

**(ANTI)CORRUPTION WITHOUT BORDERS: BEST PRACTICES AND  
LESSONS LEARNED FROM THE CAR WASH CASE**

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**I. INTRODUCTION**

March 2014 will long be remembered in Brazil as a turning point. A huge police operation took place in Curitiba and other Brazilian cities. The Lava Jato (Car Wash) case was started. There is little doubt that a culture of self-enrichment and collusion prevailed at the top echelons of Brazilian government and business sector, and kickbacks were and still are the norm when it comes to large government contracts.

According to the Latinobarómetro<sup>1</sup>, for the first time in Brazilian history, corruption is at the forefront of citizens concerns. Since 2003 reducing corruption has been a major issue, and it is also a subject considered by policymakers when building local, public policies. It is quite easy to perceive that grand corrupt practices have a close connection with poor public management, which has well-known impacts on social rights.

Daron Acemoglu and James Robinson explain that “[e]mpowerment at the grass-roots level in Brazil ensured that the transition to democracy corresponded to a move toward inclusive political institutions, and thus was a key factor in the emergence of a government committed to the provision of public services, educational expansion, and a truly level playing field”<sup>2</sup>. One of those inclusive institutions in Brazil is the Public Prosecution Service<sup>3</sup>, responsible for fighting corruption in both civil and criminal arenas and to advocate civil and social rights before Brazilian courts.

Many countries in Latin America have been struggling against corruption and bribery for many years. Citizens across the Americas press for more transparent governance, probity and accountability. Some nations in the hemisphere, including Brazil, have implemented legal reforms that favour integrity and accountability. However, other civic attempts to implement new laws were defeated, as the nation witnessed last year when the Brazilian Parliament rejected the bill for the 10 Measures Against Corruption. In this regard, the ratification of international treaties on anti-corruption is of paramount importance for the advancement of Latin American nations on this item. At this point, the results achieved by prosecutors and other law enforcement agents across the region have been impressive.

Brazil and other countries in this region are striving to counter corruption since popular demands for more transparency and integrity are increasing. On the other hand, politicians and some entities from the private sector are resisting and pushing back reforms against the work of those national institutions engaged in anti-corruption efforts. When prosecutors use the powers vested in them by the Constitution to initiate probes, immediate retaliation is expected. This decade seems to be a perfect time to raise awareness on the huge costs of corruption and its impact on civil and social rights.

In this article, I intend to address the current Brazilian criminal and civil justice practice against corruption, constructed over the past two decades. International cooperation strategy with foreign authorities to tackle cross-border corruption is also discussed. Considering my vantage point as former head

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<sup>1</sup> Latinobarómetro Corporation is a non-profit NGO based in Santiago, Chile, and is responsible for data production and publication on Latin American democratic, social and economic development, using indicators of opinion, attitudes, behaviour and values.

<sup>2</sup> *Why nations Fail: the origins of power, prosperity, and poverty*. Profile Books, London, 2013, p. 460.

<sup>3</sup> This institution is known as “Ministério Público” in Portuguese.

of the international cooperation unit at the Office of the Prosecutor General<sup>4</sup> between 2013 and 2017, my intention is to provide an overview of the good practices applied on and the lessons learned from the Lava Jato case. In other words, this essay will analyse the Brazilian context and drill down on lessons learned from a major, recent corruption scandal, the largest corruption scheme ever unveiled in Latin America.

## II. THE 2030 AGENDA FOR SUSTAINABLE DEVELOPMENT

It is very important to consider the purpose of fighting corruption for the development of human societies. It is not about incarcerating people, according to a criminal law perspective. It is all about enforcing citizen's rights. Having this in mind, in 2015, the United Nations have decided to adopt new global Sustainable Development Goals (SDG). The representatives of the Member States have resolved "to end poverty and hunger; to combat inequalities within and among countries; to build peaceful, just and inclusive societies; to protect human rights and promote gender equality and the empowerment of women and girls; and to ensure the lasting protection of the planet and its natural resources"<sup>5</sup>. This is a new agenda to be accomplished by 2030.

For the purpose of this article, one should pay attention to the Goal 16, which calls for the promotion of peaceful and inclusive societies for sustainable development, demands that access to justice is provided for all, and requires nations to build effective, accountable and inclusive institutions at all levels. Some of the main targets of SDG 16 are to:

- 16.3 Promote the rule of law at the national and international levels and ensure equal access to justice for all
- 16.4 By 2030, significantly reduce illicit financial and arms flows, strengthen the recovery and return of stolen assets and combat all forms of organized crime
- 16.5 Substantially reduce corruption and bribery in all their forms
- 16.6 Develop effective, accountable and transparent institutions at all levels
- 16.7 Ensure responsive, inclusive, participatory and representative decision-making at all levels
- 16.10 Ensure public access to information and protect fundamental freedoms, in accordance with national legislation and international agreements
- 16.a Strengthen relevant national institutions, including through international cooperation, for building capacity at all levels, in particular in developing countries, to prevent violence and combat terrorism and crime.

Notably, by implementing target 16.5 nations across the globe are expected to reduce corruption and bribery as a way to save and provide public moneys, funds and resources to provide health and educational services, build infrastructure works, empower women, protect children, enforce environmental laws and so on, in order to achieve sustainable development all over the world.

## III. THE BRAZILIAN CRIMINAL JUSTICE SYSTEM

Firstly, I would like to explain how the prosecution services in Brazil are organized. An independent nation since 1822, Brazil is a federation of 26 States and the Federal District, which means that there are federal and state courts, and federal and state prosecution services in all the 26 Brazilian states and in the Federal District, where Brasilia is located.

The Federal Prosecution Service (MPF)<sup>6</sup> – the agency I work for – has jurisdiction all over the nation. The Prosecutor General is the head of the MPF and the president of the National Council of Public Prosecution Services (CNMP), an external, oversight body.

Under the 1988 Constitution, the prosecutors are responsible for investigating crimes and prosecuting criminals before state, federal, military and electoral courts. Police forces at the state and federal level also conduct criminal investigations and must refer their reports to the relevant prosecutors. There is an

<sup>4</sup> Procuradoria-Geral da República (PGR), in Portuguese.

<sup>5</sup> United Nations. *Sustainable Development Goals* at <[www.un.org](http://www.un.org)> accessed 20 Oct. 2017.

<sup>6</sup> Ministério Público Federal (MPF) in Portuguese.

accusatorial system. One-judge courts try criminal cases. The defendant has all the fundamental rights specified by Article 14 of the International Covenant on Civil and Political Rights, including the right to counsel and right to appeal.

There are two central authorities for mutual legal assistance purposes, the Ministry of Justice (MoJ) and the Office of the Prosecutor General (PGR), which handles cases from the Portuguese-speaking countries and Canada, pursuant to two specific treaties.

Taking account of the Federal Prosecution Service (MPF), its strategic plan states a mission and a vision. Its vision is to promote justice and social welfare and to defend the rule of law. According to its vision, by 2020, the MPF intends to be acknowledged both nationally and internationally as a chief agent in fostering of justice, protecting civil rights and in the fight against crime and corruption. Bear in mind that in Brazil the Ministério Público (the prosecutorial agency) has powers to investigate illegalities outside the criminal field and to file civil lawsuits to enforce social and fundamental civil rights, including aspects of non-criminal corruption or improbity. This unique feature of the prosecution service in Brazil grants opportunities to the agency's influences on public policies<sup>7</sup>.

This subject brings us back to the 17 Sustainable Development Goals, especially some targets of Goal 16. It is important to stress the Brazilian Federal Prosecution Service's commitment to the SDGs. There is no doubt that prosecution services, courts and law enforcement agencies across the world should adopt in their strategic plans an approach consistent with the United Nations 2030 Agenda.

As a matter of fact, the global legal framework is very complex, so it is also necessary to face the challenges of implementing the United Nations Convention on Transnational Organized Crime (UNTOC) and the United Nations Convention Against Corruption (UNCAC) by enacting new legislation when it is needed.

To achieve this purpose, since 2003 the Brazilian government instituted a National Strategy to Tackle Corruption and Money Laundering. Also known as ENCCLA, this initiative brings together many different agencies and public bodies which propose draft bills and bylaws to implement international conventions that are legally binding in Brazil and to improve the national legal framework.

For this reason, in order to tackle money laundering, the Brazilian government and independent agencies, prosecution services and courts get together every year to establish goals to be achieved the following year by each branch, agency or institution.

ENCCLA stands for national strategy against corruption and money laundering. Other predicate offences are dealt with in this coordinated work of the Brazilian Federation. The strategy includes proposals for enacting new legislation, capacity building, and coordination of law enforcement agencies.

Thanks to ENCCLA proposals, Brazilian prosecutors and judges can rely on up-to-date legal tools and special investigative techniques to prosecute felons and protect their victims, including under UNTOC and UNCAC provisions.

It goes without saying how important these conventions are to the effectiveness of complex prosecutions, especially when it comes to investigating the relationship between corruption, money laundering and other forms of organized crime.

#### **IV. THE LAVA JATO CASE**

The major part of political and economic institutions in Brazil fall under the classification of "extractive institutions" developed by Acemoglu and Robinson:

We will refer to political institutions that are sufficiently centralized and pluralistic as inclusive

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<sup>7</sup> This dual power is consistent with target 16.a, which aims to strengthen relevant national institutions, including through international cooperation, for building capacity at all levels, in particular in developing countries, to prevent violence and combat terrorism and crime.

political institutions. When either of these conditions fails, we will refer to the institutions as extractive political institutions.

There is strong synergy between economic and political institutions. Extractive political [institutions] concentrate power in the hands of a narrow elite and place few constraints on the exercise of this power. Economic institutions are then often structured by this elite to extract resources from the rest of the society. Extractive economic institutions thus naturally accompany extractive political institutions. In fact, they must inherently depend on extractive political institutions for their survival. Inclusive political institutions, vesting power broadly, would tend to uproot economic institutions that expropriate the resources of the many, erect many barriers, and suppress the functioning of markets so that only a few benefit. [...]

Nations fail economically because of extractive institutions. These institutions keep poor countries poor and prevent them from embarking on a path to economic growth. This is true today in Africa, in places such as Zimbabwe and Sierra Leone; in South America, in countries such as Colombia and Argentina; in Asia, in countries such as North Korea and Uzbekistan; and in the Middle East, in nations such as Egypt.<sup>8</sup>

This is absolutely true when it comes to Brazil. In the Car Wash Case (or Petrobribe), prosecutors investigate the largest corruption scheme ever discovered in Brazilian history. A coalition between political elites and tycoons from the civil engineering sector engaged in a huge, long-running scheme, designed to make profit and obtain illegal advantages harming the public interest.

In a nutshell, high-level employees within the state-owned company PETROBRAS received bribes in order to benefit certain private companies hired to execute large construction projects. In addition to that, these private companies formed a cartel, which increased artificially their prices and profits in detriment of the state-owned company.

PETROBRAS is a huge company whose performance areas comprise oil, gas and energy. Some of its directors were aware of this cartel formation, and they agreed to receive bribes in order to foster the cartel's interests within the state-owned company. Bribe payments were handled by financial brokers and illegal money exchange providers ("doleiros" in Portuguese), who laundered the money and handled it in such a manner that it appeared to stem from legitimate operations. But it was nothing but bribes. A criminal organization was settled, integrating construction companies, financial brokers, and PETROBRAS' employees. It is estimated that the amount paid in bribes exceeds USD 1 billion.

Later on, the investigators found out that other Brazilian companies were involved in the scheme, such as ODEBRECHT, OAS and CAMARGO CORREA. These giant construction companies were part of the cartel, which was also responsible for providing slush funds to political parties and to politicians running for elections across the country, both for the Legislative and the Executive branches.

So as to help grasp the scope of those illegal operations, only one of the state-owned company's employees, who entered into a collaboration agreement with the Federal Prosecution Service, returned to the Brazilian government treasury USD 100 million he had received as bribes.

The Car Wash case uncovered a large criminal scheme involving the commission of the following crimes: engaging in a criminal organization, tax crimes, official misconduct (both active and passive bribery), financial crimes and money laundering, as well as the formation of a mighty cartel, which was settled by the largest construction companies from Brazil, with operations across Latin America and Africa. In this scheme, between 2004 and 2014, bids for government contracts for PETROBRAS were fraudulent, and civil agents were paid bribes in order to make that fraud happen.

According to court files, this cartel for bid rigging was formed, at first (in the mid-2000s), by the following construction companies: ODEBRECHT, UTC, CAMARGO CORRÊA, TECHINT, ANDRADE GUTIERREZ, MENDES JÚNIOR, PROMON, MPE, and SETAL-SOG. As of 2006, other companies joined the cartel, and they were as follows: OAS, SKANSKA, QUEIROZ GALVÃO, IESA, ENGEVIX, GDK, and GALVÃO

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<sup>8</sup> *Why nations Fail: the origins of power, prosperity, and poverty*. Profile Books, London, 2013, pp. 81 and 398.

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So that the cartel would remain operative, the construction companies paid bribes to several high-level civil servants at PETROBRAS. Among them, the Head of Downstreaming Operations PAULO ROBERTO COSTA, who was in charge of having the government bids manipulated. Furthermore, the construction companies taking part in the cartel and both the civil and the private agents who took part in the scheme used the services of financial brokers, such as ALBERTO YOUSSEF. These co-conspirators employed many scams in order to launder the illegal money stolen from PETROBRAS, such as making fraudulent contracts, and the issuance of false invoices through front companies. This was made so that the payment of bribes would seem to be legitimate. At times, the amounts would also be sent to bank accounts overseas.

Therefore, the criminal organization was operating in three core areas. The first one involved the members of the cartel, CEOs of large construction companies, who paid bribes so that the government bids were rigged. Civil servants who received bribes in order to conduct the criminal scheme within PETROBRAS formed the second area. Finally, the third one was composed by financial brokers, such as ALBERTO YOUSSEF, who were in charge of handling the payment of bribes to members of the second group, as well as of laundering the money stemming from crimes perpetrated by the criminal organization.

Then there were the political parties, which shared bribes with the former PETROBRAS employees, assigned by their leaders and committed to maintain the scheme running and making money turned into slush funds for political campaigns.

Two CEOs of construction companies involved in the scheme entered into collaboration agreements with the Federal Prosecution Service (MPF), and corroborated PAULO ROBERTO COSTA's and ALBERTO YOUSSEF's testimonials.

The Federal Prosecution Service has received from Switzerland bank statements regarding bank accounts maintained by the suspects. Following Swiss mutual legal assistance to Brazil, it became possible to determine the origins and the destination of the amounts transferred from and to the bank accounts held by PAULO ROBERTO COSTA and other defendants.

As one may see, the main target of the criminals, either from the public or the private sector, was the government procurement of goods, services, public works, construction and supply contracts on behalf of a public company or other government agency. To prevent fraud and corruption, cartels or protectionism, the law must be enforced by independent and accountable agencies.

During this investigation, federal prosecutors in Brazil pressed charges and indicted politicians and businesspersons for committing financial crimes, bribery, money laundering, and obstruction of justice. The relevant legal provisions are in the Criminal Code and in special laws.

Pursuant to Article 317 of the Brazilian Criminal Code, passive bribery is committed when someone requests or receives for oneself or for a third party, both directly or indirectly, undue gain or advantage by using his/her position as a public official or a civil servant. The undue advantage or gain may be obtained even outside of the scope of the public position, or before taking office. The crime also takes place when the agent accepts an offer of a future payment of undue gain or advantage under the outlined circumstances. The punishment for this felony is imprisonment from 2 to 12 years, and a fine. According to the law, the punishment can be increased by a third if, as a consequence of the undue advantage or promise, the public employee delays or does not practice an official act or if such an act is practiced by the infringement of an official duty.

The Federal Law No. 9.613, of 1998 (Anti-Money Laundering Law) makes it a crime to conceal or dissimulate the nature, origin, location, availability, transfer or property of assets, rights or amounts stemming from crimes, whether direct or indirectly. The punishment under this law is imprisonment, from 3 to 10 years, and a fine. The punishment can be increased from one to two thirds if the crimes provided by this Law are committed repeatedly or by members of a criminal organization.

In Brazil, it is considered a crime, under Federal Law No. 12.850 of 2013 (Organized Crime Law) to

promote, constitute, finance or integrate a criminal organization, either in person or through the actions of intermediaries. The punishment is imprisonment from 3 (three) to 8 (eight) years, and a fine, regardless of the corresponding penalties related to the other criminal offenses committed by the offender. The punishment is increased, from 1/6 (one sixth) to 2/3 (two thirds), if a civil servant is involved as a co-conspirator, and the criminal organization relies on such a condition to commit the offense.

## V. INTERNATIONAL COOPERATION IN CRIMINAL MATTERS

In this section, it is time to address the issue of international cooperation to tackle corruption and organized crime, especially in the context of complex financial and white-collar crimes, such as Lava Jato. It is also adequate to discuss the experience and current problems when it comes to mutual legal assistance in Latin America.

For the purpose of clarification, Latin America is a socio-cultural concept, not a geographic one. It refers to the 20 Spanish-speaking and Portuguese-speaking countries of the Americas, from Mexico to Argentina and Chile. More than 588 million people live in that region which faces many problems related to public security, civil rights violations, access to justice and failure of criminal justice.

Considering the mutual legal assistance scenario, the most serious crimes in Latin America are drug trafficking, trafficking in human beings, smuggling of migrants, trafficking firearms, corruption and money laundering. However, the Lava Jato case added a new element to the interaction amongst the Prosecution Services across the region: fighting transnational schemes of corruption and illegal funding of electoral campaigns.

Unfortunately, many countries in Latin America have porous, penetrable and unprotected borders. Even outside certain economic cooperation zones, there is a free movement of goods, assets and citizens, including criminals. In some places there are no immigration and customs controls whatsoever, which facilitates many forms of criminal activities.

It is hard for authorities to track down those serious crimes, because of legal loopholes in many countries. It is true that there are some very useful treaties in criminal matters, which are binding for Latin America and for other countries in the region, like the Inter-American Convention on Mutual Legal Assistance in Criminal Matters, the Inter-American Convention on Serving Criminal Sentences Abroad, and the relevant United Nations Conventions. Specifically on bribery, it is important to highlight that the first comprehensive international convention on this matter was negotiated in the Americas. I refer to the Inter-American Convention against Corruption, adopted in Caracas in 1996. One of its purposes, under Article II.1 is to "promote and strengthen the development by each of the States Parties of the mechanisms needed to prevent, detect, punish and eradicate corruption".

It is worth mentioning the COMJIB Agreement on the Use of Videoconferencing in International Cooperation; and the COMJIB Agreement on Joint Investigation Teams. COMJIB stands for the Conference of Ministers of Justice of Ibero-American Countries. However those treaties are not implemented yet. This list will not be complete without the MERCOSUR treaties on extradition and MLA and other regional agreements ratified in Central America for similar purposes. Still, this legal framework is not sufficient to supply prosecutors with the proper tools to investigate transnational organized crimes.

This scenario makes it necessary for the countries to have proper rules on MLA and to provide their prosecutors and judges with sufficient information on judicial cooperation in criminal matters; and on police and customs cooperation. For example, many countries across Latin America need to enact legislation on hot pursuit and trans-border surveillance. In general, nations from Central and South America have neither a legal scheme for cross-border cooperation nor rules permitting the free flow of evidence between their investigative and prosecutorial officials. And there is little experience on transferring criminal proceedings within the region.

The lack of training programs for magistrates is an important issue as well. Some judges and prosecutors are not prepared to deal with MLA requests. The requirements to write an outgoing request sometimes seem very hard to cope with. So States and international organizations, such as UNAFEI and ILANUD,

should offer such training programs on international cooperation on a regular basis.

Another problem is the translation of the MLA requests into Portuguese or into Spanish. The translations are expensive and sometimes the result is of poor quality. For this reason it is important to develop an electronic writing tool to facilitate the work of prosecutors, like the one designed by the UNODC.

Besides that there are concerns on human rights violations and the due process clause during criminal proceedings and the related MLA requests. This clause should always be invoked as a ground to refuse the execution of a particular request in order to protect the defendant from unfair or unjust prosecution.

Lack of coordination at the national level between law enforcement agencies and prosecuting authorities at the national level is also a problem because it has an impact on international cooperation, especially on the incoming MLA requests. Moreover, in some countries there is more than one central authority in criminal matters, and in some other countries this task is performed by the Ministry of Justice and not by the Public Prosecution Services.

International cooperation to fight serious crimes is one of the most important policies to promote peace and security, foster justice and advocate human rights. However, the principle of mutual recognition of foreign decisions is not present in many domestic legal systems and it is not clearly stated in any of the binding Organization of American States (OAS) and Mercosur treaties. And generally speaking there is poor capacity to enforce foreign judgements, meaning that the transfer of the execution of criminal sentences (which is different from the transfer of convicted persons) as an alternative to extradition is not available. So the scenario is completely different from Europe.

There are well known best practices for the betterment of international cooperation. Direct contact between prosecutors in different countries is the first one of them. Before preparing an MLA request prosecutors should talk to their colleagues abroad in order to write requests more suitable for transmission by the Central Authority, facilitating their execution by the receiving State.

The use of networks of prosecutors – both formal and informal – is also a good practice. Most of the Latin America countries are members of the Ibero-American Association of Prosecutors (AIAMP), established in 1954; are integrated in the Ibero-American Judicial Cooperation Network (Iber-Red); take part in the Hemispheric Network of the OAS; have public officials assigned as focal points within the RRAG or Asset Recovery Network of the Financial Action Task Force of Latin America (GAFILAT). Some *Ministérios Públicos* are also part of the Specialized Meeting of Public Prosecution Services of Mercosur Member States and of the Central American Council of Public Prosecutors Offices.

It is also necessary to improve the coordination between prosecution services both at the regional and at the global level. Two good examples are the West African Network of Central Authorities and Prosecutors (WACAP), and the Central America and the Caribbean Network of Prosecutors Specialized in Organized Crime (REFCO).

The Commission on Crime Prevention and Criminal Justice (CCPCJ) Resolution 19/7 recognizes the potential benefits of establishing such networks in regions where they do not exist, in order to facilitate coordination to tackle organized crime and make it easier to exchange information between prosecuting authorities. The Conference of the Parties (CoP) to the UNTOC adopted Resolutions 5/8 and 6/1 which mandate the UNODC to foster international and regional cooperation by facilitating the development of regional networks, and where appropriate, facilitating cooperation between such networks.

Therefore, we should facilitate cooperation between such networks for the betterment of MLA in Latin America and in other regions. Perhaps in the future the Americas could have a more formal, supranational body, according to the Eurojust model and we could call it Amerijust.

Another best practice is the assignment of police attachés and liaison magistrates/prosecutors to deal with mutual legal assistance and extradition matters. In Brazil, the services provided by the Federal Police liaison officers are very useful. In a particular case, Italy's highest court has granted the extradition of a Brazilian banker. The banker, who has dual Brazilian and Italian citizenship, had fled to Italy to avoid serving

12 years in prison for corruption, embezzlement and money laundering. He was convicted as a co-conspirator of the *Mensalão* trial (case file No. 470), a huge political corruption scandal previous to Lava Jato. Without the efforts taken by the Brazilian police attaché in Rome and the Italian police attachés in Brazil, this difficult case could have had a different outcome.

On the other hand, it is worth sharing the successful experience Brazilian prosecutors and judges had in the last five years with the only liaison prosecutor seated in Brazil, a French colleague who is able to provide a desirable direct contact with all Brazilian law enforcement and government authorities, reducing drastically the time of international cooperation proceedings. This liaison magistrate follows up on French outgoing requests to Brazil to ensure adequate execution. This officer has jurisdiction in Suriname, Guiana and French Guiana, an overseas department of France. Situated on the northeastern coast of South America, French Guiana shares a frontier of 730 km with Brazil. So it is necessary to stress the importance of involving such liaison officers and prosecutors when it comes to prepare a formal MLA request and during its execution.

As for corruption probes, it is important to rely on the United Nations Convention Against Corruption (UNCAC) and OECD Anti-Bribery Convention. The 1992 Inter-American Convention on Mutual Legal Assistance in Criminal Matters and a dozen bilateral treaties signed by the Federative Republic of Brazil also played a role in recent cross-border anti-corruption investigations.

As a civil law country, a request for cooperation can be executed pursuant to an MLA treaty or on the basis of reciprocity. If a foreign government so requests, there is information sharing for intelligence purpose. In some cases, regarding the specialty principle, the cooperating authority may establish conditions or limitations on the use of the evidence requested. So investigators and prosecutors must be in a position to comply with these conditions, after signing a specific undertaking.

According to this principle, the central authority of the requested State may demand that the requesting State not use any information or evidence obtained following an MLA request in any investigation, prosecution, or proceeding other than that described in the request without the prior consent of the Central Authority of the Requested State. In such cases, the Requesting State shall comply with the conditions.

Finally, let us discuss a very effective technique to coordinate cross-border investigations. Pursuant to Article 49 of the United Nations Convention against Corruption and Article 19 of the United Nations Convention against Transnational Organized Crime States that parties may conclude agreements or arrangements to establish joint investigative teams (JIT) on a case-by-case basis. A similar provision exists in other treaties. JITs are very useful when the same facts or intertwined events are under investigation in two or more jurisdictions.

In such cases, the competent authorities may establish joint investigation bodies with regard to the common criminal investigations. A standard memorandum or agreement must have provisions on definitions, scope, duration, operational arrangements, leadership of the team, powers of the members and seconded members, civil and criminal liability, confidentiality, restriction on the use of information, treatment of evidence, data protection, costs etc.

## VI. CONCLUSION

It is important to say it one more time. Fighting corruption is an indispensable step to tackling organized crime. Furthermore, corruption has a devastating impact in developing countries, which bring us back again to the 2030 Agenda and its 17 SDGs. According to the OECD, “corruption in the public sector hampers the efficiency of public services, undermines confidence in public institutions and increases the costs of public transactions. Integrity is essential for building strong institutions resistant to corruption”<sup>9</sup>.

In the Doha Declaration of 2015, the United Nations reiterated “the importance of promoting peaceful, corruption-free and inclusive societies for sustainable development, with a focus on a people-centred approach

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<sup>9</sup> *Fighting corruption in the public sector*, OECD <[www.oecd.org/corruption/ethics](http://www.oecd.org/corruption/ethics)> accessed 27 Oct. 2017.



that provides access to justice for all and builds effective, accountable and inclusive institutions at all levels”<sup>10</sup>. Having this in mind, the world leaders decided:

To make every effort to prevent and counter corruption, and to implement measures aimed at enhancing transparency in public administration and promoting the integrity and accountability of our criminal justice systems, in accordance with the United Nations Convention against Corruption<sup>11</sup>.

There are some good ideas to be implemented both regionally and internationally. For the Americas, Transparency International, Atlantic Council and other NGOs have been suggesting the adoption of institutional mechanisms, such as a rapporteur on corruption and human rights at the Inter-American Commission on Human Rights, as well as to institutionalize hybrid investigatory mechanisms, such as the International Commission Against Impunity in Guatemala (CICIG), or even “establishing a roster of anti-corruption advisors, investigators and prosecutors to support States with investigations upon request”<sup>12</sup>. There is much work to be done. There is no other way to achieve government integrity and corruption-free societies without autonomous, transparent and committed institutions and, more importantly, without the incessant oversight of citizenship.

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<sup>10</sup> *Doha Declaration on Integrating Crime Prevention and Criminal Justice into the Wider United Nations Agenda to Address Social and Economic Challenges and to Promote the Rule of Law at the National and International Levels, and Public Participation*, § 4.

<[https://www.unodc.org/documents/congress/Declaration/V1504151\\_English.pdf](https://www.unodc.org/documents/congress/Declaration/V1504151_English.pdf)> accessed 10 Oct 2017

<sup>11</sup> *Idem*, § 5.b

<sup>12</sup> *Meeting of experts on democratic governance against corruption*, Lima, Nov. 2017.