



Given the prevalence of corruption and graft issues in [various Latin American countries](#) , it may come as a surprise to some that many of Latin America's most notoriously "corrupt" countries have actually enacted fairly extensive anti-corruption laws in recent years, even as compared to the U.S. Foreign Corrupt Practices Act ("FCPA").



For instance, the [Federal Law against Corruption for Public Procurement](#) (Ley Federal Anticorrupción en Contrataciones Publicas), which went into effect in Mexico in June 2012, prohibits the payment *and the acceptance* of bribes for the purpose of obtaining unfair benefits or advantages in connection with public and commercial contracts, and outlaws the use of "facilitation" payments of any kind. Similarly, the Brazilian Clean Companies Act (Law no. 12.846/2013), which officially took effect on January 29, 2014, applies a strict liability standard against companies for acts of corruption (including foreign and domestic bribery) performed for their benefit, and gives the government authority to seize a company's assets or preclude it from winning future contracts. Colombia also enacted an anti-corruption law (Law No. 1474 of 2011) with both anti-bribery and books and records provisions applicable to governmental officials and private persons in 2011, and launched the [world's first "High Level Reporting Mechanism"](#) ("HLRM") in April 2013 to address the demand-side of corruption in public procurement. Despite these developments, the [perception of corruption in Latin America has remained relatively constant](#). Experts posit that this stagnation arises not from a shortage of anti-corruption legislation at authorities' disposal, but rather, from the overall reluctance of many Latin American countries to enforce anti-corruption laws that do exist. Indeed, the Organization for Economic Co-operation and Development ("OECD") expressed concern for the ["still low level of enforcement of foreign bribery in Brazil"](#) following implementation of the Clean Companies Act, and similar observations have been made regarding the Federal Law against Corruption for Public Procurement in Mexico. There are signs, however, that public discontent over allegations of corruption and graft in some Latin American countries is reaching a boiling point, essentially forcing those governments to take action in furtherance of anti-corruption enforcement. Millions of people took to the streets of Brazil demanding the impeachment of President Dilma Rouseff following revelations in the Petrobras kickback scandal. In response, Rouseff issued a Federal Decree (8.420/2015) in March 2015, which (1) provided a substantive list of elements to be taken into consideration when authorities evaluate a company's compliance program (including the demonstrated commitment of management and board members to the program, effective reporting channels and whistleblower protection mechanisms, and internal controls to assure the reliability of financial statements); (2) set forth procedural rules for imposing corporate liability and assessing fines; and (3) in certain circumstances, requiring that condemnatory decisions be published on offending companies' websites for thirty days. In addition, in April 2015, the Office of the Federal Comptroller General of Brazil issued new regulations requiring companies to present comprehensive compliance reports. Like in Brazil, a number of scandals have caused widespread protests in Mexico. In late-February, Mexico's lower house responded with the creation of a "national anti-corruption system," and more recently, the Mexican Congress uncharacteristically set aside partisanship and passed new anti-graft measures which had previously stalled. The recent law gives new powers to Federal Audit Office and Public Administration Ministry to investigate and oversee public officials, and creates a special court with a dedicated special prosecutor to investigate and prosecute corruption-related issues. It remains to be seen whether the new legislation in Brazil and Mexico will boost the historically low rate of prosecutions typical of Latin American countries. Although only time will tell, it is clear that the issue of government corruption has caught the eyes of the highest levels of government in the region.

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