



COUNTRIES AT THE CROSSROADS 2011: PARAGUAY

PETER LAMBERT¹

INTRODUCTION

The election of Fernando Lugo in April 2008 marked a watershed in Paraguay's previously stagnating transition to democracy for multiple reasons. First, the victory of Lugo, the candidate for the Patriotic Alliance for Change (APC) coalition,¹ ended 61 years of uninterrupted rule by the Colorado Party. Second, it represented the first democratic change of government and peaceful handover of power in Paraguay's entire history. And third, Lugo, an ex-bishop and advocate of liberation theology, campaigned on an electoral platform of deepening democracy by implementing long-overdue social reforms to address Paraguay's indefensible levels of poverty, inequality, and social exclusion. With a popularity rating of over 90 percent when he took power, he spoke optimistically of a "new dawn" of democratic change in Paraguay.

Even after the fall of General Alfredo Stroessner's long (1954–89) dictatorship, Paraguayan politics had been dominated by the same Colorado Party that had been a pillar of the authoritarian regime. The post-transition period had also been characterized by economic mismanagement and corruption, political factionalism and infighting—including attempted military coups in 1996 and 1999—and weak progress on improving social conditions. Indeed, by the mid-2000s Paraguay's unconsolidated democracy appeared less under threat from military intervention than from disillusionment and desperation. This trend was clearly reflected in Latinobarómetro polls; the 2005 survey found that 69 percent of respondents would support authoritarianism under certain circumstances,² while in 2007 only 33 percent of Paraguayans supported democracy as a system, and only 9 percent were satisfied with its performance. Many of the country's scores on attitudes towards democracy were among the lowest in Latin America,³ providing a context propitious to both increased social conflict and the rise of authoritarian populism, reflected in the support for the controversial ex-general Lino Oviedo, who was allegedly involved in both attempted coups.⁴

Despite the optimism surrounding Lugo's victory, the new president faced a series of challenges when he took office in August 2008. First, Paraguay's transition had failed to overcome or even address many of the legacies of the Stroessner dictatorship, including rampant corruption, a highly politicized state and judicial

¹ Peter Lambert is a senior lecturer in Latin American Studies at the University of Bath, UK. He has written extensively on different aspects of Paraguayan politics.

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sector, a distrust of politicians and political parties, widespread clientelism, ineffective governance, a weak civil society, and a hegemonic Colorado Party.

Second, the scale of social exclusion reflected in high levels of poverty, inequality, and discrimination in terms of ethnicity, gender, and language continue to undermine democratic citizenship and participation.⁵ According to government figures, 38 percent of Paraguayans live in poverty—rising to 49 percent in rural areas—while 19 percent live in extreme poverty, figures which have changed little since the mid-1990s.⁶ Paraguay is also one of the most unequal countries in Latin America, which is strikingly reflected in land ownership: 86 percent of agricultural land is consolidated in just 2.5 percent of all properties, while 30 percent of the rural population is landless.⁷

Third, the results of the congressional elections left Lugo without a working majority in Congress, allowing parties and individuals opposed to his policies to slow his ambitious socioeconomic reform program. The Colorado Party remained the largest party in both chambers, while Lino Oviedo's National Union of Ethical Citizens (UNACE), which came third, also opposed most government policies. Furthermore, the APC coalition was dominated by the center-right Authentic Radical Liberal Party (PLRA),⁸ which itself was deeply divided in its support for Lugo.

After nearly three years of frustrated initiatives, personal crises, and sustained opposition from powerful groups, Paraguay's progress in key areas of social, political, and judicial reform has been slow. However, Lugo retains his vision of reducing the democratic deficit and there has been notable progress on a range of issues in the fields of social welfare, governmental transparency, and civil liberties.

ACCOUNTABILITY AND PUBLIC VOICE

The electoral framework set up under the 1992 constitution calls for elections with universal suffrage, open to multiple parties and conducted by secret ballot. One of the most important post-transition achievements has been the regular holding of elections since 1989, including five presidential and congressional elections (in 1989, 1993, 1998, 2003, and 2008), one vice-presidential election (in 2000), and five municipal elections (in 1991, 1996, 2001, 2006 and 2010). Balloting has been generally free from violence or widespread fraud, and all contests have been judged as free, if not completely fair, by foreign observers and increasingly active domestic NGOs.⁹

Despite some evidence of electoral malpractice in voter registration and patronage, the results of the 2008 elections were widely seen as fair, in part due to the work of domestic and international electoral monitors.¹⁰ With turnout of 65.5 percent (voting is compulsory but not enforced), Fernando Lugo won with 40.9 percent of the vote, while Colorado candidate Blanca Ovelar secured 30.6 percent. In a surprising turnaround reflecting widespread disillusionment, the authoritarian populist Oviedo gained 21.9 percent, while votes for Pedro Fadul of the modernizing, pro-business Beloved Homeland Party (PPQ)¹¹ fell to just 2.4 percent from 21.3 percent in 2003.

Despite losing the presidency, the Colorado Party remained the largest group in Congress, holding 30 of the 80 seats in the Chamber of Deputies and 15 of the 45 seats in the Senate. It also holds over 70 percent of municipal government, 10 of 17 departmental governorships, and has the largest party membership. Following success in the 2010 municipal elections, the Colorado Party is widely seen as likely to win the 2013 presidential elections.

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Furthermore, Oviedo's UNACE, often referred to as the "spare wheel of Coloradism" due to its historical links with the party, won 15 seats in the Chamber of Deputies and 9 seats in the Senate. The PLRA, the main backers of the APC, won 27 and 14 seats, respectively; the party formally left the coalition in July 2009, however, although the majority of its senators and members of congress remained loyal to the government. The president's position was further undermined by the weakness of the presidency under the 1992 constitution, which grants extensive powers to congress at the expense of the executive as a reaction to Paraguay's long history of authoritarianism.

Despite Lugo's victory and the implicit suggestion of democratic maturity, the electoral system faces a number of serious underlying problems. The three-person Superior Court for Electoral Justice (TSJE), the body responsible (together with lower electoral courts) for the administration and legal decisions regarding all national, local, and internal party elections, is highly politicized, with appointments made according to a party quota system (one Colorado, one Liberal, and one from a third party), rather than independent, merit-based evaluation (see Rule of Law). This politicization was particularly evident during the 2003–2008 administration of Nicanor Duarte, when the TSJE (along with the Supreme Court) issued two controversial decisions involving the president: in 2006 it allowed Duarte to run for presidency of the Colorado Party, and in 2008, it permitted his candidacy as an elected senator rather than nonvoting life-senator—both in clear violation of the constitution. In addition, the TSJE's independent member resigned in November 2008, leaving the body in a state of crisis and inertia for over two years. Only in December 2010 was the stalemate resolved with the appointment of an UNACE member.

In addition, although each party receives state funding according to its number of seats in congress, there is little regulation in terms of origin and use of private donations to party funds; private funding remains highly opaque and is widely viewed as a source of corruption. This is particularly the case for internal party elections, for which candidates rely on often-untraceable private donations, which may be used to engage in clientelism and vote buying. Furthermore, since the Stroessner era, the Colorado Party has been accused of using state resources, including money, personnel, and vehicles, to support its campaigns and strengthen its clientelistic networks. Finally, the lack of regulation to prevent undue influence in campaign funding has resulted in credible allegations of economically privileged sectors, including those involved in illegal activities, buying seats (and influence).¹² Despite strong evidence of such corruption, the TSJE has not launched any investigations.

Moreover, checks and balances are limited. Colorado Party dominance of the executive until 2008 has ensured party control of the state bureaucracy and most importantly, the judiciary. When the executive has clashed with other branches of government it has been due to internal party factionalism and power struggles, with the judiciary used as a political tool of one faction or another. Conflicts under the current administration are attributable to the strength of the Colorado Party in congress, the judiciary and the bureaucracy, and its ability to resist an array of government initiatives. In an extraordinary example of such politicization, in August 2010, the Supreme Court voted to overrule a congressional decision in 2008 that barred former president Duarte from taking his Senate seat, in clear violation of Article 189 of the constitution.¹³

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Such conflicts have prevented the president from getting key policies through congress. This was exemplified by congressional decisions in 2009 and again in 2010 to postpone the long-awaited introduction of a personal income tax, which would have provided an essential first step towards an integrated tax system. Strikingly, many Colorados who had voted for the measure under the Duarte administration spoke passionately against it under Lugo, while many Liberals changed their support in the opposite direction. Such a dramatic shift in party voting patterns fed into the widespread perception of a political culture in which the overriding objective of the major political parties remains political game playing, self interest, and party maneuvering rather than commitment to the needs and the demands of the electorate, or to the public good. In a further example of this culture, the opposition has attempted not only to block all government initiatives, but to undermine the government's legitimacy. For example, by the end of 2009, Lugo faced highly-publicized calls for impeachment from the opposition on four separate (and unproven) grounds: alleged corruption in the management of lands slated for redistribution; alleged promotion of the class struggle; alleged links with guerrilla movements; and alleged failure to protect citizen security. This further undermined the standing of a president whose popularity was also adversely affected by paternity revelations (one of which Lugo recognized) and whose strength has been sapped by treatment for lymphatic cancer.

At the heart of this culture lies the struggle for access to the state, which under Colorado hegemony operated as a clientelistic mechanism to guarantee electoral support and extract funds for the benefit of the party and powerful individuals. The public sector remains highly politicized, characterized by nepotism, favoritism, and patronage. The combination of corruption, clientelism, and lack of transparency has led to inefficiency, incapacity, and weak legitimacy.¹⁴ Initiatives since 2008 by the Public Service Secretariat (SFP) to implement merit-based selection and promotion obligatory have made some headway, but are undermined by concerted political resistance, and a lack of political leverage over other ministries. An overwhelming majority of civil servants are Colorado Party members, originally appointed purely on grounds of political allegiance, and who, as career civil servants, now enjoy a high degree of protection. Crucially, the proposed Civil Service Law, which promotes merit-based appointments and aims to end the system's pathologies, remains tied up in legal and constitutional disputes.

Civil society has undergone significant growth during the transition. Nongovernmental organizations (NGOs) are free to register and operate without undue government interference, as well as maintain relations with international funders. They have played an active role in promoting policy reform on a broad range of human rights and good governance issues.¹⁵ The growth of organized civil society is also reflected in increased levels of participation in small-scale neighborhood committees that have proliferated in most municipalities, the growth of peasant federations, and the emergence of broad, multisector citizens' coalitions that have sought to defend and deepen democratic practice. Civil society's influence on policymaking has increased under President Lugo, and civil society organizations represent a strong constituency of support for the beleaguered president, albeit with limited influence in congress.

Freedom of the press and media is guaranteed by the constitution, and independent media are allowed to freely operate, broadcast, and publish. State interference is minimal in terms of direct or indirect censorship, and the government

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does not fund the media for purposes of propaganda or limit opposition groups' access. Recent regulations have opened up the internet sector in Paraguay, allowing for growth of infrastructure and the broadening of access to information.¹⁶ Furthermore, despite risks to individual journalists, the media's investigative capacity regarding corruption, impunity, and crime has grown. As a result, surveys demonstrate high levels of trust in all forms of media.¹⁷

However, the media's effectiveness is limited by three issues. First, highly concentrated media ownership means that most outlets are intertwined with business and political groups whose interests exert a strong influence over individual journalists, news coverage, and editorial content, with an ability to influence and even set the political agenda. This is exacerbated by a general lack of objectivity in reporting, low ethical standards, and a lack of professionalism. This is particularly apparent in the campaign by Paraguay's best-selling newspaper, *ABC Color*, to discredit the president, his colleagues, and his policies, and foster an atmosphere of insecurity and distrust.¹⁸ This criticism also extends to major radio outlets, most of which are owned by politicians associated with the Colorado Party, although the proliferation of community radio (about a third of which operate illegally) has gone some way in countering the commercial outlets' bias.

Second, public officials may criminally prosecute or sue private individuals and the press for damages under Paraguay's defamation laws, which discourages investigative journalism and encourages self-censorship. Third, journalists in Paraguay continue to suffer from threats of violence and harassment, especially those involved in investigative journalism into contraband and drug trafficking.¹⁹ In January 2009, Martín Ocampos Páez, the director of a community radio station in Concepción, was assassinated while investigating police involvement in drug trafficking. As of spring 2011, the crime remains unsolved.²⁰

CIVIL LIBERTIES

Since 2008, the Lugo administration has made significant efforts to protect and guarantee civil liberties. However, its efforts are set against a backdrop of over half a century of one-party rule, widespread discrimination based on race, gender, and class, and a political culture that tolerates impunity and corruption.

The law prohibits arbitrary arrest, unjustified imprisonment, and torture, and these strictures are generally respected. However, there is evidence of the use of torture by the police, especially against the most vulnerable sectors, and there are few mechanisms for monitoring, reporting, or seeking redress, giving a widespread impression of impunity.²¹ The political opposition is not subject to harassment or attacks by the state, and there were no reports of politically-motivated killings by the state. However, peasant activists regularly denounce harassment and violence by the security forces. In a not-uncommon event in 2009, dozens of peasants were injured and over 50 arrested in Caaguazú when police raided a peasant encampment looking for those responsible for an assault on commercial premises. Overall, nine peasant activists were killed unlawfully in 2009; the cases were not fully investigated and the culprits were not found.²²

The definition of torture under the penal code still does not conform to international human rights treaties, despite pressure and initiatives from NGOs and some politicians. A widely-acclaimed bill by Senator Carlos Filizzola to establish a

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National Mechanism for Prevention of Torture to integrate local legislation with international controls and agreements remained before congress as of early 2011. In 2007, a report by the United Nations Special Rapporteur on Torture concluded that torture was “still widely practiced” in police custody to obtain confessions,²³ an assessment still seen as broadly accurate in 2011 despite government initiatives to eradicate such practices.

Despite some “partial, insufficient and limited” reparations for victims of the Stroessner dictatorship,²⁴ redress for torture and abuses of human rights has been inadequate. While on the whole, the military and other personnel alleged to have engaged in abuses during the dictatorship have enjoyed a high degree of impunity during the transition to democracy, some progress has been made. In 2009 the minister of defense authorized access to files from the dictatorship, giving human rights investigators access to such information for the first time. Following modifications to legislation made by the Lugo administration in 2008, 13,700 applications for reparations were made to the office of the ombudsman.²⁵ A victory against impunity occurred in May 2009 when Sabino Montanaro, the interior minister between 1968 and 1989, was arrested upon his return to Paraguay from exile for his central role in the abuse of human rights during the dictatorship. However, in terms of broader avenues for redress, ombudsman Manuel Páez Monges has been widely criticized as inefficient and politicized, characteristics reflected in a 2008 Senate Report that strongly criticized the ombudsman’s inefficiency and “deplorable performance.”²⁶ Efforts to replace Páez since his mandate expired in 2008 have been blocked due to disagreements between political parties over his successor’s political affiliation.

Conditions in Paraguay’s 13 prisons neither meet international standards nor comply with the constitution. Problems include overcrowding, insufficient medical care, inadequate sanitary facilities, poorly-constructed buildings, inadequate staffing, endemic corruption, and routine violence due to a lack of security. All prisons contain more prisoners awaiting trial than convicted, and none provide provision for separation of these groups. As an example, Tacumbú, Asunción’s main high-security prison, has a capacity of 900, but as of 2009 held 3,171 prisoners, of whom 2,638 are still awaiting trial.²⁷ The Lugo government pledged to address these issues, organizing a census of conditions, changing the directorships in all 13 institutions, and establishing a Directorate of Health for Penitentiaries, Education Centers, and Housing Shelters in March 2009. The Ministry of Interior established a new training regime in 2009, a modern prison was opened in Amambay in 2009, and conditions and security were improved at the Neuropsychiatric Hospital in Asunción in compliance with a July 2008 ruling of the Inter-American Commission of Human Rights (IACHR).²⁸

Over the past decade, the Paraguayan People’s Army (EPP), a small guerrilla organization, has carried out a number of sporadic kidnappings and attacks on police.²⁹ Although not a threat to national security, media accusations that the government was incapable of protecting citizen security led to a troop surge in San Pedro in January 2009 and a 30-day state of emergency declared in five departments in April 2010. Neither of these produced any positive counterinsurgency results, and both were condemned by Amnesty for alleged abuse, violence, and arbitrary arrest perpetrated by the security forces.³⁰ The nature of the EPP remains disputed. While the right has accused peasant organizations and even President Lugo of links with its

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leadership, many observers believe it is more likely to be linked to illegal narcotics operations in the area.³¹

Human trafficking is prohibited by law, but there is strong evidence of both domestic and international trafficking involving several thousand women annually, most of whom are destined for prostitution and domestic service in Argentina. A law that came into effect in June 2009 aligns national law with International Labor Organization anti-trafficking conventions and strengthens prevention, repression, and punishment, although it does not address internal trafficking. Progress has been made in terms of establishing entities to combat trafficking and support victims, but there is evidence that widespread corruption within state bodies combined with a lack of resources has resulted in the continuation and even expansion of illegal activities.³²

The 1992 constitution guarantees gender equality in terms of civil, political, social, economic, and cultural rights, and assigns responsibility for protecting these rights to the state. The creation of the Women's Secretariat of the Office of the Presidency (SMPR) in 1993 marked perhaps the most notable gain in efforts to ensure women's constitutional rights. However, gender-related discrimination is widespread, and women still suffer disproportionately from domestic violence and economic deprivation. In rural areas especially, women are informally excluded due to lower education rates and higher illiteracy, as well as cultural norms that afford little power or participation to women, reflected in less access to land, lower wages (especially in domestic service), higher unemployment, and higher levels of extreme poverty.³³ Despite several high-level positions, including a female mayor of Asunción from 2006 to 2010, a female Colorado presidential candidate in 2008, six senators, and 10 congresswomen, and a 20 percent quota for female party list candidates, women's presence in politics is still low. The new government has expanded the role and presence of the SMPR, which since 2008 has promoted a wide range of programs intended to counter violence, abuse, and discrimination, and promote equal access to employment, housing, land ownership, education, and health.³⁴

Paraguay's indigenous people, numbering 108,000 (just under 2 percent of the population),³⁵ have the lowest social development indicators of any group in Paraguayan society and suffer from extreme poverty and exclusion. Favorable legal and constitutional protection masks continued neglect by the state and a lack of judicial and police protection. Indeed, the state appears incapable of protecting the environment, living conditions, rights or security of indigenous people. A United Nations mission to Paraguay in 2009 found widespread use of forced labor, child labor, and poor working conditions, especially in the Chaco region. While its report commended the new government's efforts, it highlighted deep-rooted problems of discrimination, poverty, and a lack of access to basic services or state protection that had led to the deterioration of the already "critical situation" of indigenous people.³⁶

Electoral promises by Lugo to protect indigenous rights have generally failed to materialize. The appointment of Margarita Mbywangy, the first indigenous leader to be appointed to a senior government position, as director of the National Institute for Indigenous Development in August 2008, was heralded as a landmark but her resignation that December led to a period of further decline in the already embattled Institute. The establishment of the National Program for Attention to Indigenous Peoples in 2009 has made some impact in terms of providing basic social welfare, healthcare, food, and education, but the government has been incapable of halting (illegal) displacement of communities and environmental destruction or resolving land conflicts.

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Decisions issued by the Inter-American Court of Human Rights regarding the Yakye Axa (2005) and Sawhoyamaya (2006) indigenous communities mandated that the government provide the communities with basic services and return their lands. However, these rulings have not been implemented; indeed, a government proposal to expropriate land for the Yakye Axa was blocked by the Senate in October 2009.³⁷ This led Amnesty International to express concern in 2010 over the failure of the “frail institutional framework” to protect indigenous rights.³⁸

Although Article 46 of the constitution guarantees equality before the law, there is a lack of mechanisms to ensure compliance. As a result, discrimination on the grounds of gender, ethnicity, language, disability, and sexuality continues in practice. A bill against all forms of discrimination was presented to congress in 2006, but has not progressed. However, following the appointment of Lilian Soto, a campaigner for equal opportunities, as director of the SFP, the agency has spearheaded public sector antidiscrimination reforms and training. For example, in December 2009, the SFP adopted regulations to implement the Convention on Rights of People with Disabilities, ratified by Paraguay in 2008. This marked an important step, as disabled people face widespread discrimination; although the law requires that people with disabilities should fill 5 percent of all public sector jobs, in reality they fill only 0.1 percent.³⁹

Freedom of religion is also respected both in the constitution and in practice, with no undue state interference or restrictions. There is no religious persecution suffered by any of the many denominations and religions operating in Paraguay. The Catholic Church occasionally passes comment on socioeconomic issues but is not a political force in the country.

The freedoms of assembly, organization, and association are protected by law and generally respected. There are restrictions on the constitutional right to demonstrate in terms of time, venue, and the nature of the protest (for example, the blocking of roads and bridges is prohibited), and demonstrations require prior notification of the police. Use of excessive force is frequent in dealing with demonstrations by social movements and peasant organizations. For example, in November 2008, a march by the Social and Popular Front resulted in 60 injuries, while evictions of peasants from illegal land occupations have led to numerous accusations against the police—and increasingly, private security forces—of violence and unjustified arrest.

The law protects the right to form and join trade unions in both the public and private sectors, with the exception of the armed forces and the police. Despite constitutional protection and the existence of several hundred unions grouped into six labor federations, union activity remains inadequately protected by the state, and violations of international labor standards, such as retaliatory harassment and firing of union organizers and violations of collective agreements and contracts, are common in the private sector.⁴⁰

RULE OF LAW

Despite a constitutional and legal framework that guarantees fundamental rights, access to justice, and equality before the law, structural weaknesses in the rule of law remain at the center of the democratic deficit in Paraguay. Furthermore, the legacies of the dictatorship and Colorado Party dominance remain strong, most evidently in

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the weak and highly politicized structure of the judiciary, the presence of pervasive and institutionalized corruption, unequal access to justice, and the thin presence of the state in some areas of the country.

Although a standardized public system for promotion and appointment exists, the process of selection, designation, and promotion of judges, district attorneys, and prosecutors remains weak and ineffectual, subject to high levels of party political interference. At root is a political quota system for appointments to the main judicial bodies agreed to by the major parties under the Governability Pact of 1994. Most notably, the Council of Magistrates, the critical actor in terms of judicial appointments, continues to operate a quota system that politicizes and distorts the selection of judges, prosecutors, and public defenders. The system's design overwhelmingly favors the two largest parties, the Colorado and PLRA. As a result, the composition of the entire judicial system, from the Supreme Court of Justice and TSJE to individual lower court judges, is subject to politicized bargaining and agreements, with appointments made on the basis of political service, allegiance, and loyalty rather than merit and expertise, experience, or qualifications.

The high level of political influence, combined with insufficient training, inadequate checks and balances, and undue pressures on judges and prosecutors from local economic and political elites, undermine the independence, efficiency, and professionalism of the judicial system. Consequently, the justice system is widely seen as inefficient, corrupt, unable to combat corruption and impunity, and unable to protect citizens' (especially poor citizens') rights. It is among the least trusted institutions in Paraguay, reflecting widespread dissatisfaction with the quality of and access to justice: according to a 2008 United Nations Development Program poll, only 11 percent of Paraguayans have confidence in the application of equality before the law, and less than a third have confidence in the judicial authorities.⁴¹

Access to justice is guaranteed by the constitution, although in practice it is highly conditioned by factors related to gender, socioeconomic resources, geographic location, language, political connections, and personal contacts, with greater obstacles prevalent in rural areas. Furthermore, although the law grants access to independent counsel, in practice, the Ministry of Public Defense is comparatively underresourced in terms of staff and finance and unable to provide defense lawyers for the vast majority of defendants, especially in rural areas. As a result, adequate representation in court is limited to those who have the necessary assets to pay private lawyers for defense or pursuit of a civil claim. As of the end of 2010, an Organic Law of Public Defense designed to regulate and adequately finance public defense remained before congress.

In his electoral program Lugo promised a thorough reform of the judicial system, with reform of the Supreme Court, a body widely seen as extremely corrupt, highly politicized, and an obstacle to judicial reform as the first crucial step.⁴² However, despite widespread popular support, he was unable to purge its (predominantly Colorado) membership due to the recourse of judges to the alleged right to "immobility" until the age of 75, as well as congressional opposition to his efforts. Moreover, due to the Court's cumbersome appointment process, which involves the approval of the Council of Magistrates, the Senate, and a majority in the Supreme Court, Lugo was unable even to fill the chamber's two vacant posts during his administration's first two years. Finally in December 2010 did he abandon his principled commitment to appointments on the basis of merit and experience and strike a deal with UNACE and the PLRA in line with the party quota system he had

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previously criticized so strongly. As a result, Gladys Bareiro de Mónica (PLRA) and Luis María Benítez Riera (Colorado) filled the vacant positions on the Supreme Court, while Modesto Monges (UNACE) filled the long-vacant post in the TSJE.

Paraguay's weak rule of law is especially evident in poorer and more remote rural areas, which lack not only adequate basic social services, but also state presence and authority. For example, Alto Paraguay, a 31,000 square-mile department and a region renowned for drug trafficking, had just 90 police officers, six patrol cars, no river patrol boats, and no capacity to monitor aircraft flights in 2010.⁴³

These resource-related deficiencies are complicated by, and contribute to, the rapid growth of organized crime in such areas, especially illicit activity related to drug production and distribution. Paraguay is now the largest producer of marijuana in South America and is a major conduit for both cocaine and weapons.⁴⁴ There is a widely held perception, and some evidence, that this growth involves a powerful network of influences, including members of the police, the armed forces, local and national politicians, and judges. Drug traffickers thus wield significant political economic influence and operate with a high degree of impunity, especially in poorer areas where state presence is weaker. Liberal senator Robert Acevedo, an outspoken critic of the growth of the drug trade, stated in May 2010 that the department of Amambay was dominated by narcotics interests exercising significant control of local politicians, judges, police and members of the armed forces.⁴⁵

Further testimony to the influence of drug traffickers is reflected in the fact that between September 2010 and March 2011, 13 high profile traffickers were freed by local judges despite overwhelming evidence against them. Among those freed was the son of Jarvis Pavão, one of the most important traffickers in Paraguay, who had been accused of possession of 112 kilograms of cocaine.⁴⁶ President Lugo has launched initiatives to combat such activities by attempting to strengthen customs and tax authorities, drug eradication efforts, and increased military presence in some border areas with Brazil, but with little noticeable effect.

The national police are widely perceived as ineffective and institutionally corrupt, and there is evidence of high levels of infiltration by criminal mafias related to the distribution of arms, drugs, and vehicles. The police underwent little reform during the transition before 2008, an issue exacerbated by inadequate resources (including personnel, equipment, infrastructure, and salaries), weak transparency and accountability, and poor training in the maintenance of public order, respect for human rights, community engagement, and investigative procedure.⁴⁷ Recognition of the need for reform has led to efforts by Minister of Interior Rafael Filizzola since 2008 to restructure the force (including through new leadership), boost investment, reform organization and management, improve human rights training, establish internal anticorruption mechanisms, and increase public engagement through a Citizens' Information Office that channels public feedback. One result of this has been a widespread perception of a decline in street crime, especially in Asunción.

However, the national police's overall weakness has led to the proliferation of private security firms, in both urban and rural areas, often illegally and without state control or registration.⁴⁸ In rural areas, armed paramilitary Neighborhood Committees for Citizen Security were set up under legislation passed during the Duarte administration, often with state funding and training, despite allegations of torture and extrajudicial killings. In December 2008, the Ministry of Interior withdrew the legal status of such groups, although in practice some continue to operate with impunity.

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The military no longer plays an overt role in politics and appears to have been depoliticized and placed firmly under civilian control. However, rumors of an imminent military coup were widespread in Asunción for much of 2008 and 2009, and served to slow the reform impetus and agenda of the government. Fear of military intervention may well have influenced the president's decision to replace 43 generals, as well as the heads of the army, navy, and air force no less than three times in his first 15 months in office, despite the fact that the professional conduct of those officials was not in question. Such extraordinary actions indicated that the executive took the threat of military intervention in support of the political opposition extremely seriously.

Property rights are generally respected in Paraguay and contracts are enforced—although legal channels are often cumbersome—and the government generally complies with judicial orders regarding seizure or restitution of private property and compensation for any expropriation. The government has also continued to evict peasants involved in land disputes and illegal occupations. In eastern Paraguay, indigenous communities frequently complain of nonrecognition of land titles and illegal, often violent, appropriation of traditional lands by private individuals, groups, and companies, with disregard to their property rights.

Despite Lugo's electoral promise of land reform to address the vast inequality in land ownership and distribution, there has been little progress made, and no redistribution has taken place. This is in part due to resistance by powerful economic interests but also to a lack of concerted efforts by the government, including even the initial step of organizing a registry of land ownership. The government has also failed in its promise to investigate, identify, expropriate, and redistribute *tierras malhabidas*, lands distributed by the government to its political allies during the dictatorship.

ANTICORRUPTION AND TRANSPARENCY

Two of the legacies of the Stroessner dictatorship were an economy characterized by the prevalence of illicit and informal activities, and a state characterized by corruption and a lack of institutionalization.⁴⁹ Rather than leading to greater transparency or a reduction in corruption, Stroessner's fall is widely seen to have increased levels of graft. By the 1990s, Paraguay had become a major regional conduit for arms and narcotics and a center for money laundering and contraband, as the “democratization of corruption” and the collapse of informal systems allowed greater access to illicit activities. Indeed, by 2002, some sources estimated that up to \$4 billion was being laundered through Paraguay to the United States,⁵⁰ while in 2007 estimates put unofficial exports (i.e., contraband) at \$3.5 billion—the same level as official exports.⁵¹

Corruption pervades all levels of society: while members of the Supreme Court have been accused of money laundering and other forms of corruption, low-level bribery of state officials, including police, judges, ministers, and civil servants, is routine, with little possibility of redress or compensation for victims. This is linked to high levels of informality in the economy, reflected in a range of indicators such as a low rate of formal registration of companies and employees, low levels of access to state social security and the minimum wage, and the prevalence of contraband—as

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well as the absence of any effective system to verify declarations of assets and income.

Systemic corruption permeates government institutions and corrupts the execution of their functions. Despite recent efforts, especially by the Ministry of Finance, there is a lack of transparency in government affairs, resulting in low levels of horizontal accountability. The public sector is seen as a particular source of corruption, especially in terms of lack of oversight and accountability in government procurement and contracting and a lack of separation between officials' actions and personal financial interests. Some areas of public enterprise, such as the administration of Itaipú Binacional, the joint Paraguayan-Brazilian entity managing the massive Itaipú dam, have long been seen as a way to obtain access to lucrative revenue sources for both individuals and their political parties. State industries are widely seen as highly corrupt, with Petropar, the oil entity, attracting particular attention in 2009 and 2010. However, efforts to privatize state corporations under previous governments were halted indefinitely under the Duarte administration due to popular outrage over a lack of transparency and alleged corruption in the privatization process.⁵² Privatization has since remained off the political agenda.

Although the constitution provides for freedom of information, there is limited public access to government documents and statistics. This is exacerbated by poor infrastructure, a lack of political will, and efforts to conceal sensitive information. Indeed, civil society organizations, reformers in government, and smaller parties have consistently focused on enactment of a freedom of information act to gain better access to information. In the absence of this legislation, the press has been at the forefront of anticorruption activity, performing a vital role as whistleblower and campaigner, even though cases are rarely pursued through the courts.

Anticorruption measures undertaken under President Duarte between 2003 and 2005 (especially in the Ministry of Finance under Dionisio Borda) were significant in improving practices in terms of transparency and accountability in tax collection, auditing, and public procurement.⁵³ Proper legislative review of the budgetary process, which receives wide media coverage, is also now in place, although in both 2009 and 2010 the process was characterized by opposition efforts to push through large expenditure increases in order to derail the government's fiscal policy and hence undermine the administration's credibility. Local government transparency was also encouraged, producing some pockets of good practice, including public dissemination of local officials' income, expenditure and salaries.

President Lugo made anticorruption a central part of his electoral platform, promising to consolidate and develop the progress made in the first years of the Duarte regime and strengthen the role of institutions such as the interagency Council for the Promotion of the National Integrity System (CISNI),⁵⁴ civil society organizations, and internationally-funded projects like the Millennium Challenge Account's threshold program. Once in power he appointed a number of ministers who are widely seen as champions of transparency, most notably Minister of Finance Borda.⁵⁵ A number of initiatives followed: the Public Administration Modernization Unit established by Borda coordinates policies to strengthen processes and systems across different ministries; the Ministry of Health has launched a comprehensive system to build more transparent procurement systems; the SFP is implementing new merit-based and transparent appointments processes; and easily accessible web-based information (including public accounts) is being offered by a number of ministries. The comptroller general's office has, with foreign technical support, also made

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progress professionalizing audit procedures and systems, although it remains institutionally weak and lacks clear administrative authority to exercise its external control mandate over other public sector institutions.

Overall, however, the lack of institutional capacity presents a major barrier to the fight against corruption. Institutional checks and balances to address problems of corruption within the state sector, such as the General Audit Office of the executive and the comptroller general's office, suffer from inadequate resources (despite increases under the Lugo administration), a lack of technical capacity, and weak credibility, resulting in a failure to make any significant impact on corruption. Indeed, there is little evidence of political will to improve the performance of these bodies. Likewise, the Public Ministry and the office of the ombudsman are both headed by Colorado appointees and are widely seen as politicized, institutionally corrupt, and highly inefficient.⁵⁶ The position of the Public Ministry's Economic Crimes and Anti-Corruption Unit (ECAU) is symptomatic of the structural problems facing anticorruption efforts. Although a number of anticorruption prosecutors (such as Arnaldo Giuzzio and Carlos Arregui) have brought cases against high-level officials, the cases failed to produce convictions and the prosecutors were subject to threats of demotion and professional sanction, reflecting the difficulties and dangers in challenging vested interests. At the root of this lies the lack of judicial reform: politicized and perceived as corrupt and ineffective, the judiciary is seen as providing impunity in the courts for those with financial resources or party political contacts. In effect, until progress is made in terms of judicial reform, progress on transparency and anticorruption will remain limited.

Hence, despite government efforts, there is little evidence that corruption has decreased—in fact, according to Transparency International's 2010 Corruption Perceptions Index, corruption has increased over the past three years, with Paraguay tied with Haiti as the second most corrupt country in Latin America.⁵⁷ The failure of the reformist Lugo administration to reap gains from his administration's multiple anticorruption initiatives will carry a political cost, adding to the likely return of the Colorado Party to power in 2013.

RECOMMENDATIONS

- The government should pursue the adoption of a national anticorruption strategy through a coalition of interested parties including NGOs, political parties, the media, and social movements with the aims of strengthening existing institutions and enforcement mechanisms, promoting civil education, and setting a clear legislative agenda.
- The strategy of targeted social welfare programs to improve access to health, education, and employment should be continued and developed in order to address the high levels of inequality and exclusion that reflect and produce discrimination, foster clientelism and corruption, and undermine democratic citizenship and the quality of democracy.
- A judicial reform program should be undertaken to address the highly partisan, inefficient, and corrupt nature of the judiciary. The quota system for appointments should be replaced by a transparent system of appointments and

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promotions based on merit, especially in the Supreme Court, TSJE, and Council of Magistrates.

- In alliance with partners from civil society and the media, freedom of information legislation should be pursued to promote greater transparency and accountability through access to governmental records.
- Working with NGOs and civil society organizations, the electoral process should be strengthened through promotion of electoral participation, electoral observation by qualified domestic groups, training of TSJE employees, and transparency of all party political funding.

¹ The APC (Alianza Patriótica para el Cambio) arose from the idea of a united opposition to Colorado rule. However, when in July 2008 the PLRA agreed to support Lugo's candidacy in return for the vice-presidency, the other two major opposition parties, UNACE and the Partido Patria Querida, both pulled out. By the 2008 elections, the APC consisted of the PLRA along with a myriad of small left-wing parties and movements.

² Corporación Latinobarómetro, *Informe Latinobarómetro 2005* (Santiago: Corporación Latinobarómetro, 2005), 47, <http://www.latinobarometro.org/latino/LATContenidos.jsp>.

³ Corporación Latinobarómetro, *Informe Latinobarómetro 2007* (Santiago: Corporación Latinobarómetro, November 2007), 81, <http://www.latinobarometro.org/latino/LATContenidos.jsp>.

⁴ Ex-general Lino Oviedo, who leads UNACE, has long been considered a threat to democratic consolidation in Paraguay because of his authoritarian populism, his alleged links to illegal economic activities, and his alleged roles in attempted coups in both 1996 and 1999, for which he was imprisoned.

⁵ United Nations Development Programme (UNDP), *Equidad para el Desarrollo: Paraguay 2008* (Asunción: UNDP, 2008),

http://www.undp.org.py/odh/fotos/publicaciones/id27_pub1.pdf.

⁶ "Principales Resultados de la Encuesta Permanente de Hogares: Empleo y Pobreza," Dirección General de Estadística, Encuestas y Censos [DGEEC], 2008, <http://www.dgeec.gov.py/>, accessed May 26, 2011.

⁷ "Agricultural Census 2008," Ministry of Agriculture and Livestock, <http://www.mag.gov.py/>.

⁸ The *Partido Liberal Radical Auténtico* (Authentic Radical Liberal Party) or Liberal Party has traditionally been the main opposition party to the Colorados in Paraguay's patronage-based system.

⁹ Both the 1989 and 1993 elections were judged to have been free but not fair.

¹⁰ Andrew Nickson, "The general election in Paraguay." *Journal of Electoral Studies* 28, no. 1 (2008): 145–49.

¹¹ Partido Patria Querida (Beloved Homeland Party) is a modernizing centrist party and is often seen as having the most coherent democratic programme of the major parties. However, its support base is mainly urban and it lacks the clientelist networks of its competitors.

¹² USAID, *Paraguay Democracy and Governance Assessment* (Burlington: USAID, October 2009), p. v, <http://paraguay.usaid.gov/sites/default/files/documents/paraguay-dg-assessment-report-final-11-09.pdf>.

¹³ This article states that former presidents are entitled to the post of "lifelong senator" (*senador vitalicio*), with the right to speak in session but without the right to vote. By implication ex-presidents may not be elected to the Senate.

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¹⁵ For an in-depth analysis of civic action, see Clyde Soto, Line Bareiro, Quintín Riquelme, and Roberto Villalba, “Sociedad Civil y Construcción Democrática en Paraguay,” in Maria do Como A. Albuquerque, *La Construcción Democrática desde abajo en el Cono Sur* (Sao Paulo: Instituto Polis, 2004), 135–193.

¹⁶ Arturo Bregaglio, “Paraguay,” Global Information Society, 2009, <http://www.giswatch.org/country-report/20/paraguay>, accessed July 22, 2011.

¹⁷ Corporación Latinobarómetro, *Informe 2008* (Santiago: Corporación Latinobarómetro, November 2008), 82, <http://www.latinobarometro.org/latino/LATContenidos.jsp>.

¹⁸ Aristedes Ortiz, “Cómo inflar ‘globos’ mediáticos para debilitar un gobierno,” *E’a—Periodico de Analisis*, October 21, 2009, <http://ea.com.py/como-inflar-%e2%80%9cglobos%e2%80%9d-mediaticos-para-debilitar-un-gobierno/>.

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