

## CHALLENGES FOR PRIVATE SECTOR IN THE FIGHT AGAINST CORRUPTION



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## CORRUPTION



### The abuse of entrusted power for private gain

Corruption can be classified as grand, petty and political, depending on the amounts of money lost and the sector where it occurs.

### SOME DEMONSTRATIONS



BRIBERY



CONFLICT OF INTERESTS



EXTORTION



CLIENTELISM



FRAUD

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# CORRUPTION

## PROBLEMS

Approach	Principal author	Argument
<b>Organisational</b>	Klitgaard	Each organization is a system of which individuals are confronted with a cost-benefits structure that will define whether or not it's more convenient to be corrupt.
<b>Regulatory</b>	Reisman	It's a problem generated by the distance between "Myth system" and "operational code".
<b>Economic</b>	Rose-Ackerman	It occurs in the interaction between the State and the private sector, and as consequence of the excessive intervention of the State in economic activity, either as a producer or regulatory agent.
<b>Sociological</b>	Mujica Pereira	It occurs in the interaction between formal and informal rules of society, so that networks and power relations are constructed, which are transforming over time.

Source: Figueroa, M. 2019.

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# CORRUPTION

Robert Klitgaard proposes a formula for corruption

$$C = M + D - A$$

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# CORRUPTION

## EFFECTS

CITIZENSHIP

ECONOMY

ENTERPRISES

DEMOCRACY

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# CORRUPTION

## EFFECTS

**Democratic foundations across the region are currently at risk, stifling anti-corruption efforts.**



### DEMOCRATIC INSTITUTIONS

The weakening of democratic institutions diminishes any sustained effort to fight corruption.



### POLITICAL RIGHTS

The general decline of political rights also contributes to higher corruption levels.



### ENFORCEMENT

A lack of progress is unsurprising given a lack of anti-corruption laws and enforcement mechanisms.

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# CORRUPTION

## EFFECTS

**Democracy is challenged by populist and authoritarian rule.**



### MEDIA MANIPULATION

Independent media are being undermined, especially when coverage challenges leaders' messaging.



### INTERFERENCE OF STATE

Leaders interfere with and use national institutions to weaken checks and balances and increase executive power.



### STRONG HAND APPROACHES

Leaders increasingly use simplistic and "strong hand" approaches to solve deep-rooted problems.



### FINANCIALLY SUPPORTED CAREERS

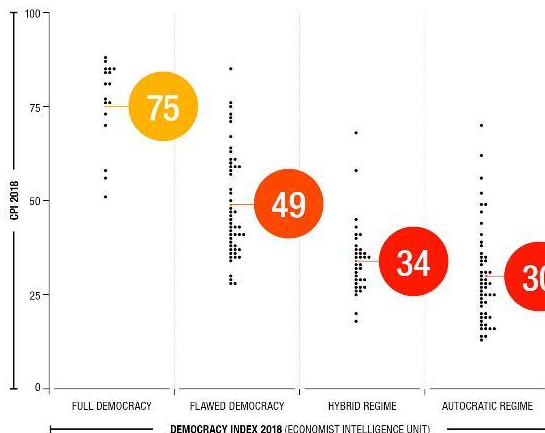
Conflicts of interest and private influence over government decisions continue to grow.

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# CORRUPTION

## EFFECTS



DEMOCRACY IS THE POLITICAL SYSTEM THAT MANAGES TO TIGHT BETTER AGAINST CORRUPTION

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# CORRUPTION

## EFFECTS



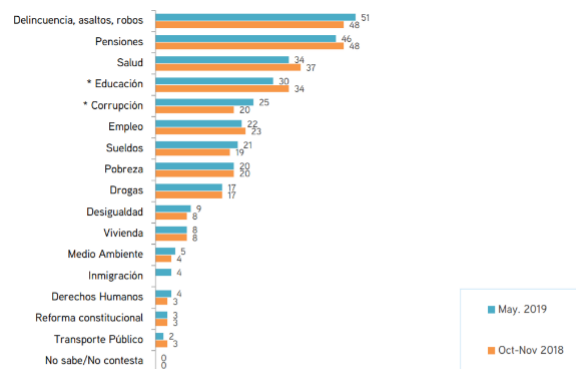
- DAMAGE TO THE CORPORATE IMAGE
- CONSEQUENCES FROM THE CRIMINAL LIABILITY OF THE COMPANY
- ECONOMIC DAMAGES / PROPERTY DAMAGE
- FINES AND LEGAL SANCTIONS
- ACCIDENTS AND LOSS OF LIVES
- LOSS OF CLIENTS AND LOSSES IN SALES

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# CORRUPTION

## EFFECTS

One of the main concerns of the people in our country



\* Diferencia significativa desde un punto de vista estadístico entre las mediciones de Octubre-Noviembre 2018 y Mayo 2019.

Source: National Public Opinion Survey, CEP. Mayo 2019.

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## THE ODEBRECHT CASE

### ODEBRECHT

It's a Brazilian group, specialized in engineering and construction, but also with interests in the energy and petrochemical sector.



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## THE ODEBRECHT CASE



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## THE ODEBRECHT CASE

### Payment of bribes paid by Odebrecht

Cantidades reconocidas por Odebrecht entre 2001 y 2016

En millones de dólares



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## REASSESS EFFORTS

THE LESSON LEARNED IN LAST YEARS HAVE MADE US REEVALUATE THE WAY WE CONTINUE FIGHTING CORRUPTION



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## REASSESS EFFORTS

### VIII SUMMIT OF THE AMERICAS

**DEMOCRATIC GOVERNANCE  
AGAINST CORRUPTION**



**VIII Cumbre  
de las Américas**

LIMA · PERÚ · 2018

The Summit bring together the heads of state and government of the member states of Western Hemisphere where leaders discuss common policy issues, affirm shared values, and commit to concert action at the national and regional level with the purpose to address present and future challenges facing the countries of the Americas.

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## REASSESS EFFORTS

### SUSTAINABLE DEVELOPMENT GOALS

They are a universal call for adoption of measurements to end poverty, protect the planet and ensure all people enjoy peace and prosperity.



**EL FUTURO QUE QUEREMOS**

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## REASSESS EFFORTS

### SUSTAINABLE DEVELOPMENT GOALS



*Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels.*

#### 3 RELEVANT TARGETS

- 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.
- 16.10** Ensure public access to information and protect fundamental freedoms, in accordance with national legislation and international agreements.

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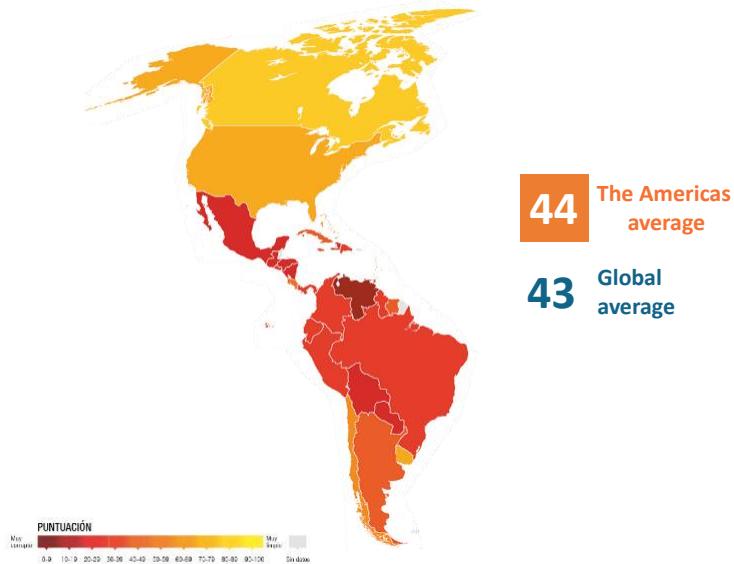
## REASSESS EFFORTS

### SHOULD WE PROGRESS TOWARD AN INTERNATIONAL JUSTICE MECHANISM AGAINST CORRUPTION?



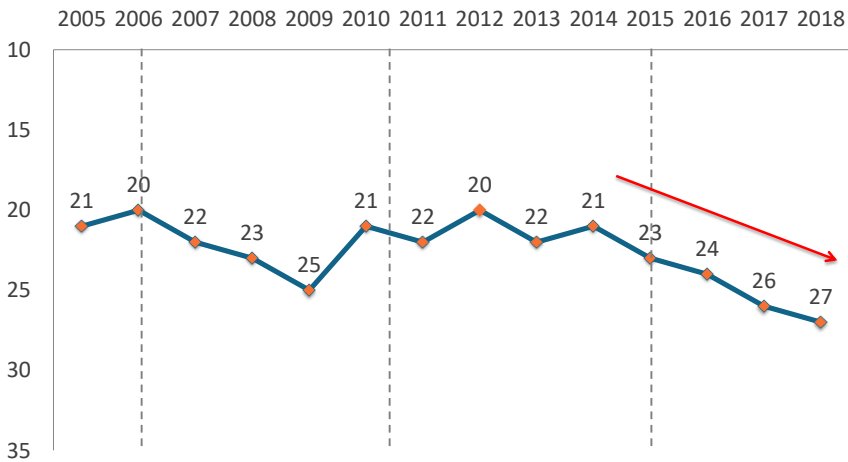
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# CHILE AND CORRUPTION



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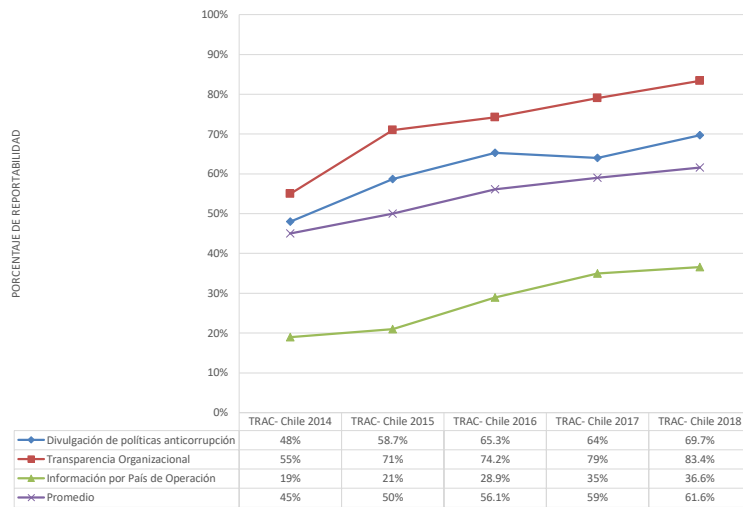
# CHILE AND CORRUPTION



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## EVOLUTION OF THE TRAC- CHILE RESULTS



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## CHILE AND CORRUPTION

### WHAT IS THE ROLE OF THE BUSINESS WORLD?

FOREIGN BRIBERY



COLLUSION CASES



LOCAL CORRUPTION SCANDALS



WE CAN PREVENT, SUPERVISE, REPORT, AND CONTRIBUTE TO ACCOUNTABILITY

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# CHILE AND CORRUPTION

## NEW FOCUS ON COMPANIES

**ACT 21.121 extends the predicate offences that can give rise to criminal liability of legal people**

- Money laundering
- Provide or promote terrorist crimes.
- Inappropriate business dealing.
- Bribery of public official.
- Bribery of foreign public officials
- Corruption among private individuals.
- Receiving stolen goods and abaction
- Unfair management.



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# CHILE AND CORRUPTION

## NEW FOCUS ON COMPANIES



### CORRUPTION AMONG PRIVATE INDIVIDUALS

Acts in which employees or agents request or accept to receive, as well as in the case that gives, offers or consents to give an employee or agents a financial or other benefit, for themselves or for third parties, to be favored in some way in hiring.



### UNFAIR MANAGEMENT

When any of the foregoing are directly or indirectly interested in any negotiation, action, contract, operation or management in which they must intervene by reason of their position, or in which they must intervene in relation to assets, things or proprietary interests whose adjudication, partition or administration they are in charge of.



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# CHILE AND CORRUPTION

## REGULATORY CHALLENGES



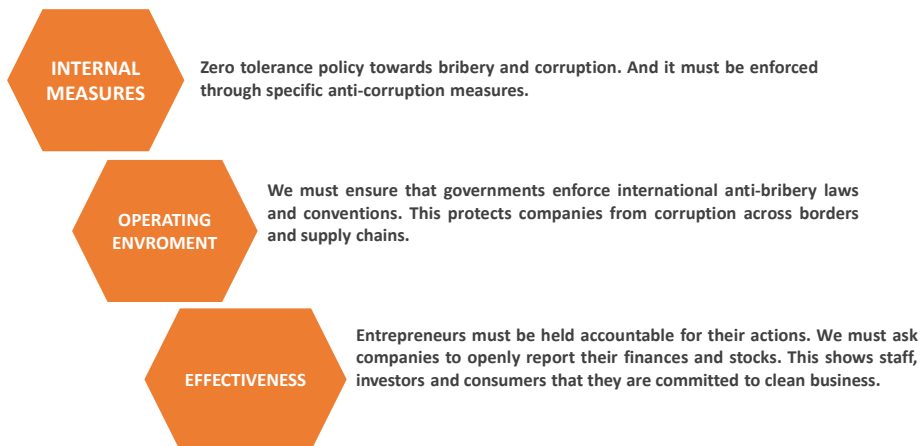
- Prevention of **conflict of interests** in the relationship between company agents and public authorities.
- Register of **beneficial owners** and transparency.
- **Transparency** obligations for companies providing services under conditions of natural monopolies and private entities carrying out activities in the public interest.
- Regulation of the "**revolving door**" in the passage of persons from the public sector to the private sector and from the private to the public sector, especially in regulated sectors.

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# CHILE AND CORRUPTION

The fight against corruption in private sector require three-pronged approach:



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## GLOBAL CHANGES

THE WAY OF DOING BUSSINES, WHAT CUSTOMERS WANT HAS  
CHANGED RADICALLY



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## GLOBAL CHANGES

EMERGING MARKET AND CHINA'S ROLE

CRYPTOCURRENCIES AND BLOCKCHAIN

REDEFINITION OF MIGRATION FLOWS AND REFUGEE CRISES



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## BUSINESS INTEGRITY



1. Commit to an anti-corruption programme 'from the top'
2. Assess the current status and risk environment
3. Plan the anti-corruption programme
4. Act on the plan
5. Monitor controls and progress
6. Report internally and externally on the programme

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## CHILE AND CORRUPTION

### WHAT IS THE ROLE OF THE BUSINESS WORLD?

The Business Rationale for Fighting Corruption

	Benefits of Engaging	Risks of Not Engaging
<b>Individual Company Action</b>	<ul style="list-style-type: none"> <li>• Reduce the cost of doing business</li> <li>• Attract investments from ethically oriented investors</li> <li>• Attract and retain highly principled employees, improving employee morale</li> <li>• Obtain a competitive advantage of becoming the preferred choice of ethically concerned customers/consumers</li> <li>• Qualify for reduced legal sanctions in jurisdictions like the US and Italy</li> </ul>	<ul style="list-style-type: none"> <li>• Criminal prosecution, in some jurisdictions both at company and senior management levels which can lead to imprisonment</li> <li>• Exclusion from bidding processes, e.g. for international finance institutions and export credit agencies</li> <li>• "Casino risk" – no legal remedies if a counterpart does not deliver as agreed and/or keeps increasing the price for doing so</li> <li>• Damage to reputation, brand and share price</li> <li>• Tougher fight for talent when hiring new employees</li> <li>• Regulatory censure</li> <li>• Cost of corrective action and possible fines</li> </ul>
<b>Collective Action by Business</b>	<ul style="list-style-type: none"> <li>• Create a level playing field overcoming the "prisoner's dilemma"</li> <li>• Improve public trust in business</li> <li>• Influence future laws and regulations</li> </ul>	<ul style="list-style-type: none"> <li>• Missed business opportunities in distorted markets</li> <li>• Increased magnitude of corruption</li> <li>• Policy-makers responding by adopting tougher and more rigid laws and regulations – internationally, regionally and nationally</li> </ul>

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## CONCLUSION



**THE SUSTAINABILITY OF BUSINESSES HAS THE CAPACITY TO  
STRENGTHEN ETHICAL RELATIONSHIPS WITH OUR COLLABORATORS**