

Economic Analysis of Law Review

The Anti-Corruption Policies and Regulation: The Case of Nicaragua

Anti-Corrupção Política e Regulação: O Caso da Nicarágua

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RESUMO

O presente trabalho explora os fatores institucionais, políticos e sócio-econômicos que têm impedido a implementação efetiva das políticas anti-corrupção em Nicaragua nas últimas duas décadas. Este artigo argumenta que a confluência de vários fatores criaram condições favoráveis para a propagação da corrupção na Nicarágua, incluindo fraca execução, a falta de judicial autonomia e independência legislativa, a impunidade de altos funcionários, a sociedade civil fraca, e a falta de vontade política para combater a corrupção. O papel objetivo é desenvolver recomendações práticas sobre como mitigar o problema da corrupção, com especial atenção para o papel dos principais interessados neste processo - ou seja, as autoridades públicas, a auto-regulação, os meios de comunicação civil, a sociedade e as organizações governamentais (ONGs).

Palavras-chave: Anti-Corrupção; Política; Regulação

JEL: H11

ABSTRACT

This paper explores institutional, political, and socio-economic factors that have prevented the effective implementation of the anti-corruption policies in Nicaragua over the last two decades. This paper argues that the confluence of numerous factors created favorable conditions to the spread of corruption in Nicaragua, including weak enforcement, the lack of judicial autonomy and legislative independence, impunity of high-ranking officials, weak civil society, and the lack of political will to combat corruption. The paper objective is to develop practical recommendations on how to mitigate the problem of corruption, with particular attention to the role of major stakeholders in this process – namely, public authorities, self-regulatory organizations, the media, civil society, and nongovernmental organizations (NGOs).

Keywords: Anti-Corruption; Policies; Regulation

R: 08/05/14 **A:** 28/04/16 **P:** 30/06/16

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1. Introduction

The history of Nicaragua is characterized by political instability. Over the twentieth century, it suffered from the twenty-year external occupation (1912-1933), the forty-three-year Somoza dynasty dictatorship (1927-1979), and the eleven-year authoritarian rule by of the Sandinista National Liberation Front (Frente Sandinista de Liberación Nacional, FSLN) led by Daniel Ortega (1979-1990). After the 1990 transfer of power, the government of Violetta Chamorro, who won the presidential elections as a candidate from the National Opposition Union (Unión Nacional Opositora, NOU), initiated a series of democratic and economic reforms. These reforms were later carried on by the Alemán and Bolaños Administrations who won the presidential elections as candidates from the Constitutionalist Liberal Party (Partido Liberal Constitucionalista, PLC) in 1996 and 2001, respectively

Economic reforms were based on a set of policies known as the Washington Consensus. They were developed by the International Monetary Fund, the World Bank, and the US Treasury Department and proposed stabilization measures, such as trade liberalization, privatization of state-owned companies, and deregulation of the economy. International development organizations also urged for the introduction of a range of anti-corruption measures and programs in Nicaragua. However, the economic reforms and anti-corruption policies pursued by the Nicaraguan public authorities did not bring the desired results. Moreover, under the conditions of the lack of rule and law, low government accountability, and weak civil control, massive privatization in Nicaragua facilitated the development of crony capitalism and further spread of corruption.

Taking these inefficiencies into account, “the revised second-generation Washington Consensus came to acknowledge the importance of positive role of the state in development and the dangers of radical structural adjustments, including growing social inequality, market failure, and corruption” (Norris 2012: 102). Importantly, the second-generation Washington Consensus recognized the key role of governance and state institutions during the transition period. Starting from 1996, the World Bank Institute for Development began to calculate composite indexes of good governance: rule of law, control of corruption, voice and accountability, regulatory quality, government effectiveness, and political stability (Kaufmann et al. 2006). Nicaragua’s governance indicators calculated in 1996-2012 demonstrate that its political and economic systems were systematically characterized by government inefficiency and endemic corruption (World Bank 2014).

This paper explores institutional, political, and socioeconomic factors that have prevented the effective implementation of the anti-corruption policies in Nicaragua over the last two decades. The case study covers the governments of Violeta Chamorro (1990-1996), Arnoldo Alemán (1997-2001), Enrique Bolaños (2002-2007), and Daniel Ortega (2007-present). It draws on surveys and interviews of Nicaraguan citizens conducted by Michael Seligson (1999), the Transparency International Chapter in Nicaragua (*Fundación Grupo Cívico Ética y Transparencia* 2006), Karen Hussman (2007), the *CIET* (2009), and the *Norwegian Agency to Development Cooperation* (2011).

This paper argues that the confluence of numerous factors created favorable conditions to the wide spread of corruption in Nicaragua, including weak enforcement, the lack of judicial autonomy and legislative independence, impunity of high-ranking officials, weak civil society, the lack of political will to combat corruption, etc. The variety of factors responsible for Nicaragua's high level of corruption suggests the need to use a holistic approach for designing and implementing anti-corruption regulation. In this respect, the paper highlights the need to develop Nicaragua's multilateral anti-corruption regulation system based on three elements: the self-regulatory, self-control, and public regulation subsystems. In particular, the coordinated efforts of different stakeholders and their ability to create alliances play their significant roles in increasing the effectiveness of anti-corruption measures and policies.

The paper is organized as follows: the first section analyzes the nature of corruption in Nicaragua and its consequences for the economy and society. The second section is designed to explore weaknesses in the Nicaraguan anti-corruption policies and limitations of its legislature. The concluding part of the paper examines the role of key stakeholders in the fight against corruption and offers solutions and mechanisms to enhance social control and increase accountability of public administration in Nicaragua.

2. The Nature of Corruption in Nicaragua and Its Socio-Economic Consequences

There are many definitions of corruption which focus on violations of trust and misuse of power by organizations or individuals. For example, Samuel Huntington defines corruption as "behavior of public officials which deviates from accepted norms in order to serve private ends" (1968: 2). According to Nathaniel Leff's definition, "corruption is an extra-legal institution used by individuals or groups to gain influence over the actions of the bureaucracy" (1964: 8). The first definition highlights the fact that bureaucrats performing public duties can use their legal positions to increase their individual welfare, status, or power. The second definition emphasizes that corrupt citizens or interest groups attempt to influence legislators and officials in order to achieve their private ends. These definitions are useful for this study because they attract attention to the fact that corrupt activities are based on mutually beneficial relationships between bureaucracy and citizens.

The most common approach to measuring corruption is based on averages of ratings reported by a number of respondents. For example, Transparency International, a leading anti-corruption non-governmental organization, measures corruption on the basis of experts' opinions and surveys of the general public regarding informal transactions and activities in their countries. Since 1996, Transparency International has been calculating the Corruption Perceptions Index for over one hundred countries. In 1998, Nicaragua was included in Transparency International's annual surveys. Table 1 demonstrates Nicaragua's high ranks and scores on the Corruption Perceptions Index in 1998-2013, which indicates that corruption remains a serious problem for this country throughout the study period.

Table 1. Nicaragua's Corruption Perceptions Index in 1998-2013

President	Alemán		Bolaños		Ortega		
Year	1998	2001	2002	2006	2007	2011	2013
Number of countries	85	91	102	163	179	178	177
Rank	61	78	81	111	123	134	127
Score from 10 (highly clean) to 0 (highly corrupt)	3.0	2.4	2.5	2.6	2.6	2.5	2.8

Source: The data is collected through Transparency International's annual surveys (1998; 2001; 2002; 2006; 2007; 2011; 2013).

In the 1990s, multiple cases of corruption were exposed in Nicaragua. According to Oscar-René Vargas' estimates, \$4.9 billion were stolen through political corruption by the governments of Chamorro and Alemán, which corresponds to ten times the annual state budget (cited in Seppänen & Saldomando, 2008). The Alemán Administration was particularly tarnished with corruption. For example, one of the largest corruption scandals arose in 1998 when high-ranking officials embezzled international assistance for 20,000 families that were victims of Hurricane Mitch (Peñailillo & Saldomando 2007: 119). Also, the surveys conducted by Seligson in 1996 and 1998 found that "most Nicaraguans feel that corruption is widespread in the country and affects them personally" (1999: v).

In 2002-2006, the Bolaños Administration took significant efforts to bring former president Alemán to justice on corruption charges. In addition, a number of improvements to Nicaragua's anti-corruption regulations were adopted in this period. However, as Peñailillo and Saldomando indicate, there was "little control of corruption, with levels rising to those seen during Alemán's term in office" (2007: 116). In terms of democratic institutions, the independent watchdog organization *Freedom House* ranked Nicaragua as partly free, with a score of 3 on a 7-point scale where 1 indicates the best and 7 means the worst results (ibid.). During the Ortega Administration in 2006-2013, this score decreased to 4.5 (*Freedom House* 2013b), which is related to the expansion of state-controlled media, intimidation of the critical press, numerous abuses in the 2008 municipal elections and corrupt deals between the FSLN and the opposition party. The FSLN party leaders were also tainted with corruption during their first rule in 1979-1990. For example, they initiated the adoption of special laws allowing the government to transfer state assets as gifts to the officials faithful to the Sandinista regime. These laws became known as "La Piñata." The Nicaraguan economist Edmundo Jarquín, the former minister in the Sandinista government, points to numerous abuses of power by high-ranking officials who obtained property titles to state land and other assets through "La Piñata" (Ewest 2010).

Recent empirical studies on corruption show that its adverse consequences include reduced investment, low economic growth, decreased government revenues due to tax evasion, and an inefficient public spending structure, with preference given to public projects which provide opportunities to extract illegal payments and kickbacks. For instance, Shang-Jin Wei and Yi Wu argued that "an increase in corruption from the level of Singapore to that of Mexico would have the same negative effect on inward foreign investment as raising the marginal corporate tax by fifty percentage points" (2001: 3-4). Paul Mauro (1995), Stephen Knack and Philip Keefer (1995), Vito Tanzi and Hamid Davoodi (1997) demonstrated that corruption has

a significant negative impact on GDP growth. Pak Hung Mo (2001) found that a 1 percent increase in the corruption level reduces economic growth by about 0.72 percent. He also found that corruption leads to political instability and negatively affects human capital (*ibid.*). Figure 1 demonstrates in what ways corruption affects Nicaraguan citizens according to the survey conducted by Seligson (1999).

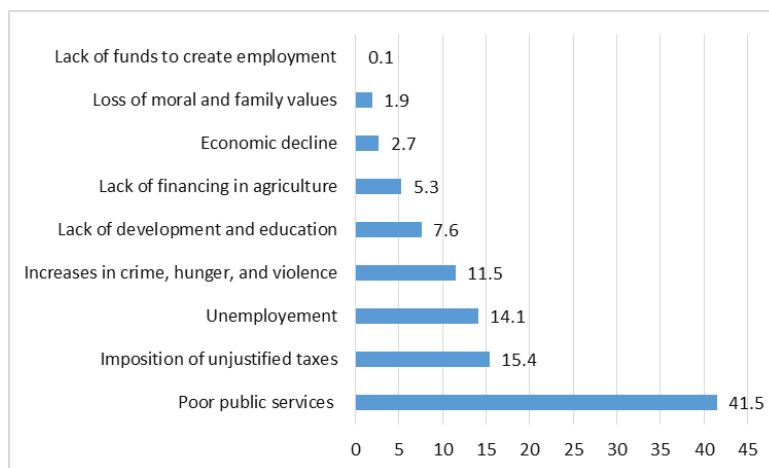


Figure 1. Consequences of corruption perceived by Nicaraguan citizens (percent of respondents). Source: Seligson (1999: 43).

Figure 1 shows that the majority of Nicaraguans perceived that corruption is responsible for poor public services. This also correlates with the study by Tanzi and Davoodi (1999) which found that higher corruption is associated with inefficient public spending and reduced quality of infrastructure, such as poor roads and buildings in need of repairs. Nicaragua's road construction industry is a vivid illustration of ineffective public spending. In 2013, Nicaragua was ranked 79th on the quality of roads out of 148 countries (World Economic Forum 2013: 299). The key reasons for the bad quality of roads can be attributed to the outdated legal standards and official guidelines, lack of competition in the road industry, and leakages.

In Nicaragua, corruption is also responsible for the insecurity of property rights. Nicaragua's police officers often offer their protection in return for illegal payments. Thus, according to a survey conducted by CIET, an international non-governmental organization, 49 percent of Nicaraguans pointed to corruption in the national police; and 9 percent of respondents recognized that they paid bribes to police officers for their services (2009: 28, 30). Furthermore, the judicial system is riddled with corruption. For instance, according to a former Supreme Court justice: "Any Nicaraguan who turns to the courts in search of justice with empty pockets is completely mistaken" (cited in Peñailillo & Saldomando, 2007: 123). According to the CIET survey, 40 percent of respondents pointed to corruption in the judicial branch; and 32 percent recognized that they paid bribes to court officials directly or through their lawyers (2009: 32). As a result, the corrupt public enforcement system could not guarantee the security of property rights.

The most important factor facilitating the spread of corruption in Nicaragua is an ineffective government that is unable to provide stability and the rule of law in the country. As Silvio Borner, Aymo Brunetti, and Beatrice Weder (1995) demonstrate, the highly unstable

institutional environment, uncertain long-term economic policy and political conflicts discouraged economic agents from long-term investments in production and contributed to the expanding informal economy. They also argue that the early stage of the transition period in Nicaragua was characterized by conflicts of interests in which different social groups were attempting to gain access to transition rents, which arise in periods of radical change to the rules governing property rights. In this respect, Brown et al. indicate that the escalation in corrupt activities “were magnified historically by processes of economic and political reform financed by the IFSs [international financial institutions] after 1990, particularly liberalization and privatization processes which shaped the political economy into a clan-based patronage system” (2007: 190). This can be explained by the fact that during the initial stages of the transitional period, the property rights system was particularly vulnerable to manipulation by insiders, and the public authorities and civil society were not strong enough to prevent it. As indicated by Pippa Norris, “in the rush to liberalize public-sector ownership and shrink the size of the state, little attention was paid to the capacity of government, whether to regulate the privatization process and prevent the emergence of new oligopolies” (2012: 101). In this context, Norris supports “the claim that implementation of effective development policies requires competent public administration and a strong and effective state” (ibid.: 7).

This is consistent with the study of democratization in Latin American countries by Guillermo O’Donnell (1993, 1998), who points out that a strong state is a necessary prerogative of transition reforms. For example, he argues that in Latin American democracies that emerged in the 1980-1990s, “the state-as-bureaucracy” was characterized by prevailing anti-statist ideologies, a diminishing size of bureaucracy, and its incompetence. This trend defined the overall state inefficiency and its inability to solve economic crises and develop long-term economic policies. Furthermore, Peter Evans (1995) indicates that highly selective meritocratic bureaucracies play a significant role during the period of radical reforms. Thus, based on an analysis of the newly industrialized countries of Brazil, Taiwan, India, and South Korea, he points to an increasingly pervasive influence of the state on social actors and their important role in economic transformation. In this context, an important task for public bureaucracy is to create a favorable entrepreneurial climate, improve conditions for national research and development, and support economic agents in their efforts to meet global challenges and international competition.

3. Analysis of the Nicaraguan Anti-Corruption Policies and Legislature

External legal controls play an important role in mitigating corruption in the public sector. Transparency International offers numerous external anti-corruption mechanisms: opening up government to make information accessible to the public; fostering open relationships between government agencies and the press; assuring the adequacy of judicial review of agency actions; establishing internal oversight mechanisms to provide review of decision making; increasing the effectiveness of supervision to enable superior officers to check and control their staff; conducting surprise checks on public officials; etc. (Pope 2000). In Nicaragua, the first anti-corruption initiative was launched in March 1998 by the Alemán Administration. With financial support of the World Bank, Alemán created the National Integrity

Committee (El Comité Nacional de Integridad) to develop an anti-corruption policy, promote ethics, and increase transparency of public agencies. The National Integrity Committee included representatives of the three branches and civil society. In 1998, this Committee passed the National Integrity Plan (El Plan Nacional de Integridad) aimed at developing and implementing anti-corruption efforts in Nicaragua. In terms of international regulation, one of the important achievements of the Alemán Administration was the 1999 ratification of the Inter-American Convention Against Corruption (OAS Convention) developed by the member countries of the Organization of American States (OAS). This was the first international anti-corruption convention that required its signatories to criminalize bribery and develop mechanisms for international cooperation and asset recovery.

Despite all these initiatives of the Alemán Administration, the problem of corruption did not improve in comparison with previous years. According to Brown et al., Alemán's anti-corruption policies were "cleverly constructed attempts to capture the international resources" (2007: 183). Moreover, the implementation of the National Integrity Plan was significantly blocked by immunity of high-ranking officials guaranteed in the National Constitutions and the Immunity Law (Ley de Inmunidad No. 83 of March 1990). In addition, in 1998, Nicaragua adopted the Law on the Executive Branch (Ley de Organización, Competencia y Procedimientos del Poder Ejecutivo No. 290 of June 1998), which gave the President the discretion to impart immunity to public officials. This law provoked an increase in corrupt activities in the public sector, with Alemán alone embezzling more than \$100 million, which was equivalent to the entire USAID budget for Nicaragua for 1998-2000 (Brown et al 2007: 192).

Alemán was not formally charged with embezzlement, corruption, and money laundering until Bolaños came to power. In 2003, he was sentenced to a 20-year prison term. However, in 2009, under the Ortega Administration, Nicaragua's Supreme Court overturned the sentence against Alemán. According to Enrique Saenz, it was a secret deal between Ortega and Alemán handing over the National Assembly in exchange for his personal liberty" (cited in Schmidt 2012). This deal goes back to the Pact of 1998 (el Pacto) sealed between the FSLN which controlled the local courts and the PLC party which dominated in the National Assembly. As Josep Mària and Daniel Arenas indicate, "the objective of 'el Pacto' was to stop lawsuits against cases of corruption (2009: 235).

When President Bolaños took office in 2002, he promised to clean up the country's corruption. The Bolaños Administration created the Office of Citizen Complaints (La Oficina de Denuncia Ciudadana) and the Office of Public Ethics (La Oficina de Ética Pública) which absorbed the National Integrity Committee. The Office of Public Ethics was responsible for two key reforms implemented by the government, namely, the development of the Program for Efficiency and Transparency in Procurement and the creation of the Office of Prior and Administrative Control. However, the Office of Public Ethics lacked financial and political support. As a result, in 2004, its budget and procurement functions were transferred to the Nicaraguan Ministry of Finance. In 2004, the Office of Public Ethics was superseded by the Secretariat of Communications of the Presidency (La Secretaría de Comunicación de la Presidencia) which executed ultimate control over its activities.

Since 2002, significant progress has been made in the development of the national anti-corruption regulation. The Bolaños Administration introduced certain improvements to the legislature by adopting the Law on the Amendments and Additions to the Penal Code (Ley de Reforma y Adición al Código Penal No. 419) which clarified the definition of new offenses or acts of corruption committed by public officials, such as embezzlement of public funds, trading in influence, illicit enrichment, bribing international officials, etc. (Quinteros 2012). Moreover, the Law on Probity of Public Officials (Ley de Probidad de los Servidores Públicos No. 438) introduced the standards of conduct to prevent conflicts of interest in the public sector and adopted specific provisions which required civil servants to submit a declaration of income, assets, and liabilities.

In terms of international legislature, the important step in the fight against corruption was Nicaragua's ratification of the UN Convention against Corruption (UNCAC) in 2006. The UNCAC represents a truly global anti-corruption treaty which covers preventive measures, criminalization of corruption, and international cooperation framework for mutual law enforcement assistance. A fundamental principle of the UN Convention is asset recovery, which is extremely important for Nicaragua. However, the major difficulty lies in the implementation of the objectives set forth in the UNCAC and national anti-corruption laws because legal norms often diverge from social and cultural norms tolerating corruption. As Douglas North (1990) argues, the convergence of legal institutions and social norms is the main requirement for their efficient functioning in developing economies.

Another problem in the Nicaraguan case is ineffective enforcement of the anti-corruption legislature. In this respect, the development of comprehensive anti-corruption legislation should be accompanied by providing special enforcement bodies and procedures. For instance, many researchers point out that the main factor which made it possible to curb corruption in Hong Kong was the establishment of the Independent Commission Against Corruption (ICAC) in 1974 (Rose-Ackerman 1999: 159-62; Langseth 2000:7; Quah 2006: 178-9). Several important preconditions insured the efficiency the ICAC. First of all, being independent to the police and civil service, the ICAC reported only to the Colonel Governor. Second, officials working for the ICAC had authority to investigate and prosecute corruption cases, including wire taps, the checking of bank accounts, searches without need for legal warrants, arrests, detentions, and seizure of illegal funds. Besides, its broad functions included recommendations on legal and administrative reforms and educational workshops for civil servants and the public. Third, officials were dissuaded from corruption with relatively high salaries in comparison with other agencies; and they were secured from department transfers. Finally, special regular surveys were used to monitor corruption levels in Hong Kong and public trust of the ICAC.

The problem in Nicaragua is that there is no special independent anti-corruption agency with authority to investigate and prosecute corruption practices. There are multiple anti-corruption agencies, such as the National Integrity Commission, the Office of Public Ethics, the Public Prosecutor's Office, the Comptroller General of the Republic, the Office of the Attorney General of the Republic, etc. (Figure 2). However, their incentives for coordination

are weak and practice falls far short of policy intent. Their functions overlap and their powers are diluted and unclear.

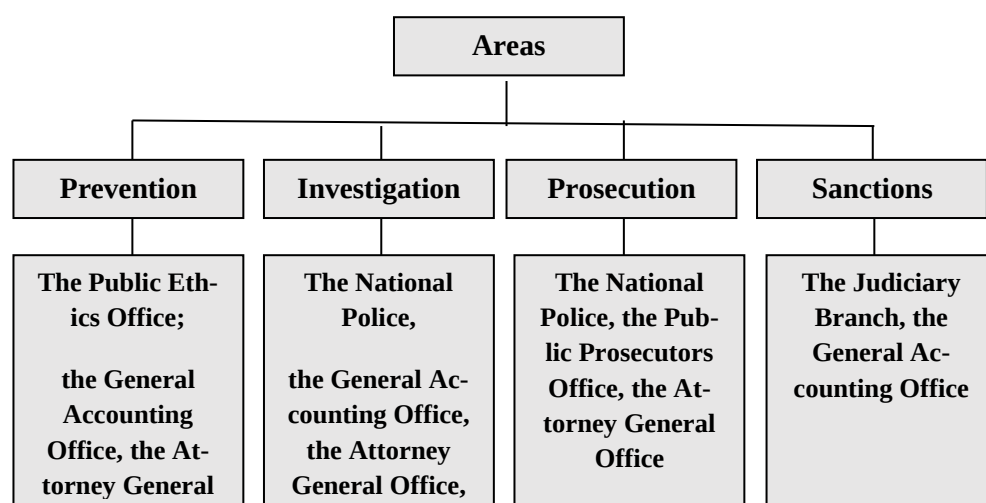


Figure 2. Anti-corruption agencies in Nicaragua. Source: Modified from the Norwegian Agency to Development Cooperation (2011: 27).

Furthermore, these agencies themselves have been criticized for corruption. For example, five justices were accused of the disappearance of \$609,000 from the account of the Supreme Court of Justice (Fundación Grupo Cívico Ética y Transparencia 2006: 5). In the same vein, the national police were involved in the \$2,000,000 transfers to the drug trafficking organizations (ibid.).

The example of the ICAC in Hong Kong demonstrates that strong political will and commitment of national leaders and political elites to curbing corruption are the necessary prerogative to improve anti-corruption enforcement (Quah 2006: 178-9). This finding is highly consistent with Mark Gradstein (2008) and Felix Várdy (2010). For example, Várdy's study shows that transition countries with inefficient low-quality institutions are often unable to improve these institutions simply through incremental change, instead they need a "big push" from those responsible for the policy making and implementation (2010: 3). In the same vein, Gradstein's study (2008) proves a critical role of political commitment in the process of replacing low-quality institutions with more efficient ones.

At the present moment, the situation with Daniel Ortega's political will to curb corruption leaves much to be desired. In particular, since the return of the Sandinistas to power, there have been a number of factors that significantly weakened democratic institutions. For example, the Norwegian Agency to Economic Development indicates that "allegations of electoral fraud in the 2008 municipal elections, political capture of state institutions and the complex and non-transparent arrangements with Venezuela" undermine confidence that anti-corruption legislature will be effectively enforced in Nicaragua (2011: xiv). Mária and Arenas also point to the disappointing performance of Ortega's Administration, arguing that by maintaining el Pacto between the FLSN and the PLC, they were "trying to take over civil society

initiatives, and [were] impeding the development of institutions of direct democracy” (2009: 236). Furthermore, the ruling elite might continue replacing democratic institutions with authoritarian mechanisms of governance, restricting civil rights of citizens and suppressing the opposition.

In the case of Nicaragua, there are numerous obstacles to the implementation of existing anti-corruption laws and regulations, such as inefficient enforcement, the lack of political will to curb corruption, inefficient oversight on the part of the media and civil society. The most socially dangerous inefficiency lies in the fact that laws are being applied selectively. Although all persons are declared to be *de jure* equal under the law, many high-ranking officials are *de facto* exempt from prosecution. There is a great danger that in a country where corruption is widespread among economic and political actors and the enforcement system is weak, even the most advanced anti-corruption legislation will be used as a method of social control, rather than a method to improve the functioning of the administrative system. This undermines important functional values among the citizens, such as respect for the law and the system of government.

4. The Multilateral System of Anti-Corruption Regulation in Nicaragua

The survey conducted by Transparency International demonstrates that Nicaraguan citizens experience corruption in their everyday lives while dealing with traffic police (which scored a 4.3 on a 5-point scale ranging from the lowest corruption level of 1 to the highest level of 5), authorities in clinics (scored a 4), educational bodies (scored a 4.1), social organizations (scored a 4.2), public authorities in the spheres of employment, dwelling, and registration (scored a 4.1) and other spheres (*Fundación Grupo Cívico Ética y Transparencia* 2006: 56). Taking the broad scale of corruption into consideration, enforcement of laws will be difficult without raising the awareness of social costs of these dysfunctional practices among citizens, private and public organizations and changing their attitude towards them.

It is impossible to combat corruption in Nicaragua by such simple preventative measures as pay increases to civil servants or sanctions alone. Rather, the whole system of socio-economic relationship needs to be changed. This fundamental task requires all members of society to be involved in anti-corruption efforts. Table 2 demonstrates three elements of stakeholder integration within the field of anti-corruption regulation. Public regulation is ultimately responsible for prohibiting corruption legislatively and providing appropriate enforcement procedures. But as mentioned in the previous section, this does not adequately reflect the complex nature of corruption. Another element of anti-corruption regulation is a self-monitoring or self-control system with its main function of whistleblowing and monitoring compliance with anti-corruption regulations. It includes ordinary citizens, nongovernmental organizations, and the media. The self-regulation system combines collective actors, such as business associations, chambers of commerce, and industrial organizations, whose main function is to draw up their own ethics regulations, take responsibility for monitoring compliance and developing enforcing procedures. Industry associations and non-governmental organiza-

tions can contribute by developing codes of conduct, compliance programs, and initiatives to improve the ethical behavior and culture at all levels of organizations.

Table 2. The Multilateral System of Anti-Corruption Regulation.

Elements	Key actors	Major activities
Public regulation	The legislative, judicial, and executive branches, public agencies and officials	Prohibiting corruption legislatively, providing enforcement, removing overregulation and administrative barriers, etc.
Self-control system	Citizens, nongovernmental organizations, the media	Whistleblowing and monitoring compliance with anti-corruption regulations, etc.
Self-regulatory system	Business and industrial, associations, chamber of commerce, Catholic Church	Drawing up regulations within organizations (e.g. codes of conducts defining good and bad practices), organizing collective action against rent-seeking activities of public agencies, etc.

Ordinary citizens comprise the largest community to be inducted into the monitoring of public administration. Within this community there may be a number of sub-groups with specific interests. These groups have a civil, legal and human right and obligation to bring corruption to the attention of the appropriate authorities. As Hussman (1999) argues, since 1990, civil society organizations have played a key role in denouncing corrupt acts and promoting anti-corruption reforms. For example, the nongovernmental organization the Movement for Nicaragua (El Movimiento por Nicaragua) collected 50,000 signatures to strip Alemán of his immunity (ibid.: 121).

However, the potent force of Nicaragua's citizens is limited. For example, the 1996 survey conducted by the World Bank found that only 10.4 percent of Nicaraguans report corruption to the appropriate authorities (Seligson 1999: 17). The low level of reported corruption cases can be explained by a continuing decline in citizens' confidence and trust of public authorities. Outright public distrust of Nicaragua's government, police, and courts remains very high. For instance, according to the *Global Competitiveness Report*, in 2013, public trust of politicians in Nicaragua was estimated to be 2.8 on a 7-point scale (1- very low, 7 – very high), which reflects overall public distrust of political institutions (World Economic Forum 2013: 299). Therefore, citizens do not object or respond to mistreatment because they feel such objection would not result in positive response of public authorities.

Another limitation of the self-control system is attributed to the fact that there are no special laws on protection of whistleblowers in Nicaragua. Whistleblowing involves high risks of reprisals on the part of organizations or persons whom they accuse, meaning that lack of

special programs and legislation in this arena undermines inducements to report misconduct on a fellow employee or superior within an organization. For example, special provisions on protection of whistleblowers are provided in the UN Convention Against Corruption (Art. 33). Furthermore, it has proved successful to provide financial motivation for whistleblowing. For instance, the False Claims Act, which was the first U.S. law adopted specifically to protect whistleblowers, includes special financial incentives for people reporting corrupt practices. In general, awards range from 15-30 percent of the total amount recovered under the Act. It has proved to be a very efficient tool in detecting misconduct of public and private employees. For instance, in 2010 the U.S. Department of Justice recovered over \$3.1 billion of stolen money thanks to whistleblowers and the Federal False Claims Act (TAF Education Fund 2010).

An important role within this self-monitoring system belongs to the media sensitization of corruption-related issues. It facilitates the legal and regulatory responses to harms of corruption. Moreover, the media inflates public concerns about this problem. Brown et al. (2007) indicate that in 1996-2000, the two daily newspapers *El Diario* and *La Prensa* revealed and exposed many corruption cases “in the face of an absolute refusal to investigate by the police, the judicial system and the responsible state authorities” (2007: 189). This shows that in order to achieve good results, the media need to be independent from political pressure. However, according to *Freedom House*, today Nicaragua’s press status is only partly free, with the government placing notable restrictions on the media’s ability to inform the public (2013a: 287). According to *Freedom House*, “in 2012, President Daniel Ortega and his Sandinista National Liberation Front (FSLN) continued policies that have been in place since they took power in 2007, including preferential treatment for the progovernment media and denial of official advertising to the independent and opposition press” (ibid.). For example, Nicaragua’s leading independent newspaper *La Prensa* claimed that its journalists were repeatedly intimidated by government officials and supporters (ibid.). This is a serious cause for concern as the free and independent media is a significant part of an anti-corruption campaign.

As far as the self-regulatory system is concerned, Hussman indicates that one of the serious fallacies of the Nicaraguan anti-corruption initiatives was that they did not directly involve the private sector and the Catholic Church “despite the economic power enjoyed by the one and the political and moral authority of the other” (Hussman 2007: 133). However, recently, there have been a number of interesting anti-corruption initiatives in Nicaragua developed by private organizations, such as the National Federation of Cooperatives (Federación Nacional de Cooperativas, FENACOOOP), a federation of agricultural cooperatives founded in 1990. Mária and Arenas (2009) point to Sinforiano Cáseres, the Director of FENACOOOP, as an example of Nicaragua’s new ethical leadership who maintains independence from political corruption and promotes human and economic development in the country. In this respect, they indicate that “cooperatives may shape the Nicaraguan market and inspire the electoral programs and reform of political parties such as FSLN if its leaders remain honorable and independent” (2009: 238).

Clearly, it is impossible to combat corruption in Nicaragua without all stakeholders' contributions, be it independent press, transparent governmental agencies, effective law enforcement, educational programs for public officials, entrepreneurs and citizens, or self-regulatory organizations. The multilateral system of anti-corruption regulation is based on cooperation of public authorities and civil society. It combines the elements of self-regulation and traditional public regulation, which makes it possible to use the advantages of these systems. One of the positive aspects of the self-regulatory system is the ability of stakeholders to react to new challenges faster than policy-makers. Stakeholders in this system often share common objectives and usually obey the rules set by self-regulatory organizations without coercion. This is extremely important because a range of possible sanctions induced by self-regulatory organizations is limited in comparison with the system of public regulation where deviant behavior is directly sanctioned by the appropriate authorities. However, as argued earlier, public authorities cannot solve the problem of corruption alone. Therefore, the main advantage of the co-regulation system is the fact that citizens and self-regulatory organizations also participate in the process of anti-corruption policy formulation as well as monitoring and enforcing activities. From this perspective, the multilateral system helps integrate all stakeholders and ensure the effectiveness of anti-corruption regulation.

5. Conclusion

Recent studies of Nicaragua's governance system demonstrate that it is characterized by corruption of civil servants and rent-seeking behavior of bureaucracy. The overall inefficacy of formal institutions and law enforcement leads to the expansion of the informal sector of the economy. The problem worsens as informal institutions are characterized by self-reinforcing mechanisms and inertia, which facilitates their stabilization in the institutional environment. Nicaragua is particularly vulnerable to corruption as the government is often unable to provide stability and the rule of law. It has been a crucial factor leading to widespread illegal activities in Nicaragua's economy. Other factors include unwillingness of legislative and executive branches to use their oversight powers to keep legislatures and bureaucrats in check, disintegration of law enforcement systems, and the lack of political will to fight against corruption.

Under international pressure, the Nicaraguan state has been taking special efforts to tackle the problem of corruption legislatively beginning from the National Integrity Plan. Since 2002, there have been a number of improvements in Nicaragua's anti-corruption legislature. However, the introduction of anti-corruption laws alone is not sufficient to solve the problem. The precondition of the laws' efficacy is their convergence with informal norms, rules, and principles, including the decision-making procedures of political and economic actors. This suggests the necessity to influence public perception of corruption through continuous and advanced training of citizens, government officials, and employees in the private sector. In addition to this, promoting negative public opinion about informal practices through media publicization of corruption-related issues can facilitate anti-corruption legislation. This can be the first step on the road to success in the fight against corruption.

Taking into account that there are multiple factors responsible for widespread corruption in Nicaragua, it can be argued that it is impossible to solve this problem by simple preventative measures such as anti-corruption laws, legal sanctions, pay increases to civil servants, or training programs alone. Rather, the whole system of socio-economic relationship needs to be changed. This fundamental task requires all members of society to be involved in anti-corruption efforts. Corruption is a multidimensional political and societal phenomenon, meaning that anti-corruption regulation should be an interactive process based on a complex set of institutional agreements among all stakeholders. Collaboration between different stakeholders is crucial for combating corruption as it can lead to civil society synergies that individuals would not be able to achieve independently.

Anti-corruption regulation should be approached through a variety of institutions and policies. The necessary precondition of social stability and economic growth is the development of a transparent system of public administration and strong civil society institutions. This requires carrying out administrative reforms, filling the gaps in anti-corruption legislation, promoting the independence of law enforcement and the judicial system from political pressure, and supporting opposition parties and non-governmental organizations which are engaged in creating mechanisms for scrutiny and social control of public administration. Furthermore, the public needs to develop strong defenses against the power of interest groups over legislators and executives. Finally, the development of legal institutions for asset recovery in Nicaragua would work toward improving the prevention of corruption among rent-seeking bureaucrats.

Nicaragua's public authorities have severe difficulties in meeting numerous challenges in the process of developing and implementing anti-corruption programs. This requires institutional reforms in the public sector as dysfunctional public institutions and weak state structures feed corruption and prevent the successful implementation of economic development programs. Also, it is extremely important to intensify communication between national and international organizations working in the anti-corruption policy area. International cooperation in this field can provide new insights into the nature of this problem and has enormous potential to create mechanisms for social control and promote action for responsible public administration in Nicaragua and other Latin American countries.

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