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COMBATting CORRUPTION IN HONDURAS

Assessing the State's Capacity to Reduce Corruption and Improve Accountability

DECEMBER 2019 | SERIES 1





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INTRODUCTION

In the last decade, the problem of insecurity and impunity has deeply affected the people of Guatemala, El Salvador and Honduras, making this region (known as the Northern Triangle of Central America) one of the most violent in the world. High levels of violence, corruption, and impunity have eroded the capacity of the states to develop accessible and efficient institutions, and address the needs of their populations.

The absence of effective responses has weakened citizens' confidence in state institutions, leading to an alarming number of people who have been internally displaced or forced to migrate to other countries to escape the violence and lack of economic opportunities.

Against this backdrop, the Washington Office on Latin America (WOLA), the University Institute for Public Opinion (Iudop) of the José Simeón Cañas Central American University (UCA) of El Salvador, the University Institute on Democracy, Peace and Security (IUDPAS) of Honduras, and the Myrna Mack Foundation (FMM) of Guatemala have developed a tool for monitoring and evaluating the policies and strategies currently being implemented in Guatemala, Honduras, and El Salvador to reduce insecurity and violence, strengthen the rule of law, improve transparency and accountability, protect human rights, and fight corruption. This initiative has been made possible thanks to the support of the Latin America Division of the Swiss Agency for Development and Cooperation, the Tinker Foundation, the Seattle International Foundation (SIF), and the Moriah Fund.

THE CENTRAL AMERICA MONITOR

The Central America Monitor is based on the premise that accurate, objective, and complete data and information are necessary to reduce the high levels of violence and insecurity, and establish rule of law and governance in a democratic state. This will allow efforts to move beyond abstract discussions of reform to specific measures of change.

The Monitor is based on a series of more than 100 quantitative and qualitative indicators that allow a more profound level of analysis of the successes or setbacks made in eight key areas in each of the three countries.¹ More than a comprehensive list, the indicators seek to identify a way to examine and assess the level of progress of the three countries in strengthening the rule of law and democratic institutions. The indicators seek to identify the main challenges in each of the selected areas and examine how institutions are (or are not) being strengthened over time. The Monitor uses information from different sources, including official documents and statistics, surveys, interviews, information from emblematic cases, and analysis of existing laws and regulations.

The indicators were developed over several months in a process that included an extensive review of international standards and consultation with experts. The eight areas analyzed by the Monitor include:

1. Strengthening the capacity of the justice system;
2. Cooperation with anti-impunity commissions;
3. **Combating corruption;**
4. Tackling violence and organized crime;

5. Strengthening civilian police forces;
6. Limiting the role of the armed forces in public security activities;
7. Protecting human rights;
- 8. Improving transparency.**

The Monitor reports are published by area and by country. The first series of reports will serve as the baseline for subsequent analysis, which will be updated annually. Each annual series of reports will be analyzed in comparison with reports from the previous year. This allows researchers, civil society organizations, and other actors to assess the level of progress in strengthening the rule of law and reducing insecurity.

The first round of Monitor reports will primarily focus on data sets from an approximate 4-year time period, 2014 to 2017, in order to provide a snapshot of Central America's institutions.

The Monitor will serve as a tool for searchable, easy-to-comprehend data, delineating trends, progress, patterns, and gaps within and between the three countries of the Northern Triangle. The data, graphics, charts, and reports will be available on the Monitor's website.

This report of the Central America Monitor produced by the University Institute on Democracy, Peace and Security (IUDPAS) of Honduras aims to define a baseline for the indicators related to Honduran authorities' capacity to combat corruption in the country.

ABOUT THE RESEARCH FOR THIS REPORT

The quantitative data in this report was obtained via requests for information through the Transparency and Public Information Access Law (*Ley de Transparencia y Acceso a la Información Pública, LTAIP*) of Honduras, which establishes a specific process by which government agencies must receive information requests and respond within a set timeframe. We decided that the report's primary data would be obtained via public information requests, in order to evaluate the effectiveness of the country's transparency laws, including the response rate to information requests and the degree of cooperation by the various government institutions that were petitioned.

The information received from the requests was analyzed to measure the quality of the data obtained. This, in itself, is a useful exercise. Gaps in data will affect policymakers' ability to implement more effective public policies, while the refusal to provide information may reveal a lack of compliance and/or transparency on the part of the state agency involved. This data will be included in the Monitor's report on transparency.

Qualitative data and information were also compiled from other sources, taking into account the possibility that some state agencies might not comply with information requests. Consequently, this report uses information from interviews with experts, surveys, and media coverage to complement official data and to provide context, with the expectation that qualitative data can help provide a more complete picture of the reality on the ground. Similarly, qualitative data helps identify possible disparities by comparing existing legal frameworks with what is actually happening in practice.

KEY FINDINGS

- Between 2014 and 2017, the fight against corruption in Honduras entered a new phase. Not only were allegations of massive corruption scandals made public on a scale previously unseen in Honduras, but, for the first time in history, hundreds of thousands of citizens took to the streets in anti-corruption marches. The protests eventually resulted in the creation of the Mission to Support the Fight against Corruption and Impunity in Honduras (*Misión de Apoyo Contra la Corrupción y la Impunidad en Honduras, MACCIH*) in 2016. While the MACCIH faced strong obstacles to its work, and was ultimately terminated in January 2019, it leaves behind an important legacy, including the first steps towards creating an innovative and comprehensive anti-corruption system.
- Corruption dramatically affects citizen confidence in democracy, the state, and political parties. In a 2017 survey, only 25 percent of respondents expressed trust in the judicial branch, 25 percent indicated they trusted the executive branch, and 21 percent who expressed trust in the legislative branch. That same survey showed that 18 percent of respondents said they trusted the national electoral authority, while only 13 percent said they trusted political parties. Furthermore, 34 percent of respondents said they preferred democracy over other forms of government, but only 21.4 percent said they considered Honduras to be a democracy.
- Honduras made significant advances in terms of approving legislation and establishing institutions aimed at preventing, detecting, and penalizing corruption. The problem is not so much a lack of anti-corruption laws, tools, and bodies, but the lack of effective enforcement due to institutional weaknesses.
- A new Criminal Code (*Código Penal*) will enter into effect in 2020. The new code reduces penalties for several corruption-related criminal offenses. In addition, the new law will retroactively benefit people already convicted or being prosecuted for corruption crimes.
- Between 2014 and 2017, the Public Prosecutor's Office (*Ministerio Público, MP*) investigated 12 percent of 7,433 official complaints made regarding alleged corruption offenses. Based on the available data, between 2014 to 2016 about 29 percent of these investigations resulted in prosecutors filing charges in court.
- The most significant anti-corruption reform that took place within the judicial branch was the 2016 creation of special system of national anti-corruption courts. These courts resulted from a MACCIH-promoted initiative meant to facilitate litigation of high-level corruption cases. Honduras is one of just two countries in Latin America to have established this kind of specialized anti-corruption court system. However, the government created the system without taking into account several key recommendations by the MACCIH that sought to make the system more effective.

- From 2014 through 2017, the judiciary accepted 534 cases related to possible corruption offenses. Of these, 23.7 percent of the cases resulted in convictions, 16.8 percent resulted in acquittals, 45 percent were dismissed, 10 percent resulted in provisional dismissals (that is, cases that can be reopened if new accusatory evidence is presented), 2.8 percent resulted in suspended settlements, and 9.7 percent resulted in settlements.
- Between 2014 and 2017, Honduras saw several emblematic corruption cases that tested that ability of its institutions to combat impunity. The corruption case involving the plundering of Honduran Institute of Social Security (*Instituto Hondureño de Seguridad Social, IHSS*), which contributed to the creation of the MACCIH in 2016, is seen as the case with the biggest impact.
- Established in 2002, the Superior Court of Accounts (*Tribunal Superior de Cuentas, TSC*) is supposed to be the first line of defense in the fight against corruption in Honduras. However, serious questions have been raised about this institution's effectiveness given the number of high-level corruption scandals that have been made public between 2014 and 2017. Many of these scandals involve public institutions that have weak internal accountability mechanisms. While the TSC is meant to play a role in strengthening these mechanisms, it is falling short in doing so.
- Since 2014, civil society group the National Anti-Corruption Council (*Consejo Nacional Anticorrupción, CNA*) has emerged as another important player in Honduras's anti-corruption efforts. Thanks to new leadership, the Council has shifted its original focus away from anti-corruption trainings and work with political parties. Now, the CNA prioritizes the investigation of corruption cases drawn from formal complaints and public documents.

COMBATTING CORRUPTION IN HONDURAS

Assessing the State's Capacity to Reduce Corruption and Improve Accountability

Corruption is considered by the World Bank as the "number one public enemy" of developing countries. In Honduras, corruption has become a structural problem, directly affecting the quality of democracy, the effectiveness of the State, and the high levels of poverty and inequality faced by Honduran citizens.

The economic cost of corruption is high. According to the Social Forum of External Debt and Development of Honduras (*Foro Social para la Deuda Externa de Honduras, FOSDEH*), on an annual basis, losses due to corruption amass to about 22 billion lempiras (894 million dollars). This represents 4.5% of the Gross Domestic Product (GDP), or more than 10 percent of the General Budget of Honduras.²

The social impact of corruption is also evident. One example of this is the over 300 million dollars lost to corruption after a corruption scandal within the Honduran Institute of Social Security (Honduran Institute of Social Security, IHSS) between 2010 and 2014. This resulted in the death of 2,800 patients due to the lack of budget allocated to health care.³

The frequent corruption scandals, featuring representatives of different political parties, public officials, and members of the private sector, represent an unprecedented challenge for the Honduran democracy. This being the case, there have been important initiatives in recent years to prevent, investigate, and punish corruption. One such initiative is the Mission to Support the Fight against Corruption and Impunity in Honduras (*Misión de Apoyo contra la Corrupción y la Impunidad en Honduras,*

MACCIH), which is the focus of the Monitor's second report, the Special Prosecutor's Unit against Corruption and Impunity (*Unidad Fiscal Especial Contra la Impunidad de la Corrupción, UFECIC*) within the Public Prosecutor's Office, and the Anti-Corruption Courts in the Judicial Branch.

Nonetheless, these initiatives face obstacles and setbacks from the three branches of the government, highlighting the politicization of these anti-corruption institutions. In addition, corruption is currently perceived as more diversified and difficult to address. For example, "influence peddling" assumes new covert methods; such as the increase in the misuse of "privileged information," which entails officials who, after serving in the public sector, work in companies or for clients who negotiate or work with the State.

This report first examines the general situation of corruption in Honduras by considering the public's perception of this problem. Secondly, it analyzes the country's current regulations to combat corruption, as well as its compliance with international standards.

To address the effectiveness of specialized anti-corruption agencies, the report examines the capacity of agencies such as the Public Prosecutor's Office (*Ministerio Público, MP*), the Judicial Branch (*Poder Judicial, PJ*), the Attorney General's Office (*Procuraduría General de la República, PGR*), the Superior Court Of Accounts (*Tribunal Superior de Cuentas, TSC*), and the National Anti-Corruption Council (*Consejo Nacional Anticorrupción, CNA*).

In addition, the report presents some emblematic cases of corruption, with the objective of measuring the response of the investigation and

justice system. Finally, the report analyzes the supervision and control mechanisms crucial to combating corruption.

CITIZEN PERCEPTIONS OF CORRUPTION

In the corruption perception index published annually by Transparency International (TI), between 2014 and 2017, Honduras occupied positions 126, 111, 123, and 135 respectively, placing it in the upper third of the countries in

the world with the highest public perception of corruption. This ranking measures the levels of perception of corruption in the public sector, based on various surveys of experts and companies.

TABLE 1

CORRUPTION PERCEPTIONS INDEX IN HONDURAS, 2014-2017

	2014	2015	2016	2017
Score	29	31	30	29
Rank	126	111	123	135
Countries	175	167	176	180

Source: Transparency International

Honduras received a score of 29 in 2014 (0 being the most corrupt and 100 the least corrupt), slightly exceeding the previous year's rating (26). Compared to other countries in the world, Honduras has improved its position by moving up to 126 out of 175 countries. However, compared with other countries in Latin America, it was among the five countries considered most corrupt.

As Table 1 indicates, from 2015 to 2017, the perception index dropped one point annually, reflecting an increase in perception of corruption. By 2017, Honduras was among the 124 countries that scored below 50, and ranked

third most corrupt at the Central American level, above Nicaragua and Guatemala, but 30 points below Costa Rica, the highest scoring country in the region.

A review of the World Governance Indicators (WGI) prepared by the World Bank in 2016 placed Honduras in the lower fourth of countries in the world in the areas of corruption control, rule of law, and effectiveness of government. They also qualified the country as below average in the areas of political stability, participation and accountability, and regulatory quality.⁴

Another TI report argues that corruption is not exclusive to politicians and is a widespread phenomenon. In 2017, the study recorded that 56% of Honduran citizens paid a bribe in court (21% to 30% did so in schools, hospitals, or to obtain an identity document) and 11% to 20% did so for public services or to the police.⁵

Despite its seriousness, many people do not consider corruption as one of the country's main problems. In 2014, only 5.8% of the population considered it as the first obstacle to development in Honduras.⁶ Although in 2016, this went up to 11.2%.⁷

The 2017 TI report found that 53% of Hondurans considered that corruption had increased over the previous year, although 55% acknowledged that the government was making some efforts to combat it. However, compared to the rest of Latin America, Honduran citizens perceived their country to have had the least increase in corruption.⁸

That being said, corruption scandals greatly affect confidence in the powers of the State and political parties. In 2017, 75% of the citizens considered Honduras to be governed for a few powerful groups, while only 22% thought that it was governed for the good of the whole country. According to a survey, only 25% of individuals had confidence in the Judicial Branch, 25% in the Executive Branch, 21% in the Legislative Branch, 18% in the electoral body, and 13% in political parties.⁹

Corruption also has a direct impact on the perception of the type of governance in Honduras. In 2015, only 24.7% considered the country democratic, while in 2016 it fell to 17.8% and in 2017 it rose to 21.4%.¹⁰ In addition, only 34% say they prefer democracy over another type of government.¹¹

REGULATIONS TO COMBAT CORRUPTION

The fight against corruption in Honduras is based on national laws and adherence to international initiatives. Over the last decade, Honduras secured important legal advances that promote the prevention, detection, and penalization of corruption. However, the problem does not seem to be so much a delay in relevant legislation as a lack of its effective application due to the weaknesses of the state institutions.

The report, “Honduras: Unlocking the economic potential for greater opportunities” (Honduras: Desatando el potencial económico para mayores oportunidades), of the World Bank indicates that Honduras complies with most of the provisions established at the international level, having signed international

treaties into national law. However, it stressed that the biggest challenge is the law's application.¹²

INTERNATIONAL REGULATIONS

At the international level, the two most important instruments of which Honduras is a signatory are: The United Nations Convention against Corruption, ratified by the country in 2005, and the Inter-American Convention against Corruption, ratified in 1998.

With these instruments, States are required to issue anti-corruption policies, take preventive measures concerning freedom of information,

typify corruption crimes in their legislation, and implement preventive measures that include incorporating or revising the norms of conduct of public officials and servants.

To analyze compliance with international conventions, there are follow-up instruments, such as the Follow-up Mechanism for the Implementation of the Inter-American Convention against Corruption (*Mecanismo de Seguimiento de la Convención Interamericana contra la Corrupción, MESICIC*) and the Mechanism for the Review of the Application of the United Nations Convention against Corruption.

Among other pledges made with international organizations, the most important is the agreement that constituted the MACCIH, signed on January 19, 2016 between the Government of Honduras and the General Secretariat of the Organization of American States (OAS), which is the focus of the second report of the Monitor related to Honduras.

The State also signed an agreement with Transparency International in 2014, highlighting the health sector's commitment to make the process of purchasing medicine more transparent. In addition, Honduras joined the Open Government Alliance Initiative in 2011, a global effort created in 2010 to make the management of public resources more transparent.

NATIONAL REGULATIONS

Of the national regulations that are mandated, directly or indirectly, to combat corruption and promote transparency, the following stand out: the Law Against Illicit Enrichment of Public Servants, the Penal Code, the Special Law Against Money Laundering, the Law on Definitive Forfeiture of Illicit Assets, the Law

on Financing, Transparency and Control of Political Parties and Candidates, the Law on Transparency and Access to Public Information, the Law on Efficient and Transparent Purchases, the Civil Service Law and the Ethics Code for Public Officials.

While the Honduran government has referred to a National Transparency Policy in the media, there is no document describing said policy.¹³

CORRUPTION PREVENTION

The following are the most relevant initiatives and laws concerning corruption prevention:

Civil Service Law

The Civil Service Law has been in effect since 1967 and needs to be updated. This instrument promotes efficiency and transparency in the hiring process of official personnel so that the processes are not subject to special and political interests.

Law on Efficient and Transparent Purchases

Public procurement is a process vulnerable to corruption. The Law on Efficient and Transparent Purchases through Electronic Media,¹⁴ effective since August 6, 2014, regulates the purchase of goods by public auction through electronic catalogs.

Infrastructure Transparency Initiative, CoST

CoST is a global initiative launched in 2012 by the World Bank, designed to promote transparency and accountability of public infrastructure projects through the dissemination, verification, and analysis of indicators defined by the CoST initiative internationally. Honduras joined that mechanism on August 14, 2014.¹⁵

Law on Transparency and Access to Public Information

Since 2006, Honduras has had a Law on Transparency and Access to Public Information and through its mandate created a financially and operationally independent transparency institution. Its main functions are to regulate the exercise and procedures of access to information. The body also establishes criteria and recommendations for the operation of the National Information System. The practice of access to information is examined in detail in the Central America Monitor's report on transparency.

Ethics Code for Public Officials

Honduras adopted the Ethics Code for Public Officials (*Código de Ética del Servidor Público*) in 2007. However, the TSC did not publish its regulations until 2015. Its objective is to prevent abuses by public servants in government administration. It also establishes measures and systems to aid public officials in reporting institutional acts of corruption and preventing behaviors like conflicts of interest and activities incompatible with public service. The rules set forth in this code are applicable to all persons who work in the three branches of the State.

Law on Financing, Transparency, and Auditing for Political Parties and Candidates

In October 2016, the National Congress approved the Law on Financing, Transparency, and Auditing for Political Parties and Candidates, better known as the "Law on Clean Politics." The Law was an initiative of the MACCIH and ordered the creation of the Financing, Transparency and Supervision Unit within the Supreme Electoral Tribunal (*Tribunal Supremo Electoral, TSE*). The body also known as the "Clean Politics Unit" is responsible for

supervising and auditing political campaign expenses, and conducting investigations either on their own initiative or at the request of others.

This law imposed limits on political campaign contributions and required donors to register. According to the law, candidates must report how they spend their campaign budget and where it comes from. The Unit was granted the ability to sanction candidates and parties and even decertify political parties if they receive money from undeclared or illegal sources. It can also present these cases to the MP for prosecution.

Nonetheless, in the course of its passing, Congress eliminated several substantial provisions in the law, including some proposed by the MACCIH such as prohibiting the use or bidding of state projects at the beginning of the campaign and permitting donations from entities contracting with the government. Additionally, the approved version differed from the published version, most notably varying on the date in which the law would go into effect, the date the Control Unit would start operations, and the prohibition of receiving funds from representatives of trusts of "companies with links to illegal activities."¹⁶ In response to probes by the MACCIH, Congress published an erratum and the law entered into effect.

Presidential Directorate of Transparency, Modernization and Digital Government Office

In 2014, the government created the Presidential Directorate of Transparency, Modernization and Digital Government, affiliated with the General Government Coordination Secretariat (*Secretaría de Coordinación General de Gobierno, SCGG*). Its

objective is to strengthen transparency within Honduras' State institutions through a process of formulating and proposing transparency policies and programs to combat corruption in coordination with external control entities and other entities of the State. However, this Directorate has not proved relevant and the institutions maintain a very low level of accountability through their digital platforms.

PENALTIES FOR CORRUPTION

The Penal Code

The Penal Code defines crimes related to corruption. In 2014, the National Congress began developing a new Penal Code to replace the one in effect since 1983, given that this version did not meet the needs of the current context. During discussions of the new code in 2016, MACCIH presented its recommendations and concerns regarding reducing penalties against the public administration for corruption offenses.

The new Penal Code passed in January of 2018 included penalty reductions for a number of

corruption offenses, including illicit enrichment, embezzlement, influence peddling, obstruction of justice, and bribery. This measure also implies that people already convicted, or who are being tried for these corruption crimes, may be eligible for the principle of retroactivity of the law that the Constitution contemplates in criminal matters.

In addition to their concern regarding penalty reduction for corruption crimes, the MACCIH also criticized that the new Code does not include the concept of effective collaborator proposed by the Mission since its arrival, and emphasized that the principle of retroactivity of the law will favor the offender or prosecuted. Therefore, the Mission supports the extension of the *vacatio legis* to carry out analyses and reforms relevant to the new Penal Code prior to entering into effect in 2020.

Moreover, the new Code does not regulate the practice of nepotism or illicit financing, although it does sanction the use of privileged information for the first time with a penalty of 1 to 3 years in prison. (The new Penal Code will be analyzed in greater depth in a future report.)

TABLE 2

PENALTIES FOR CORRUPTION IN THE HONDURAN CRIMINAL CODE, BEFORE AND AFTER 2020

Type of Crime	Criminal Code Prior to 2020	Criminal Code as of 2020
Abuse of authority	3 to 6 years imprisonment	3 to 6 years ineligibility for office
Illicit enrichment	5 to 15 years imprisonment (assets are awarded to the State)	4 and 6 years imprisonment (assets not awarded to the State)
Embezzlement of public funds	2 to 12 years imprisonment	4 to 6 years imprisonment

Type of Crime	Criminal Code Prior to 2020	Criminal Code as of 2020
Influence peddling	4 to 7 years imprisonment	2 to 5 years imprisonment
Prevarication	3 to 9 year imprisonment	3 to 6 years imprisonment
Fraud and illegal levies	6 to 9 years imprisonment	5 to 7 years imprisonment
Obstruction of justice	3 and 6 years imprisonment	2 and 5 years imprisonment
Nepotism	Not regulated	Not regulated
Insider trading	Not regulated	1 to 3 years imprisonment
Bribery	5 to 7 years imprisonment	2 to 4 years imprisonment
Illicit financing	Not regulated	Not regulated

Source: Compiled by the authors

Law against Illicit Enrichment of Public Servants

The Law against Illicit Enrichment of Public Servants went into effect in 1994. The law established conditions for the honest exercise of public office and safeguarded state assets by sanctioning public servants who use their positions or jobs to enrich themselves illegally. The regulation was published in 1996.

Special Law against Money Laundering

Honduras approved the Special Law against Money Laundering in 2014. The Public Prosecutor's Office and the Administrative Office of Seized Properties (*Oficina Administradora de Bienes Incautados, OABI*) helped form its 93 articles. To make this law effective, the Interagency Commission for the Prevention of Money Laundering and Terrorism Financing (*Comisión Interinstitucional para la Prevención del Lavado de Activos y Financiamiento del Terrorismo, CIPLAFT*) was created. CIPLAFT is chaired by the National Commission on Banking and Insurance (*Comisión Nacional de Bancos y Seguros, CNBS*), and falls under the executive branch's purview through the

National Council of Defense and Security. The criminal offenses include laundering of assets, money laundering through a front, unlawful association, concealment, and extortion. In addition, the law expanded the powers of the Public Prosecutor's Office, establishing figures like undercover agent, rapporteur, and controlled or monitored deliveries.

Law on Definitive Forfeiture of Illicit Assets

Approved by executive decree in 2010, this law aims to seize assets or profits obtained illegally. Forfeiture is determined by a judge and can include those who control the assets or those who benefited from them.

Law on the Protection of Witnesses in the Criminal Process

Adopted in 2007, the Law on the Protection of Witnesses in the Criminal Process is under the direction of the Public Prosecutor's Office, which must protect those who have participated effectively in a criminal process. Like other Central American countries, Honduras does not have specific protection legislation for whistleblowers who denounce corruption.

REGULATIONS THAT AFFECT THE FIGHT AGAINST CORRUPTION

In terms of legal reforms, there are other regulations that limit or harm the fight against corruption. Among these is the Law on the Classification of Public Documents related to National Security and Defense, approved in 2014 and better known as "Law of Official Secrets." As analyzed in detail in the Transparency Monitor report, the law allows the State to prevent access to information that it considers sensitive for national security and defense for a period of 15 years. In the case it considers information ultra secret, the State can extend this period to 25 years. This legislation transfers many of the responsibilities of the Institute for Access to Public Information

(*Instituto de Acceso a la Información Pública, IAIP*) to the National Council of Defense and Security (*Consejo Nacional de Defensa y Seguridad, CNDS*). Specifically, the CNDS is able to classify information as reserved, confidential, secret and ultra-secret through use of general parameters such as "produces unwanted institutional effects, damages, or harms national security internally, causes serious internal and external damage to national security, or causes exceptionally serious internal or external damage to the discretion of authority."

The regulations constitute an obstacle in combating corruption since they limit the search and access of information. In one of the first applications of the law, the CNDS ordered to declare information generated by 18 state institutions as secret, among which were entities investigated for acts of corruption.

CAPACITY OF THE PUBLIC PROSECUTOR'S OFFICE AND JUDICIARY

Institutional framework established to combat corruption goes from legislation, to investigation, to the conviction of illegal acts. That is to say, the National Congress approves and modifies the laws, the Public Prosecutor's Office investigates the cases, the Judicial Branch sanctions them, and the Executive Branch ensures the detention of the sentenced persons.

THE PUBLIC PROSECUTOR'S OFFICE

Established in 1994, the MP operates independently of the three branches of the State with technical, administrative, and budgetary autonomy. To investigate possible corruption offenses, and subsequently decide whether or not to use plea bargaining (indicating the power

to abstain from total or partial implementation of criminal action) or file the respective prosecutor complaints, the MP has two main units: the Special Prosecutor for Transparency and the Fight Against Public Corruption (*Fiscalía Especial para la Transparencia y Combate a la Corrupción Pública, FETCCOP*) and the Special Prosecutor's Unit Against Impunity and Corruption (*Unidad Fiscal Especial Contra la Impunidad y Corrupción, UFECIC*).

The FETCCOP emerged in 2014, replacing the Special Prosecutor's Unit Against Impunity and Corruption. With jurisdiction throughout the national territory, it has two regional headquarters, one in Tegucigalpa and another in San Pedro Sula. Unlike UFECIC, FETCCOP investigates cases that do not involve extensive networks of corruption and does not work in

conjunction with the MACCIH.

According to the data provided by the MP, between 2014 and 2017, at its two locations, the FETCCOP had a team of approximately 88 staff per year, of which 76% were located in Tegucigalpa and 24% in San Pedro Sula. Of these personnel, during these four years, there was an annual average of 19 prosecutors in Tegucigalpa and 14 in San Pedro Sula; roughly 7 people held administrative functions in Tegucigalpa and 4 in San Pedro Sula. There were also about

40 technical and auxiliary employees (who help expedite cases, under the supervision of prosecutors) in Tegucigalpa and 3 in San Pedro Sula.

In 2017, the prosecutors assigned in the FETCCOP made up just 3% of the total prosecutors (959) of the entire MP. That same year, all employees (prosecutors, administrative staff, technical and auxiliary personnel) of this special prosecutor's office represented 1.9% of the total employees (3,782) of the MP.

TABLE 3

PERSONNEL ASSIGNED TO THE SPECIAL PROSECUTOR FOR TRANSPARENCY AND THE FIGHT AGAINST PUBLIC CORRUPTION (FETCCOP), 2014-2017

Position	2014	2015	2016	2017
Prosecutors				
Tegucigalpa	17	21	25	15
Regional San Pedro Sula	10	22	11	15
Administrative personnel				
Tegucigalpa	6	6	8	7
Regional San Pedro Sula	4	5	4	4
Technical and auxiliary personnel				
Tegucigalpa	26	44	65	27
Regional San Pedro Sula	2	2	2	5
Total	65	100	115	73

Source: Prepared by the author using data from the MP

The information provided by the MP indicates that between 2014 and 2017, the FETCCOP headquarters in Tegucigalpa had an average budget of 26.6 million lempiras annually (just over one million dollars). The Prosecutor's Office

did not provide information on the budget for the San Pedro Sula headquarters.

In total, between 2014 and 2017, the MP allocated 106.6 million lempiras (4.3 million

dollars) to the FETCCOP in Tegucigalpa. This figure represented 1.98% of the total MP budget in those years, which was 5.4 billion lempiras

(219 million dollars). In this same period, the budget of the Tegucigalpa FETCCOP rose 68%, while the total of the MP grew 63%.

TABLE 4
BUDGET ASSIGNED TO THE SPECIAL PROSECUTOR FOR TRANSPARENCY AND THE FIGHT AGAINST PUBLIC CORRUPTION (FETCCOP) IN TEGUCIGALPA, 2014-2017

Year	Budget allocated (in millions of lempiras)	% in relation to the budget of the MP
2014	19.5	1.85%
2015	23.6	2.03%
2016	31.2	2.17%
2017	32.3	1.85%

Source: Information provided by the MP

The **UFECIC** was established in February 2017 through an agreement between the OAS and the Attorney General to exclusively take on the cases selected and investigated in conjunction with the MACCIH. Unlike the FETCCOP, this unit is responsible for investigating cases involving three or more people.

The UFECIC cannot directly receive complaints, but based on the principle of petition, this unit can receive them from the National Anti-Corruption Council (*Consejo Nacional Anticorrupción, CNA*), and then submit them to the MACCIH, who decides if the case is accepted for joint investigation. After two years of operation, the UFECIC has investigated 24 cases, of which 13 have been brought before the Courts.

As discussed in the Monitor's report on cooperation with MACCIH, the Mission and the Attorney General's Office elected, by consensus, members for the UFECIC through an internal call, with the exception of the Computer Forensics position, which was selected through an external process. The members were selected through a rigorous process that included tests of confidence and aptitude with participation of the MACCIH and civil society organization the Association for a More Just Society (ASJ).

By the end of 2017, UFECIC was made up of 43 justice operators, including 14 investigative agents, 10 specialists in the collection and analysis of Financial Information, 4 specialists in the collection and analysis of criminal information, and 4 computer forensics. These

members can only be transferred or removed by consensus between the Mission and the Attorney General.

Regarding the budget, the UFECIC received an allocation of 9.6 million lempiras (\$388 thousand) in 2017 for its first period of operations. This figure represented 0.55% of the total budget allocated to the Public Prosecutor's Office that year.

In order to investigate, both the FETCCOP and the UFECIC must have the support of other state bodies. These include the National Office for the Comprehensive Development of Internal Oversight (*Oficina Nacional de Desarrollo Integral del Control Interno, ONADICI*), the specialized technical body of the Executive Branch attached to the National System for Control of Public Resources (*Sistema Nacional de Control de los Recursos Públicos, SINACORP*). It must also have the support of CIPLAFT and CNBS. By law, SINACORP is obligated to send reports to the MP concerning audits carried out when possible crimes are discovered in the management of public resources so that the MP proceeds with investigation and criminal public action.

THE JUDICIAL BRANCH

The Judicial Branch is responsible for upholding laws in national territory at its discretion. This branch is made up of the Supreme Court of Justice, the Courts of Appeals, the tribunals, and other dependencies indicated by law.

In 2016, the Judicial Branch established the Special Law of Jurisdictional Bodies with Territorial Competence, whose specific role is to prosecute cases of corruption and extortion. However, it does not hear cases that involve “senior officials.”

An initiative spearheaded by the MACCIH gave life to Courts and Tribunals against Corruption with National Jurisdiction in order to prosecute complex corruption cases. This made Honduras the second Latin American country with a specialized jurisdiction of this type.

These Courts, which started operating in 2017 and have one integrated circuit in Tegucigalpa and another in San Pedro Sula, only handles cases related to crimes committed by three or more people. Consequently, they only litigate prosecutor complaints sent by the UFECIC and not those of the FETCCOP, which are overseen by the standard courts.

As indicated in the Monitor's report on the level of state cooperation with MACCIH, the Judges and Magistrates (3 professional judges, 4 trial judges, 4 appeal court magistrates) that make up the Courts and Tribunals against Corruption with National Jurisdiction were selected via a Selection Protocol in which MACCIH participated. This process was governed by the norms of advertising, transparency, equal opportunities, establishment of objective qualification criteria, accountability, and citizen participation. In 2017, its staff increased to 33 people, including 25 assistants (see Table 5 for more details).

TABLE 5**PERSONNEL ASSIGNED TO COURTS AND TRIBUNALS WITH NATIONAL JURISDICTION OVER CORRUPTION CRIMES, 2017**

Instance	# of personnel
Courts of First Instance	8
Trial Courts	14
Courts of Appeal	11
Total	33

Source: Compiled using data from the Judicial Branch

In 2017, the Courts and Tribunals against Corruption with National Jurisdiction were assigned 15.4 million lempiras (\$626,000), of which 16% went to the Courts of First Instance,

44% to the Trial Courts and 39.6% to the Courts of Appeals. However, during that year, only 25.3% of these funds were implemented.

TABLE 6**BUDGET ALLOCATED TO THE COURTS AND TRIBUNALS WITH NATIONAL JURISDICTION OVER CRIMES OF CORRUPTION, 2017**

Instance	Allocated Budget	Budget Implemented	Percent Implemented
Courts of First Instance	L. 2,430,616.61	L. 881,085.00	36%
Trial Courts	L. 6,850,933.61	L. 1,524,099.31	22%
Courts of Appeal	L. 6,129,742.00	L. 1,571,791.43	26%
Total	L. 15,411,292.22	L. 3,976,975.74	

Source: Compiled using data from the Judicial Branch

The budget allocated to this specialized jurisdiction represented only 0.7% of the total funds of the Judicial Branch, which in 2017

totaled 2.1 billion lempiras (88 million dollars).

EFFECTIVENESS IN THE FIGHT AGAINST CORRUPTION

Concerning the effectiveness in the fight against corruption, this section analyzes quantitative data provided by the Public Prosecutor's Office (*Ministerio Público, MP*) and the Judicial Branch (*Poder Judicial, PJ*) of a set of crimes related to public administration that are commonly registered in Honduras.¹⁷

Table 7 shows that, between 2014 and 2017,

the MP received 7,695 complaints regarding possible cases of corruption, representing a 43% increase during that period, from 1,673 complaints in 2014 to 2,409 in 2017.

Of the total complaints the FETCCOP received, 72.2% referred to a possible case of abuse of authority, 17.4% to fraud or illegal extractions, 4.2% to embezzlement of public funds, 3.7% to bribes and 1.7% to prevarication. Less than 1% dealt with complaints of illicit enrichment (0.7%) and negotiations incompatible with the exercise of public functions (0.03%).

TABLE 7

TYPE OF COMPLAINTS RECEIVED BY THE SPECIAL PROSECUTOR FOR TRANSPARENCY AND THE FIGHT AGAINST PUBLIC CORRUPTION (FETCCOP), 2014-2017

Type of complaint	Amount of complaints	% in relation to the total
Abuse of authority	5368	72.2%
Fraud and illegal extractions	1295	17.4%
Embezzlement of public funds	314	4.2%
Bribery	275	3.7%
Illicit enrichment	52	0.7%
Prevarication	127	1.7%
Negotiations incompatible with the performance of public functions	2	0.03%
Total	7433	100%

Source: Compiled using data from the Judicial Branch

The MP did not deliver most of the 2017 data, claiming that it was not up to date when they received the public request for information for this Monitor. But according to what was obtained, as observed in Table 8, the FETCCOP investigated 12% of the total complaints

received between 2014 and 2016. However, with the exception of 2017, there was a steady increase in complaints investigated by the prosecution.

TABLE 8

PERFORMANCE OF THE SPECIAL PROSECUTOR FOR TRANSPARENCY AND THE FIGHT AGAINST PUBLIC CORRUPTION (FETCCOP), 2014-2017



	Complaints	Cases Under Investigation (FETCCOP)	Prosecutor Complaints	Cases in trial stage	Requests - Plea Bargaining
2014	1673	192	63	10	2
2015	1677	271	70	16	3
2016	1674	294	90	43	2
2017	2409	155	n/a ¹⁸	n/a	n/a
Total	7433	912	223	69	7



	Case Suspensions	Settlements	Definitive Dismissals	Summary Trials
2014	5	9	28	11
2015	12	5	33	3
2016	4	9	20	13
2017	n/a	n/a	n/a	n/a
Total	21	23	81	27

Source: Own elaboration with data from the Public Prosecutor's Office
n/a = Data not available

Of the 757 investigations carried out between 2014 and 2016, 29% were submitted as prosecutor complaints and 0.7% reached an agreement through *critério de oportunidad* (a type of plea-bargain) because there were more advantages in not proceeding with criminal action rather than prosecuting the person.

From the figures reported, the MP registered 223 prosecutor complaints during the 2014-2016 period, the majority in 2016 (90 cases) and the minority in 2014 (63 cases). Specifically, the crimes with the greatest amount of prosecutor complaints were related to abuse of authority (126 cases), embezzlement of public funds (29 cases), fraud and illegal extractions

(29 cases), and bribery (23 cases), all of which constituted 92.83% of the total number of prosecutor complaints.

Of the total cases investigated by the FETCCOP during 2014 to 2017, the majority were for alleged abuses of authority (74.78%, or 682 cases), embezzlement (13.60%, or 124 cases) and fraud and illegal extractions (6.25%, or 57 cases). The crimes less frequently investigated by the FETCCOP were bribery (3.73%, or 34 cases), illicit enrichment (1.32%, or 57 cases) and prevarication (0.33%, or 3 cases). The prosecutors did not investigate allegations of negotiations incompatible with the performance of public functions.

On the other hand, of the 223 prosecutor complaints filed by the MP between 2014 and 2017, 31% entered the trial stage within the Judicial Branch, 3% obtained requests for plea bargaining, 9.4% were suspended, 10.3% of them were closed by settlements, 36.3% obtained definitive dismissal and 12.1% were determined by summary trials (see Table 8).

THE JUDICIAL BRANCH

The prosecutor complaints presented by the Public Prosecutor's Office enter into two phases within the Judicial Branch: an intermediary one, in which the courts determine if there is sufficient evidence to open a trial, and the trial phase, in which the courts deliberate and sentence the accused.

During the intermediate stage, the Courts of First Instance for Criminal Cases (*Juzgados de Letras de lo Penal, JLP*) are responsible for deciding whether there are reasonable grounds

to bring the case to trial, or if a provisional or definitive dismissal should be issued due to lack of evidence against the accused. However, these courts can also issue sentences with a summary trial depending on whether or not the accused accepts the acts assigned to him/her, with the purpose of reducing the procedural burden of the Trial Courts (*Tribunales de Sentencia, TS*).

In the trial phase, the TS is responsible for carrying out the trial, in which both parties (prosecution and defense) debate presented evidence. The TS then deliberates the case in order to issue a sentence in accordance with law.

During the 2014-2017 time period, the Judicial Branch accepted 534 cases related to possible corruption offenses. This amount exceeds the 223 prosecutor complaints presented by the MP during this same period; this discrepancy is due to the accumulation of cases presented by the prosecution from previous years.

TABLE 9

OUTCOMES OF COMPLAINTS RECEIVED BY THE SPECIAL PROSECUTOR FOR TRANSPARENCY AND THE FIGHT AGAINST PUBLIC CORRUPTION (FETCCOP), 2014-2017

	Com-plaints	Cases Under Investi-gation - FETC-COP	Prosecu-tor Com-plaints	Cases in Trial Phase	Requests - Plea Bargain-ing	Case Suspen-sions	Settle-ments	Defini-tive Dis-missals	Summary Trials
Abuse of authority	5368	682	126	27	7	19	13	51	13
Embez-zlement of Public Funds	314	124	29	11	0	0	2	9	8

	Com-plaints	Cases Under Investi-gation - FETC-COP	Prosecu-tor Com-plaints	Cases in Trial Phase	Requests - Plea Bargain-ing	Case Suspen-sions	Settle-ments	Defini-tive Dis-missals	Summa-ry Trials
Fraud and Ille-gal levies	1295	57	29	11	0	0	3	15	0
Illicit En-richment	52	12	13	7	0	1	1	1	3
Nego-tiations Incom-patible with the Perfor-mance of Public Func-tions	2	0	1	1	0	0	0	0	0
Prevari-cation	127	3	2	1	0	0	0	0	1
Bribery	275	34	23	11	0	1	4	5	2
TOTAL	7433	912	223	69	7	21	23	81	27

Source: Compiled using data from the Public Prosecutor's Office

The Public Prosecutor's Office did not send data on prosecutor complaints, cases at trial stage, requests for plea bargaining, suspension of cases, settlement, definitive dismissals, and summary trials for the year 2017 because its database was not updated by the date of the request for public information.

TABLE 10

RESOLUTION OF CORRUPTION CASES IN THE JUDICIAL BRANCH, 2014-2017

	Courts of First Instance for Criminal Cases	Trial Courts	Total
Cases entered	534	290	534*
Convictions **	36	91	127
Acquittals	0	90	90
Definitive dismissals	239	2	241
Provisional dismissals	54	0	54
Conditional suspension of criminal prosecution	15	0	15

	Courts of First Instance for Criminal Cases	Trial Courts	Total
Settlements	52	0	52
Cases resolved through trial proceedings	130	0	130

Source: Compiled using data obtained from the Judicial Branch

* All cases admitted to the Trial Courts were referred by the Courts of First Instance

** In Courts of First Instance, convictions result from the summary trials

Of the 534 cases brought to the Judicial Branch through the JLP, 50% concerned possible crimes of abuse of authority, 16.2% fraud and illegal extractions, 20% breach of duties of public officials, 5.6% bribery, 4.4% embezzlement of public funds, 2.4% illicit enrichment, and 1% prevarication (see Table 11).

Sixty-five percent of the 534 cases did not go to the TS for trial proceedings. The JLP resolved 54.8% of the cases with definitive or provisional dismissals, determining that they did not have sufficient evidence to open a trial. They resolved 9.74% of the cases with settlements and declared 6.7% of the accused guilty through summary trials (see Table 10).

TABLE 11

RESOLUTION OF CORRUPTION CASES - COURTS OF FIRST INSTANCE, 2014-2017

Type of case	Cases Entered	Convictions	Definitive Dismissals	Provisional Dismissals	Conditional Suspensions	Settlements	Trial Proceedings
Abuse of Authority	268	11	130	30	9	24	60
Bribery	30	5	19	2	0	2	20
Illicit Enrichment	13	2	5	3	0	0	6
Fraud and Illegal Levies	87	2	32	8	1	15	12
Embezzlement of Public Funds	24	7	8	1	0	0	8
Prevarication	5	1	1	0	1	0	0
Negotiations Incompatible with the Performance of Public Functions	107	8	44	10	4	11	24
TOTAL	534	36	239	54	15	52	130

Source: Compiled using data from the Judicial Branch

The JLPs referred 290 cases to the TS, of which 31.4% received convictions at the end of the trial, 31% of defendants were acquitted, and just two cases were definitively dismissed (see Table 12).

In total, if the cases between both courts are taken into account, of the 534 cases introduced to the Judicial Branch, 23.7% were resolved with convictions, 16.8% with acquittals, 45% with definitive dismissals, 10% with provisional dismissals (unlike definitive ones, these cases

can be reopened if new accusatory evidence is presented), 2.8% with conditional suspensions, and 9.7% with settlements.

TABLE 12
RESOLUTIONS OF CORRUPTION CASES - TRIAL COURTS, 2014-2017

Type of case	Cases Entered	Convictions	Acquittals	Definitive Dismissals
Abuse of Authority	126	28	42	0
Bribery	25	17	12	0
Illicit Enrichment	10	5	1	1
Fraud and Illegal Examinations	26	9	7	1
Embezzlement of Public Funds	21	13	13	0
Prevarication	8	1	1	0
Negotiations Incompatible with the Exercise of Public Functions	74	18	14	0
TOTAL	290	91	90	2

Source: Compiled using data from the Judicial Branch

Cases that are resolved do not necessarily correspond with the cases entered into the Judicial Branch, considering proceedings can take several years before a judge issues a

sentence (although a reasonable time period is one and a half years). Nonetheless, the previous estimates serve as an approximation to define the effectiveness of these cases.

EMBLEMATIC CASES

Between 2014 and 2017, there were several emblematic cases of corruption that put the institutional framework against impunity to the test. The following tables contain summaries

of three emblematic cases that took place this period, as well as the government's response to each of them.

BOX 1

IHSS FRAUDULENT BIDDING CASE

IHSS director (2010-2014), Mario Zelaya, led a criminal network in which officials and private citizens, family members, and even members of the business community, participated. This network illegally extracted some 335 million dollars from IHSS Disability, Old Age, Death and Maternity Funds. On June 3, 2015, even President Hernández admitted that his political campaign received a portion of the money stolen from the IHSS.²⁰

With support of MACCIH, the Public Prosecutor's Office took on the investigation of this case in 2016, based on investigations previously carried out by the National Anti-Corruption Council (Consejo Nacional Anticorrupción, CNA) in 2015. The case included 46 lines of investigation, directly involving former director Mario Zelaya.

By mid-2016, the MP had not yet collected enough evidence to begin the trial process against Zelaya, who was about to complete the maximum time of his pre-trial detention.²¹

However, the Prosecutor's Office filed lesser charges of possession of arms and munitions of war against him. This extended Zelaya's detention and he was convicted in December 2016.

In March 2017, Zelaya and two vice ministers who served on the IHSS Board, Javier Pastor and Carlos Montes, were convicted for money laundering, with Pastor and Montes also being accused of bribery.²² In June 2017, Zelaya and others were also convicted of creating "front companies" to launder almost 295 million lempiras (US \$12 million).²³

During 2017, the MP with the support of MACCIH, managed to present sufficient evidence to convict twelve individuals, with Mario Zelaya receiving the highest sentence (40 years, with further sentencing pending) for crimes of possession of commercial and war weapons, abuse of power, fraud, violation of duties, and money laundering.

BOX 2

JUDICIARY COUNCIL CASE

In October 2015, five members of the defunct Judiciary Council and the former president of the Supreme Court of Justice (CSJ) were accused of embezzling public funds, falsifying public documents, abuse of authority, and appointing relatives to public positions without proper documentation.²⁴

One of the defendants was the former vice president of the CSJ, Teodoro Bonilla,

previously accused of influence peddling in the "Shalom" case where he ruled favorably on behalf of two of his relatives facing trial since 2014 for several counts of organized crime in San Pedro Sula.²⁵

Established in 2011, the Judiciary Council was an organ within the Judicial Branch elected by the National Congress in the midst of a disputed election. The head of the CSJ, Jorge

Rivera Aviles, led this Council. All members had been appointed in 2013, entrusted to financially and administratively run the Judicial Branch, appoint and remove magistrates of the Courts of Appeals, judges, other officials and jurisdictional assistants, and administrative and technical personnel. In addition, they were responsible for evaluating and training judicial officials, applying the disciplinary system, and preparing drafts of the annual budget, regulations, and everything related to movements among personnel.

The Council was dissolved after the irregularities previously mentioned came to light. The vice president of the Judiciary Council, Teodoro Bonilla, and two judges were convicted in the first case of influence peddling in the history

of Honduras.²⁶ In 2017, with the investigative support of MACCIH, the trial court sentenced Bonilla to six years in prison. In his case, the MP said that Bonilla had used his power to favor friendships and influence legal cases against his enemies. Bonilla continues to be investigated for 88 crimes of embezzlement of public funds and 14 crimes of abuse of authority.²⁷

Some of Bonilla's former colleagues and members of the now extinct Judiciary Council and Judicial Career have been accused of embezzling public funds. However, the judge allowed them to defend themselves while free (instead of being held in custody prior to their trial) as long as they appeared weekly in Court.²⁸

BOX 3

THE NETWORK OF LEGISLATORS

The first case presented to a judge by the UFECIC in 2017, the Network of Legislators case accused five members of the National Congress of having misappropriated 8.3 million lempiras (337 thousand dollars) of public social investment funds, marking a milestone in the fight against corruption in Honduras because of the high profile officials involved.²⁹

This case involved over 60 members of Congress who allegedly requested funds from the Ministry of Finance and the National Congress to implement social projects via 30 non-governmental organizations and then diverted these funds for personal use.³⁰

However, the first sign of interference came when a natural judge outside the National Anti-Corruption Jurisdiction was appointed to the

case, who did not issue an arrest warrant for the accused legislators. After several days of delay, they were allowed to appear voluntarily in court.

At the beginning of 2018, Congress passed reforms to the Budget Law that prevented MACCIH and the Public Prosecutor's Office from investigating legislators in this case, declaring that the only entity capable of auditing public funds and their use after 2006 was the TSC. Prior to that reform, the judge who oversaw the case delayed the initial hearing until the day the reforms were passed, and then used the law to immediately postpone the trial and release the five detained legislators.

It is worth mentioning that the current TSC

authorities were elected in 2016 under serious scrutiny from the MACCIH because of the extreme party politicization during the

process. At the beginning of 2018, the TSC seized the case documents and the accused legislators remain free.³¹

SUPERVISION AND CONTROL MECHANISMS

Honduras has different institutions mandated to monitor the use and allocation of public resources in order to determine pecuniary or asset liability in cases of corruption.

THE SUPERIOR COURT OF ACCOUNTS

The TSC is the main government oversight body. Established in 2002, its function is to oversee the use of funds, assets, and resources administered by the powers of the State, decentralized institutions (including state or public-private partnership banks), the CNBS, municipalities, and any other special body, public or private, that manages State resources. It is also responsible for implementing the Inter-American Convention against Corruption in Honduras.

Since 2017, the TSC has presided over the National System for Control of Public Resources (Sistema Nacional de Control de los Recursos Públicos, SINACORP), whose objective is to organize a system of unitary, integrated, and interrelated control. This system should complement, in a coherent and coordinated manner, the external control of resources that the TSC exercises with internal control. All entities and organizations of the public sector must apply this control by legal mandate.

The TSC is considered the first link in the fight against corruption, since if its purpose is really to

avoid the recurrence of corruption scandals and the political, social, and economic damage these scandals produce, its procedures must focus on prevention and early detection through internal controls and recurring supervision.

The court is responsible for establishing a system of transparency in the management of public servants, determination of what constitutes illicit enrichment, and the control of assets, liabilities and, in general, State assets. Therefore, through its Department of Investigation and Auditing, the court reviews the records of public employees who have been accused of illicit enrichment, to determine if the official should be held responsible.

In 2016, the National Congress voted to elect three TSC judges for seven-year terms, including José Juan Pineda, Ricardo Rodríguez, and Roy Pineda. The presidency of the Court serves on a rotating basis among the elected members for periods of one year, with the first judge elected starting the rotation.

For the election of the judges in 2016, the MACCIH promoted application of international standards, seeking a selection process that complied with appropriate professional, technical, ethical, and suitability requirements. However, Congress disregarded the MACCIH's recommendations and selected a consensus candidate after negotiations with the three largest political parties.³²

During the 2016 election of the TSC judges, the Association for a More Just Society (*Asociación por una Sociedad más Justa, ASJ*), along with other civil society organizations, private companies, and academia, withdrew as observers of the process, noting the lack of transparency and accountability from the Multiparty Commission who ultimately presented the list of 15 candidates from which the three magistrates were selected.

The TSC has functional and administrative autonomy of the State branches, subject only to the Constitution, as well as to its Organic Law and its regulations. As shown in Table 13, its budget increased considerably between 2014 and 2017; this increase is even more substantial if the budget's extensions are taken into account.

TABLE 13

BUDGET OF THE SUPERIOR COURT OF ACCOUNTS (TSC), 2014-2017

Year	Budget allocated (in millions of lempiras)	Budget implemented (in millions of lempiras)
2014	250.6	304.6
2015	252.9	319.4
2016	294.9	370.8
2017	306	450.2
Total	1104.4	1445

Source: Compiled using information from the TSC

In total, during the period of study, the TSC was assigned 1,104.4 million lempiras (44.8 million dollars). However, the amount implemented in these four years was greater, at 1,445 million lempiras. With 625 employees in 2017, the TSC's budget was adequate. Nevertheless, the problem lies in the allocation of its funds, since 88% of the budget of this state comptroller entity goes towards payroll. In addition, 39% of the increased funding in 2017 was applied to the salaries of the three judges and their respective assistants.³³

In 2018, the ASJ presented its Citizen Monitoring report to the TSC, in which it analyzed the period from the election of the three judges in 2016 to June 2018. In it, the organization indicates that the TSC is in a vulnerable situation because it is the first link in the fight against corruption and any case of corruption evidences the lack of public controls. The great corruption scandals, from embezzlement to the case of the Honduran Institute of Social Security (IHSS) in 2014, have as a common denominator the lack of controls and an absent institutional framework, in which the TSC is central.

Since three new magistrates assumed leadership roles in December 2016, there has been no progress in improving efficiency and productivity, hindering advancements in illicit enrichment investigations. As of June 2017, there were about 25 investigations that ran the risk of being closed by prescription because they were 10 years old.

In response to the corruption scandal presented at the end of 2017 by the UFECIC, “The Legislator’s Network”, in January 2018 the National Congress amended the Budget Law, making the TSC the only entity capable of auditing public funds utilized by members of Congress from 2006 onwards.

Reforms to the Budgeting Law (*Ley de Presupuesto*) prohibited MACCIH and UFECIC from investigating cases of corruption within the Legislative Branch until after the TSC completed its audit. These auditing processes could take up to three years. Since the reform went into effect, the court has only audited 230 of the 700 legislators subject to review, thus showing the inefficiency and lack of productivity in reducing the delays in investigation times. This not only includes members of Congress, but also other suspects of illicit enrichment.

The ASJ report highlights as relevant that most of the audits the TSC carried out in 2017 were concentrated in the municipalities with lower populations and fewer resources, leaving out the medium and large municipalities that implement hundreds of millions of lempiras and carry out large contracts, hence presenting greater risks of corruption.

As part of its restructuring, in May 2017, the TSC established the Anti-Corruption and Illicit Enrichment Unit (*Unidad de Lucha contra la Corrupción y el Enriquecimiento Ilícito*). One year after its formation, this body has sent just three

indictments of criminal responsibility to the Public Prosecutor's Office, for amounts totaling just 720 thousand lempiras (\$29,000).³⁴

The slow progress made by the Anti-Corruption and Illicit Enrichment Unit demonstrates that the restructuring process that began in January 2017 presents many obstacles. For example, in just one year, this unit restructured its organization three times and changed its leadership, placing people with no experience in the area of investigation.

Between 2017 and 2018, the TSC oversaw 95 hiring processes to increase its staff size. However, no evidence shows that these processes were held in a transparent, open, or merit-based manner.³⁵

In 2016, the MESICIC and MACCIH reported on the TSC’s key problems, pointing out poor personnel selection mechanisms, lack of resources for external control of the National Procurement System, politicization of the court, absence of explicit mechanisms of transparency that prevent the emergence of dynamics of patronage, and a possible “train crash” between the TSC and the MP on the investigation and access to information on cases of illicit enrichment.

In 2017, the TSC and MACCIH signed a cooperation agreement, allowing the joint investigation of cases, as is done with the UFECIC in the MP. However, at the end of the study period it had not yet been implemented.

NATIONAL ANTI-CORRUPTION COUNCIL

The CNA is an independent civil society organization, established by a legislative decree in 2005, in compliance with the UN

Convention against corruption. It is made up of 12 civil organizations and operates through an executive management body and the following units: Research, Case Analysis and Monitoring, Social Auditing, Institutional Strengthening, Public Relations, Administration and Human Resources, and Information Technology. Its financing comes from the national budget, although it can obtain additional funds for its operation.

Its main functions include: 1. Propose policies, strategies, and action plans to prevent and combat corruption in Honduras. 2. Support the implementation of the actions contained in the National Anti-Corruption Strategy. 3. Collaborate with the authorities in the design of monitoring and evaluation mechanisms and participate in their implementation. 4. Urge the formation of strategic anticorruption alliances in different sectors, both national and foreign. 5. Promote a national anticorruption culture with all sectors of society. 6. Hear, through the Executing Unit, the reports of cases and situations that come to their attention, and transferring, if appropriate, their report and recommendations to the competent public

bodies. 7. Address the requests made by the MP or other authorities. Discuss and arrange joint bilateral actions with the comptroller, supervisory and justice bodies; and 8. Hold technical and financial cooperation agreements

Until 2014, the CNA focused on education, training, and work with political parties. Since then, and under new leadership, an investigation unit was established, which conducts its own work on complaints and public documents.

The CNA cannot initiate criminal proceedings, but it can share research findings with the MP and attend trials. From 2014 to 2017, the CNA presented 67 lines of investigation. The main areas it investigates are the networks of corruption in health, energy, and infrastructure sectors, among others.

The 67 lines of investigation presented by the CNA totaled 2,945 million lempiras in damages against the Honduran government. However, of the total cases submitted by the CNA since its creation (88), only 15 have been prosecuted while 73 remain unpunished.

TABLA 14

CASES FILED BY THE NATIONAL ANTI-CORRUPTION COUNCIL, 2014-2017

Year	Number of cases	Damages (in millions of lempiras)
2014	10	2080
2015	17	254
2016	32	416
2017	8	195
Total	67	2945

Source: CNA

According to its mandate, the Secretary of Finance transfers 18.9 million lempiras (768 thousand dollars) annually to the CNA. These resources represent approximately 86% of the total funds managed by the CNA. The remainder comes from international assistance, the majority from the United States Agency for International Development (USAID).

In 2017, the CNA signed an agreement with MACCIH to collaborate closely in advising, backing, and recommending corruption related

activities through an integrated investigation team CNA / MACCIH-OEA. The CNA is a logical counterpart of MACCIH and is also its ally. MACCIH recognized the contribution of the CNA to the IHSS and Rosa de Lobo cases.

The CNA investigations have linked members of Congress, officials, a former first lady, political parties, non-governmental organizations, private foundations, and individuals in multimillion-dollar corruption cases.

BOX 4

MAIN CASES OF THE CNA

One of the main CNA investigations between 2014 and 2017 involved a network in the health sector that linked 329 public officials and former officials to overvalued purchases of medicines and medical materials between 2009 and 2014. The purchases generated an expenditure of more than 116 million lempiras.

Another was the case of embezzlement of public funds by a former official who worked in the Executive Branch. This triggered the malaise of political elites against the CNA. The complaint also led to the case of the MACCIH-UFECIC, called Caja Chica de la Dama, which involved the former first lady, Rosa Elena Bonilla de Lobo, who was recently sentenced to 56 years in prison.

Another case reported by the CNA was related to the Family Allowance Program (*Programa de Asignación Familiar*, PRAF) during the administration of former president Porfirio Lobo Sosa (2010-2014), in which the overvaluation of service contracts amounted to over 43 million lempiras.

In addition, irregularities were reported in the administration of Public Funds in the Family Allowance Program, Youth Bonus Project, and Women's Integral Development, for an amount exceeding 31 million lempiras, all during the administration of former president Lobo Sosa.

ACRONYMS AND ABBREVIATIONS

ASJ	Association for a More Just Society
CESIJ	Center for Impunity and Justice Studies
CIPLAFT	Interagency Commission for the Prevention of Money Laundering and Terrorism Financing
CNA	National Anti-Corruption Council
CNBS	National Commission of Banks and Insurance
FETCCOP	Special Prosecutor for Transparency and the Fight Against Public Corruption
FMI	International Monetary Fund
FOSDEH	Social Forum of External Debt and Development of Honduras
GDP	Gross Domestic Product
IAIP	Institute for Access to Public Information
IGI	Global Impunity Index
IHSS	Honduran Institute of Social Security
IUDPAS	University Institute for Democracy, Peace and Security
MACCIH	Mission to Support the Fight against Corruption and Impunity in Honduras
MESICIC	Follow-Up Mechanism for the Implementation of the Inter-American Convention against Corruption
MP	Public Prosecutor's Office
OAS	Organization of American States
ONADICI	National Office for the Comprehensive Development of Internal Oversight
ONV	National Violence Observatory
PGR	Solicitor General's Office
PRAF	Family Allowance Program
SCGG	General Government Coordination Secretariat
SINACORP	National System for Control of Public Resources
TI	Transparency International
TSC	Superior Court of Accounts
TSE	Supreme Electoral Tribunal
UFECIC	Special Prosecutor's Unit against Impunity and Corruption
WOLA	Washington Office on Latin America

NOTES

- ¹A detailed list of indicators is available at www.wola.org/cam.
- ²Experto: L.22 mil millones el impacto de la corrupción anualmente en Honduras. Radio América. March 21, 2018 <http://www.radioamerica.hn/22-mil-millones-impacto-corrupcion-anualmente-honduras/>
- ³Alex Flores. EL SALDO QUE DEJÓ LA CORRUPCIÓN. November 8, 2017. Revistazo. http://saqueoihss.com/enfermedad_muerte.html
- ⁴Banco Mundial. Honduras Desatando el potencial económico para mayores oportunidades Diagnóstico sistemático de país. 2016. P. 6. Viewed at: <http://documents.worldbank.org/curated/en/936071467995897086/pdf/103239-v1-PUBSPANISH-Box394858B-PUBLIC-DOI-10-1596K8662.pdf>
- ⁵Transparencia Internacional. Las Personas y la Corrupción: América Latina y el Caribe. Barómetro Global de la Corrupción. 2017. Viewed at: <https://www.flipsnack.com/ASJHONDURAS/la-corrupci-ny-las-personas-am-rica-latina-y-el-caribe-ftdiehhrs/download-pdf.html>
- ⁶IUDPAS. UNAH. Percepción Ciudadana sobre Inseguridad y Victimización en Honduras 2014. March 2015. http://www.observatoriodescentralizacion.org/wp-content/uploads/2017/09/2014_percepcion_ciudadana_inseguridad_victimizacion.pdf
- ⁷IUDPAS. UNAH. Percepción Ciudadana sobre Inseguridad y Victimización en Honduras 2016. May 2016. <https://iudpas.unah.edu.hn/dmsdocument/1906-encuesta-de-percepcion-ciudadana-sobre-inseguridad-y-victimizacion-en-honduras-2016>
- ⁸Corporación Latinobarómetro. Informe 2018. 2018. www.latinobarometro.org
- ⁹Corporación Latinobarómetro. Informe 2017. 2017. www.latinobarometro.org
- ¹⁰Latinobarómetro. Latinobarómetro Analysis. 2015, 2016 y 2017. <http://www.latinobarometro.org/latOnline.jsp>
- ¹¹Corporación Latinobarómetro. Report 2017. 2017. <http://www.latinobarometro.org>
- ¹²Marco Antonio Hernandez. Ore Liliana D. Sousa. J. Humberto Lopez. Honduras: Desatando el potencial económico para mayores oportunidades. 2016. <http://documents.worldbank.org/curated/en/936071467995897086/pdf/103239-v1-PUBSPANISH-Box394858B-PUBLIC-DOI-10-1596K8662.pdf>
- ¹³Redacción. Honduras presenta Política Nacional de Transparencia ante miembros del G16. El Heraldo. July 11, 2018. <https://www.elheraldo.hn/pais/1196875-466/honduras-presenta-pol%C3%ADtica-nacional-de-transparencia-ante-miembros-del-g-16>
- ¹⁴La Gaceta No. 33,497. Ley de Compras Eficientes y Transparencia a través de Medios Electrónicos, Honduras. August 5, 2014. https://www.tsc.gob.hn/web/leyes/Ley_compras_eficientes_transparentes__medios_electronicos.pdf
- ¹⁵CoST: Infrastructure Transparency Initiative. Where we work. <http://infrastructuretransparency.org/where-we-work/>
- ¹⁶This omission allegedly occurred with the approval of the head of the MACCIH of the Electoral Division but not of the Spokesman.
- ¹⁷In the case of Honduras, the study analyzed case management for abuse of authority, and breach of the duties officials, bribery, illicit enrichment, fraud and illegal charges, embezzlement of public funds, negotiations incompatible with the performance of public functions, prevarication and bribery.
- ¹⁸The data was unavailable. The Public Ministry did not provide the information because the institution's database was not updated with 2017 data at the time of sending the request for public information.
- ¹⁹Center for Latin American & Latino Studies (CLALS), American University. June 2018. Avances y Desafíos: Informe sobre los primeros dos años de la MACCIH-OEA. https://www.american.edu/centers/latin-american-latino-studies/upload/maccih_spanish_final.pdf
- ²⁰CLALS, American University. Avances y Desafíos: Informe sobre los primeros dos años.
- ²¹CLALS, American University. Avances y Desafíos: Informe sobre los primeros dos años.
- ²²CLALS, American University. Avances y Desafíos: Informe sobre los primeros dos años.
- ²³CLALS, American University. Avances y Desafíos: Informe sobre los primeros dos años.
- ²⁴Acusan a Teodoro Bonilla de "hacer favores" a parientes. La Prensa. October 19, 2015. <https://www.laprensa.hn/honduras/891948-410/acusan-a-teodoro-bonilla-de-hacer-favores-a-parientes>
- ²⁵Presentan nuevo requerimiento fiscal contra Teodoro Bonilla. La Prensa. October 10, 2016. In: <https://www.laprensa.hn/honduras/1007093-410/presentan-nuevo-requerimiento-fiscal-contra-teodoro-bonilla>
- ²⁶Especial Proceso Digital. Primer condenado en Honduras por tráfico de influencias. Proceso Digital. September 11, 2017. <https://www.proceso.hn/portadas/10-portada/primer-condenado-en-honduras-por-trafico-de-influencias.html>
- ²⁷191 delitos enfrenta expresidente del poder judicial. El Libertador. 2018. [HTTP://WWW.WEB.ELLIBERTADOR.HN/INDEX.PHP/NOTICIAS/NACIONALES/2801-191-DELITOS-ENFRENTA-EXPRESIDENTE-DE-PODER-JUDICIAL-HONDURENO](http://WWW.WEB.ELLIBERTADOR.HN/INDEX.PHP/NOTICIAS/NACIONALES/2801-191-DELITOS-ENFRENTA-EXPRESIDENTE-DE-PODER-JUDICIAL-HONDURENO)
- ²⁸Exmiembros del Consejo de la judicatura salen en libertad. La Prensa. September 22, 2018. <https://www.laprensa.hn/honduras/1218614-410/exmiembros-del-consejo-de-la-judicatura-salen-en-libertad>
- ²⁹CLALS, American University. Avances y Desafíos: Informe sobre los primeros dos años.
- ³⁰CLALS, American University. Avances y Desafíos: Informe sobre los primeros dos años.
- ³¹CLALS, American University. Avances y Desafíos: Informe sobre los primeros dos años.

³²Asociación para una Sociedad más Justa (ASJ). Lamentable negociación política en elección de magistrados. October 11, 2016. <http://asjhonduras.com/webhn/lamentable-la-evidente-negociacion-politica-en-eleccion-de-magistrados-del-tsc/>

³³ASJ. ASJ evidencia debilidades institucionales del TSC. January 24, 2019 <http://asjhonduras.com/webhn/asj->

[evidencia-debilidades-institucionales-del-tsc/](#)

³⁴ASJ. ASJ evidencia debilidades institucionales del TSC.

³⁵ASJ. ASJ evidencia debilidades institucionales del TSC.





ABOUT THE ORGANIZATIONS

THE UNIVERSITY INSTITUTE FOR DEMOCRACY, PEACE AND SECURITY (INSTITUTO UNIVERSITARIO EN DEMOCRACIA, PAZ Y SEGURIDAD, IUDPAS) is affiliated with the Faculty of Social Sciences of the National Autonomous University of Honduras (UNAH). It was created to strengthen the research capacity of the UNAH, promote multidisciplinary in methodological theoretical approaches in the areas of security, public policies, city studies, democracy and development, issues related to youth, as well as to strengthen the competences of different university professionals.

THE WASHINGTON OFFICE ON LATIN AMERICAN (WOLA) is a leading research and advocacy organization advancing human rights in the Americas. We envision a future where public policies protect human rights and recognize human dignity, and where justice overcomes violence.

ABOUT THE PROJECT

The Central America Monitor is a subregional project that seeks to assess the level of progress being made by the countries of Guatemala, Honduras and El Salvador in the areas of strengthening the rule of law, reducing violence, combating corruption and organized crime, and protecting human rights through the use of a series of indicators. The project also monitors and analyzes international cooperation programs in the aforementioned areas.

ACKNOWLEDGEMENTS

We would like to thank the Latin American Division of the Swiss Agency for Development and Cooperation, the Seattle International Foundation, the Tinker Foundation, and the Moriah Fund for their financial support and excellent advice that has made this project possible.

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