tackle increasingly sophisticated corruption, such as the creation of special courts to hear crimes against the government, including tax fraud cases. In spite of this, many high-profile corruption cases remain unresolved, reinforcing the perception that elite powerbrokers still enjoy impunity.
- **Paraguay:** A key reform was the creation of a judicial council to manage lower appointments, and a separate disciplinary board. However, both are highly politicised and are believed to encourage, rather than combat, corruption.

Other forces of change

- Throughout Central America, **civil society** has recently launched a new wave of monitoring and accountability initiatives aimed directly at combating corruption in the judiciary.
 - **El Salvador:** The NGO Protejes has designed indicators to evaluate the transparency, independence and performance of Salvadoran judges. The project enjoys credibility in part because it is headed by two respected Salvadorans, and because it takes judges' perspectives into account in the process of improving the judiciary.
 - **Panama:** Alianza Ciudadana Pro Justicia, a coalition of 16 NGOs, carried out an in-depth review of six Supreme Court decisions, concluding that four indicated either serious deficiencies in the work of the judges or undue influence.

TI's work

- **Argentina:** TI's chapter in Argentina, Poder Ciudadano, joined other civil society organisations in calling on the Supreme Court to make their asset declarations public, listing the names of judges who had complied on their website.
- **Ecuador:** TI's chapter in Ecuador, Corporación Latinoamericana para el desarrollo, was one of a group of civil society NGOs that monitored the Supreme Court selection process to ensure that candidates were free of undue influence.
- **Guatemala:** A 2005 study by Acción Ciudadana, the TI chapter in formation, analysed the capacity and limitations of the judiciary's disciplinary body, while an earlier publication presented findings and recommendations from a series of anti-corruption training workshops with civil society and government representatives.
- **Nicaragua:** Etica y Transparencia, TI's chapter in Nicaragua, created a monitoring body that follows the progress of important corruption cases. It has also conducted an analysis of constitutional jurisprudence and precedents behind Supreme Court decisions.