CORRUPTION IN MEXICO: IMPLICATIONS FOR U.S. FOREIGN POLICY

*Keith S. Rosenn**

INTRODUCTION

Most academicians prefer to ignore corruption,[1] particularly when a foreign country is involved. As Gunnar Myrdal explained, "any attempt by a foreign scholar to deal with the problem of corruption is bound to present a problem of diplomacy in research."[2] Second, virtually no empirical evidence on the extent of corruption exists. Corruption is deliberately hidden from public view, and the participants cannot be depended upon to respond honestly to questionnaires. Third, corruption is a value-laden concept. Certain practices, such as employing one's relatives, trading on inside information, or accepting grease payments, which might be regarded as corrupt in one culture, may be regarded as quite honest in another culture.[3] Fourth, a certain amount of corruption is found in all countries, be they developed or developing. Casual empiricism indicates that some countries have more corruption than others. However, with nothing to footnote, academicians have generally left determinations of the degree of corruption to the judgment of tourists

* Professor of Law, University of Miami.

1. Corruption is conventionally defined as the misuse of official position or power for private gain. *See* Rosenn, *Brazil's Legal Culture: The Jeito Revisited*, 1 FLA. INT'L L. J. 1, 4 (1984); Senturia, *Political Corruption*, 4 ENCY. SOC. SCI. 448 (1930); Venkatappiah, *Office, Misuse Of*, 11 INT'L L. ENCY. SOC. SCI. 272 (1968). It is a fairly vague concept that covers a multitude of sins, such as bribery, accepting or extorting kickbacks and electoral fraud. What constitutes a "misuse" is often open to dispute, for most societies operate with a substantial discrepancy between their ideal and actual standards of behavior. For a penetrating study of the discrepancies between the "myth system" and the "operational code," *see* W. REISMAN, FOLDED LIES: BRIBERY, CRUSADES, AND REFORMS (1979).

2. G. MYRDAL, 2 ASIAN DRAMA 939 (1969).

3. *Personalism* is a important cultural trait in Latin America. Personal relationships are often regarded as more important than abstract legal rules. Family and friendship ties frequently impose upon Latin American bureaucrats a duty to bend the law. In these situations, rigid adherence to the letter of the law may be regarded as immoral. *See* Rosenn, *supra* note 1, at 14-15. Particularly in Mexican culture, the lines between corrupt and noncorrupt behavior are blurred by long established traditions and cultural values. A. RIDING, DISTANT NEIGHBORS 113-14, 239 (1985). There is much wisdom in Octavio Paz's insight that North Americans consider the world to be something that can be perfected, and we [Mexicans] consider it to be something that can be redeemed." O. PAZ THE LABYRINTH OF SOLITUDE: LIFE AND THOUGHT IN MEXICO 24 (1961).

and journalists.

I. GOING PUBLIC WITH CORRUPTION CHARGES

In the past two years U.S.—Mexican relations have been sorely strained by public accusations in the United States that the Mexican government is corrupt from top to bottom. These accusations have come from syndicated columnist Jack Anderson and an odd assortment of U.S. officials.[4] Predictably, Mexican reaction to these charges has been a combination of outrage and bafflement. The outrage stems from the perception that going public with such charges signifies U.S. intermeddling in Mexican domestic affairs and seriously undermines President de la Madrid's position at home. The bafflement stems from de la Madrid's natural question—"Why me?" Miguel de la Madrid is the most pro-U.S. Mexican President in many years.[5] Moreover, he has launched the most visible anti-corruption campaign in Mexican history. The theme of "moral renovation" was a main plank in his presidential campaign. Upon taking office in 1982, he implemented a series of measures to reduce graft and corruption. These included Mexico's first comprehensive conflict of interest legislation, strict control of government expense accounts, a requirement that officials declare their net worth upon entering and leaving office, a ban on nepotism, and establishment of the office of Comptroller General to supervise the anti-corruption campaign.[6] The campaign has resulted in the imprisonment of a number of important former government officials.[7]

In May 1984, Jack Anderson fired the first salvos in the corruption barrage with two syndicated columns, published to coincide

---

4. In 1983, Flavio Tavares denounced flagrant corruption by Mexican officials in the Estado de Sao Paulo, one of Brazil's leading newspapers. Tavares, *The Shame of Mexico: Corruption and Mismanagement Amid a Sea of Oil*, 30 WORLD PRESS REV. 26-28 (Aug. 1983).

5. M.I.T. Professor Peter Smith made this point even more emphatically, stating: "It is my judgment that . . . the Reagan administration could not possibly hope for a more congenial and cooperative government in Mexico than that of Miguel de la Madrid." Smith, *U.S.-Mexican Relations: The 1980s and Beyond*, 27 J. INTER-AM. STUD. & WORLD AFF. 91, 96 (Feb. 1985).

6. A. RIDING, *supra* note 3, at 115, 118-119, 131-33; Schuster, *Mexico's President Vows to Clean up Corruption, but Prosecution of Former Leaders Unlikely*, Wall St. J., Apr. 21, 1983, at 60.

7. These include Jorge Diaz Serrano, former head of Petroleos Mexicanos; Arturo Durazo Moreno, former chief of police of Mexico City; and Fausto Cantu, former head of the Mexican Coffee Institute, as well as a former state governor and the former heads of the National Sugar Industry Commission, the National Indian Affairs Institute, the federal airport administration agency, and a state-owned fish marketing firm. *See Mexico is Engaged in Battle against Entrenched Corruption.* Washington Post, May 29, 1984, at A12.

with President de la Madrid's official visit to Washington. On May 14 Anderson asserted that the Central Intelligence Agency (CIA), long concerned that corruption in Mexico is so rife that it may lead to another revolution, has been monitoring bank transfers of Mexican officials. According to Anderson, classified CIA documents revealed that Echeverria made off with between $300 million and $1 billion during his tenure as President of Mexico. His successor, Lopez Portillo, increased the presidential take to somewhere between $1 billion and $3 billion.[8] The following day Anderson alleged that classified U.S. intelligence documents showed the President de la Madrid had thus far salted away $162 million in foreign bank accounts.[9] These columns so outraged the Mexican government that it lodged a formal protest with the State Department, demanding that it deny the existence of Anderson's sources. The State Department responded with an artfully worded quasi-apology making no such denial. Then the State Department applauded President de la Madrid's commitment to addressing the issue of honesty in government and concluded: "All information available to all United States government agencies leads us to the firm conclusion that de la Madrid has set both a high personal and official standard in keeping with this commitment."[10] Anderson responded: "We don't invent figures. The information in my column came from actual bank transfers monitored by intelligence agencies."[11] In a later column, Anderson alleged that a secret study commissioned by Lopez Portillo himself estimated the total rake-off during his administration at $44 billion: $14 billion was deposited in foreign banks, and $30 billion was invested in U.S. real estate.[12] If these figures are anywhere close to being realistic, nearly half of Mexico's $97 billion foreign debt disappeared down the drain of corruption in the six years of Lopez Portillo's presidency.

Anderson's explanation for the CIA's monitoring of Mexican graft echoed the testimony of General Paul Gorman, chief of the U.S. command in Panama. In 1984, Gorman told a U.S. Senate Committee that Mexico had the most corrupt government in Cen-

8. *Mexican Wheels Are Lubricated by Official Oil*, Washington Post, May 14, 1984, at B11.

9. *Mexico Makes its Presidents Millionaires*, Washington Post, May 15, 1984, at C15.

10. *Mexicans File Protest against Press Report on Leader's Finances*, Washington Post, May 29, 1984, at A12.

11. *Id.*

12. *Mexico's Riches Were Devoured by Ex President*, Washington Post, June 18, 1984, at B12.

tral America and predicted that within ten years, Mexico will be the number one security problem of the United States.[13]

Two years later, the corruption wound was reopened by a series of accusations made by Reagan administration officials testifying before the Senate Foreign Relations Subcommittee on Western Hemisphere affairs. In May 1986, U.S. Customs Commissioner William von Raab testified that "[a]t the heart of [the drug trafficking problem], in my personal opinion, is just the ingrained corruption in the Mexican law enforcement establishment."[14] To the question "How much corruption exists in the police force?," Von Raab replied:

> My response would be just one word—"massive." . . . It exists all the way up and down the ladder. The only developments of any consequence over the past few years is that chain of distribution of "mordida" is sort of going in both directions now. . . . Now there are absolute large payments being made at very high levels of the police—and by the police, I include all sworn officers in the Mexican law enforcement establishment.[15]

He also testified that the Governor of Sonora owned four marijuana and opium producing ranches, under the protection of the Federal Judicial Police and the Army.[16] When asked by Senator Murkowski if he had any information about any of President de la Madrid's relatives being involved in drug trafficking, however, Von Raab indicated that he could not comment on that subject in a public hearing.[17]

Von Raab's testimony was bolstered by William Logan, U.S. Customs Regional Commissioner for the Southwest. Logan reported that the Mexican Federal Judicial Police and the Federal Security Police were directly involved in drug smuggling, often escorting drug convoys from the interior of Mexico to the U.S. border.[18]

Elliot Abrams, Assistant Secretary of State for Inter-American

---

13. A. RIDING, *supra* note 3, at 327.

14. *Situation in Mexico: Hearings Before the Subcomm. on Western Hemisphere Affairs of the Senate Comm. on For. Relations*, 99th Cong., 2d Sess. 9 (1986) [hereinafter *Hearings*].

15. *Id.* at 29.

16. *Id.* at 36.

17. *Id.* at 31. Former Ambassador Gavin similarly declined Senator Helms' request to confirm or deny a CBS report that Florentino Venture, head of the Judicial Police, and Edmundo de la Madrid, a cousin of the President, were involved in drug trafficking. *Id.* at 95.

18. *Id.* at 10-11.

Affairs, testifying in somewhat more cautious terms, suggested that corruption was undermining Mexican political stability:

> The drug trade poses a long-term threat to the political stability and social health of Mexican society . . . . President de la Madrid, Attorney General Garcia, and many other Mexican officials understand this. Some Mexican officials at lower levels, however, have been corrupted by the vast sums of money available to the traffickers, including many officials supposedly engaged in antinarcotic efforts.[19]

In response to Senator Trible's question as to whether the President of Mexico has the will and capability to tackle the widespread corruption and drug trafficking, Abrams replied:

> President de la Madrid does not have the ability, as President Reagan does, to push a number of buttons because behind some of the buttons that you would want to push from the Presidential Palace in Mexico City, you will find corruption. You will find people who do not want to carry out those orders.[20]

On the other hand, when Senator Helms asked him to agree "that corruption reaches into almost the highest levels of Mexico," Abrams diplomatically declined:

> I think I probably would disagree with that in the sense that I believe that at the highest levels, that is to say the President and the Cabinet, I don't know of such evidence. I think we have seen with President de la Madrid and Attorney General Garcia a tremendous willingness to cooperate with us on these issues.[21]

Predictably, the Mexicans were again outraged at these public attacks. Mexican newspapers reacted with angry headlines, and the streets of Mexico City were filled with marchers protesting the verbal invasion of national sovereignty by U.S. officials.[22] An official protest was filed with the State Department, strongly rejecting the accusations as an unfriendly intervention into Mexico's internal affairs and "a clear and unacceptable violation of Mexico's sovereignty."[23] U.S. Attorney General Edwin Meese attempted to mollify Mexicans' ire by telephoning his counterpart, Sergio Garcia Ramirez, to apologize for the testimony of Administration officials.

---

19. *Id.* at 4-5.
20. *Id.* at 26.
21. *Id.* at 26-27.
22. *Mexico Reacts with Anger to U.S. Charges*, Washington Post, June 1, 1986, at A23.
23. *Mexico Strongly Protests Corruption Allegations*, Washington Post, May 16, 1986, at A30.

Meese reportedly stated that the Senate testimony of government officials did not reflect the views of the President, Justice Department or the U.S. government.[24]

Meese's face-saving explanation may have smoothed some ruffled feathers, but resumption of the hearings of the Senate Subcommittee in June 1986 once again aggravated the tensions between the two countries. Recently retired U.S. Ambassador to Mexico, John Gavin, stated that at least two Mexican governors, whom he declined to name, "are up to their elbows in the drug trade."[25] On the other hand, he took the occasion to try to clear the name of Sonora Governor, Felix Valdez, whom he believed innocent of Raab's drug cultivation charges.[26]

The most damaging testimony came from Senator Jesse Helms, Chairman of the Subcommittee, who questioned the legitimacy of President de la Madrid's electoral mandate. Charging that the political power of the ruling party, the Partido Revolucionario Institucional (PRI), "is to a great extent tied directly into the system of graft and corruption," Helms accused the PRI of keeping two sets of election returns, one "official" and the other "real." According to Helms, the real election results, secretly compiled by the President's Military Chief of Staff (EMP),[27] showed that in the 1982 elections President de la Madrid received only 39.78 percent of the ballots, rather than the 71.24 percent claimed in the official results. During the 1985 elections, the secret tabulations revealed that the PRI and its allies received only 48.02 percent of the votes, rather than the 71.10 percent claimed officially by the PRI. Helms concluded: "I just have to believe that this is a scandal sufficient to impeach the legitimacy of the government."[28] Helms adduced no additional evidence or witnesses to authenticate his version of the true election returns. His charges were, of course, immediately denied by the Mexican government.

There is good reason to disbelieve the Mexican government's de-

---

24. *U.S. Reverses its Criticism of Mexico*, Washington Post, May 24, 1987, at A1.

25. *Hearings supra* note 14, at 94.

26. *Id.* Senator Helms responded that he had probably inadvertently caused confusion in his question to von Rabb by referring to the State of Sonora when he meant Sinaloa. *Id.* at 94-95. Bruce Babbitt, Governor of the State of Arizona, also testified to the good character of Sonora governor Felix Valdes and suggested that he had been unfairly maligned by Von Raab's remarks. *Id.* at 99-100.

27. These tabulations published in the Appendix to the Committee Report. *Id.* at 173-74.

28. *Id.* at 43. *See also, Mexican Chief's Election Fraudulent, Helms Says*, Washington Post, June 18. 1986, at A21.

nial. Electoral fraud has been so blatant and widespread in Mexico in recent years that virtually no disinterested observers of the Mexican political scene believe that the vote count is honest. Yet one should also be skeptical of Helms' statistics about the extent of the fraud. Prior to Helms' bombshell reliable estimates of what Mexican election results would have been without fraud were considered impossible to obtain. Estimates by independent analysts and opposition parties had generally placed the amount of fraudulent favor of the PRI in the 1985 congressional elections at about nine percent.[29] If these estimates are accurate, the PRI's share of the actual vote would have been about 56%, about 8% greater than Helm's figure. Given the wide margin of error inherent in these estimates, Helms could be right with respect to the 1985 elections. On the other hand, no serious political commentators have suggested that President de la Madrid did not receive a majority of the votes cast in the 1982 election.

In August 1986 Reagan met with de la Madrid and agreed to cooperate in resolving Mexico's economic problems and in combatting the drug trade. Hopefully, this meeting has reduced some of the ill will engendered by these sharp attacks on the de la Madrid regime.[30]

II. The Costs and Benefits of Wielding the Corruption Club

To the extent that there is any coherent policy decision to attack publicly Mexico's corruption problem, it probably reflects five concerns within the Reagan Administration: (1) the frustration with respect to Mexico's impotence to stem the drug traffic; (2) the suspicion that Mexican police participated in the abduction, torture and murder of Enrique Camerena, a U.S. law enforcement official, coupled with Mexico's apparent inability to punish those responsible; (3) the concern that the Mexican government may eventually be toppled because of popular discontent over the high levels of corruption; (4) a desire to punish Mexico for its left-leaning policy in Central America; and (5) a hope that bashing Mexican officials with the corruption club will effect a decrease in corruption. As a technique for conducting foreign policy, I submit that allowing U.S.

29. Castenada, *Mexico at the Brink*, 64 For. Aff. 287, 290-91 (Winter 1985/86).
30. *Reagan and de la Madrid Vow Cooperation on Drug, Economic Problems*, Washington Post, Aug. 14, 1986, at A15.

officials to make public accusations of corruption against Mexican officials is badly misguided and counter-productive.

Social scientists have often observed that corruption is rampant in Mexico.[31] Mexicans do not deny that it is rampant. Both Lopez Portillo and de la Madrid have labelled corruption a "cancer" of Mexican society. Despite de la Madrid's Herculean efforts to cleanse the Augean stable, corruption remains deeply entrenched in Mexican society. The most blatant aspect, the *mordida*, or bribe, extracted or extorted by Mexican police at every available opportunity, is built into the salary structure of the police force.[32] Providing government jobs for friends and relatives is a moral obligation built into the social structure. Additionally, engaging in business transactions when one has a clear conflict of interest has traditionally not been deemed to be dishonest behavior for a public official.

Most, though by no means all,[33] of the corruption is undesirable. Resources are frequently misallocated when the criterion is the private gain of the allocator. Procurement and construction contracts become more costly, and the goods received are frequently shoddy. The government's power to redistribute income, stimulate desired behavior, or discourage undesired behavior is severely limited by corruption. As Gunnar Myrdal has pointed out, "Corruption introduces an element of irrationality in plan fulfillment by influencing the actual course of development in a way that is contrary to the plan or, if such influence is foreseen, by limiting the horizon of

---

31. *See e.g.*, F. BRANDENBURG, THE MAKING OF MODERN MEXICO 162 (1964); M. GRINDLE, BUREAUCRATS, POLITICIANS, AND PEASANTS IN MEXICO: A CASE STUDY IN PUBLIC POLICY 43-44 (1977); R. HANSEN, THE POLITICS OF MEXICAN DEVELOPMENT 124-27 (1971); K. JOHNSON, MEXICAN DEMOCRACY: A CRITICAL VIEW 32-34, 185-96 (3d ed. 1984); L. MENDIETA Y NUNEZ, LA ADMINISTRACION PUBLICA EN MEXICO (1942); M. NEEDLER, MEXICAN POLITICS: THE CONTAINMENT OF CONFLICT 60-62, 132 (1982); R. VERNON, THE DILEMMA OF MEXICO'S DEVELOPMENT 151-53 (1963); H. WRIGHT, FOREIGN ENTERPRISE IN MEXICO 19-21 (1970); HELFELD, *Law and Politics in Mexico*, in ONE SPARK FROM HOLOCAUST: THE CRISIS IN LATIN AMERICA, 81, 91 (E. Burnell ed. 1972).

32. In 1981, 244 traffic policemen in Mexico City signed a complaint alleging that their superiors extorted money from them by charging them for items theoretically furnished gratuitously. The policemen charged that they were forced to pay 15,000 pesos for the use of a department motorcycle, 4,000 pesos for a uniform, and 1,500 pesos for a ticket book and revolver. They were also required to pay 50 peso a day to their chief inspectors. To support these levies, the police claimed they were obliged to extort money from the general public. Tavares, *supra* note 4, at 27.

33. A number of social scientists have pointed out that under certain circumstances corruption can promote economic and administrative efficiency. *See, e.g.*, Leff, *Economic Development Through Bureaucratic Corruption*, 8 AM. BEHAV. SCI. 11-12 (Nov. 1964); Leys, *What is the Problem About Corruption?* 3 J. MODERN AFRICAN STUD. 218 (1965); Nye, *Corruption and Political Development: A Cost-Benefit Analysis*, 61 AM. POL. SCI. REV. 417 (1967); Wilson, *Corruption Is Not Always Scandalous*, N.Y. Times Magazine, Apr. 28, 1968.

the plan.[34] Corruption also retards administrative efficiency, deters much needed investment, causes capital flight, and undermines governmental credibility.

Nevertheless, total elimination of corruption would probably badly destabilize the Mexican government. As Alan Riding has observed, "Corruption is essential to the operation and survival of the political system . . . . [T]he system has in fact never lived without corruption and it would disintegrate or change beyond recognition if it tried to do so."[35] Corruption is the glue that holds together the political alliances that have enabled Mexico to enjoy social peace. It purchases tranquil labor relations. It avoids harsh press criticism of governmental policies. It allows Mexico to avoid the bane of other Latin American countries, the military *golpe* or *coup d'etat*. It enables the government to co-opt potential enemies successfully. It ensures the redistribution of income because the regime changes every six years, providing hope for those presently excluded that they may enrich themselves after future elections. Few challenged corruption for fear of rocking the boat or being investigated for tax evasion. Corruption is the lubricant that enables the wheels of the bloated bureaucracy to turn. Were it not for this grease, the bureaucracy would have ground to a halt long ago.

Second, the practice of public Mexico-bashing displays disdain and disregard for Mexican sensibilities. Such behavior from U.S. officials shows a failure to give due respect to the government of a friendly neighboring state. More importantly, from a Latin American perspective, the United States has committed the cardinal sin of depriving Mexican officials of *dignidad*, thereby creating enemies where we need friends.

Third, this kind of criticism implies an air of moral superiority that the United States can ill afford to assume. In light of a long list of recent U.S. government scandals, such as Watergate, Abscam, and now the Iran-Contra affair, the pot appears to be calling the kettle black.[36]

It is by no means clear that any Mexican administration has the power to eliminate corruption. It has now become the practice of Mexican presidents to begin their terms with anticorruption cam-

34. G. MYRDAL. *supra* note 2, at 952.

35. A. RIDING, *supra* note 3, at 113.

36. With respect to our past, the observation made by Peter Odegard in 1930 is worth recalling: "Among the great modern nations the United States has had perhaps the least enviable reputation as regards the probity of its political life." Odegard, *Corruption, Political*, 4 ENCY. SOC. SCI. 452 (1930).

paigns aimed at reducing corruption to more tolerable levels, rather than eliminating it entirely. The budgetary ramifications of paying civil servants decent salaries or finding alternative employment for the thousands of unneeded civil servants are staggering. Also, the risk of upsetting the delicate balance of political forces that has enabled the PRI to remain in power for some sixty years is substantial.

III. THE RISK TO MEXICO OF ALLOWING HIGH LEVELS OF CORRUPTION TO CONTINUE

On the other hand, corruption during the heady days of the oil bonanza reached such high levels that it has the potential for seriously destabilizing the Mexican government. To a large degree, the PRI's political legitimacy has come from economic growth and the maintenance of domestic tranquility. With popular discontent rising steadily in the wake of the forced contraction of the economy, the regime feels increasing pressure to resort to more blatant electoral fraud. Those in positions of authority also feel increasing pressure to maintain their standard of living by increasing their bribe prices. Such measures aggravate popular discontent, forcing the government to rely heavily on military repression, as it did in 1968. But, the more one relies on the military to maintain domestic peace, the more likely the military is to seize power itself.[37] In addition, the more one relies upon repression to retain political power, the more likely the repressed are to revolt. The real risk is that Mexico's much envied *coup*-immune system may be insidiously breaking down. If it does, Mexico will become a prime security problem for the United States.

37. *See* J. FITCH, THE MILITARY COUP D'ETAT AS A POLITICAL PROCESS 7 (1977).