

June 30, 2021

## AMLO 2021: Is the Mexican Administration's Fight Against Corruption All Rhetoric?

Mexico's President Andrés Manuel López Obrador ("AMLO") campaigned vigorously on an anti-corruption platform, but his first two years in office have not delivered the improvement in the country's fight against corruption that his campaign promised. AMLO's outspoken approach resulted in drastically improved public perceptions of the government's response to corruption early into his term, with public approval of the government's fight against corruption soaring from twenty-four percent in 2017 to sixty-one percent in 2019.<sup>1</sup> As discussed in a January 2019 Ropes & Gray alert ([AMLO in Office: A New Dawn in Mexico's Fight Against Corruption?](#)), early returns from his administration indicated that AMLO's approach to corruption might be less zealous than his campaign rhetoric. Indeed, public opinion has since cooled, with 59% of respondents in a recent poll answering that they thought the current administration has done a poor job fighting corruption,<sup>2</sup> and AMLO's political coalition recently losing ground in midterm elections. With one third of his six-year term behind him, Mexico under AMLO's leadership has not yet achieved significant gains in its struggle against corruption and impunity.

**Attorneys**  
[Nicholas M. Berg](#)  
[Patrick Welsh](#)  
[Kent Ford](#)  
[Heather M. Romero](#)

### Recent Events Place Renewed Spotlight on AMLO and Corruption in the Region

Mexico's recent midterm elections were largely anticipated to serve as a referendum on AMLO's first two years in office and indeed saw his governing coalition's<sup>3</sup> dominance in Congress significantly curtailed. AMLO's National Regeneration Movement ("MORENA") lost its simple majority in the lower house, forcing AMLO to rely on a broader coalition to cobble together a majority going forward, and fell short of the super majority required for constitutional reforms.<sup>4</sup> Although the party performed better at the state and local level, much of its support (despite a lack of confidence in AMLO's anti-corruption efforts) may stem more from historical discontent with other political parties rather than ardent support for MORENA itself.<sup>5</sup> On the national level, these results are disappointing for AMLO, whose aim was to win a qualified supermajority in the national congress that would enable him to pass sweeping constitutional changes he hoped to enact.<sup>6</sup> These lukewarm national results for AMLO and MORENA will require the president and aligned legislators to negotiate more with the opposition to make progress on AMLO's agenda.

### OECD Chastises Mexico for Failing to Implement Fully a Single Recommendation

AMLO and MORENA's slide in popularity was likely driven in part by the Administration's failure to make significant progress on its promised anti-corruption agenda. The OECD Working Group on Bribery met in March to evaluate Mexico's progress on implementing the OECD Anti-Bribery Convention and soundly criticized Mexico for not doing more to advance systemic change. While acknowledging certain positive steps since the last evaluation in 2018, including the installation of a new special prosecutor for corruption, the Working Group found that of twenty recommendations from its previous evaluations, Mexico has made no progress on nine and only partially implemented the other eleven.<sup>7</sup> The Working Group commented that Mexico's efforts were insufficient, noting it "is very concerned that Mexico has not fully implemented any of those recommendations."<sup>8</sup> Crediting Mexico for certain positive legal reforms in recent years, the Working Group found it "all the more regretful" that those reforms have not yet translated to corruption accountability. The 2021 evaluation noted that not only had Mexico failed to initiate a single new foreign bribery case over the last two years, but not one foreign bribery case had moved past the investigative stage in the twenty years since Mexico adopted the Anti-Bribery Convention.<sup>9</sup> The Working Group also noted that there were fewer active foreign bribery investigations than during its last evaluation.

## AMLO Continues to Neglect Key Anti-Corruption Entities

Mexico's special prosecutor for corruption—María de la Luz Mijangos Borja—assumed office in 2019, but has made only meager progress. As Mijangos herself described in a March 2020 update to the Mexican senate, her office has been desperately underfunded and understaffed. Since then, her office has received only a modest increase in funding. The office has only 36 prosecutors and a handful of support staff to manage over 1,000 active cases. Despite her willingness to initiate investigations, Mijangos's office has been excluded from some of Mexico's most high-profile investigations.

Furthermore, Mexico's citizen-led National Anti-Corruption System has also languished under the AMLO administration. AMLO and his MORENA party have failed to give the system the political and financial backing it needs to play a significant role in the battle to combat corruption. The system remains underfunded, and seats on vital participation committees remain vacant. It was not until April 2021 that the Senate finally constituted a selection committee tasked with formalizing a process for appointing new members to fill vacancies on the citizen participation committees.<sup>10</sup> Without vital political and financial support to buoy the National Anti-Corruption System, it seems unlikely that it will make any meaningful progress towards combating corruption during AMLO's term.

## Critics Decry Legislation They Claim Aims to Consolidate AMLO's Power

In addition to criticism that it has not adequately prioritized meaningful anti-corruption reform, critics accuse AMLO's administration of consolidating power with AMLO loyalists and in state-owned entities potentially vulnerable to corruption. For example, AMLO has recently been criticized for attacks on the Mexican federal election authority, Instituto Nacional Electoral ("INE"), just months before Mexico's midterm elections earlier this month.<sup>11</sup> MORENA also took the controversial step of extending the term of Mexico's Supreme Court chief justice, Arturo Zaldívar, who many view as a supporter of the president.<sup>12</sup> The extension ensures that Zaldívar will remain head of the high court until 2024, when AMLO's presidential term expires.

Two recent legislative initiatives demonstrate what some observers characterize as AMLO's penchant for consolidating power. In December 2020, AMLO's MORENA party rapidly pushed forward a bill to reform the central bank, El Banco de México ("Banxico").<sup>13</sup> Proponents of the bill asserted that it would make it easier for migrant workers to send money home to their families from abroad. However, the bill was met with harsh criticism from within Mexico and abroad, arguing that the bill actually would weaken the bank's independence and ease—and incentivize—money laundering through the nation's central bank. In January, AMLO appeared to back down in the face of this criticism, and MORENA scrapped the bill in favor of voluntary reforms that Banxico vowed to undertake.<sup>14</sup> More recently, MORENA fast tracked and passed a new bill through the congress that aimed to transform the energy sector in Mexico in favor of state actors.<sup>15</sup> The bill "faced almost universal criticism from opposition legislators, environmentalists, industry analysts, Mexican and international business groups and even Mexico's antitrust watchdog."<sup>16</sup> Critics argue that the bill sacrifices clean energy, compliance with international trade agreements, national energy independence, and foreign investment in Mexico in favor of centralizing power in the national government, a move that increases opportunities for corruption in the sector. The new legislation is currently on hold after a Mexican court issued an injunction against implementing the law over challenges that it may unconstitutionally limit the private fuel market and private imports.<sup>17</sup>

## The Administration Fails to Respond to the Medical Supply Crises

In 2019 and 2020, the AMLO administration moved to crack down on Mexican pharmaceutical distributors that have long been criticized for corruption and driving up health care costs in the country. In 2019, the Administration moved quickly to cut ties with distributors it argued were acting monopolistically and who provided too great a proportion of the drugs purchased by the government. In September 2019, AMLO directed that some of the largest drug distributors in the nation, such as Maypo Mexico, cease providing drugs to government healthcare providers. However, the government was ill prepared to find replacement suppliers for the drugs patients still required. A historic drug shortage resulted, leaving hospitals and patients without vital treatment options.

In January 2020, the government continued its campaign against alleged corruption among distributors and announced sanctions against more than sixty pharmaceutical companies with plans to sanction more.<sup>18</sup> Five major distributors and wholesalers—Grupo PiSA, Maypo Mexico, Grupo Farmacos Especializados SA, Distribuidora Internacional de Medicamentos y Equipo Médico, and Lomedic—were said to be under “advanced” stages of investigation and were implicated in creating shortages of vital drugs to drive up costs.<sup>19</sup> The investigations concerned alleged monopolization of pharmaceutical distribution in connection with shortages of drugs throughout Mexico. PiSA, in particular, was accused of playing a major role in the shortage of Methotrexate, a drug prescribed to children with cancer. PiSA allegedly refused to deliver thousands of bottles of Methotrexate until the government agreed to allow it to reopen factories that the government closed for failing manufacturing quality standards.

In the face of mounting pressure from the Mexican public to supply life-saving medications in short supply, the government’s zeal for sanctions slowed quickly. In the three months after the Maypo investigation was publicized, the Mexican Social Security Institute resumed purchases from Maypo and purchased almost 1.2 billion pesos (approximately USD 50.5 million) worth of drugs, ninety-seven percent of which were paid under direct-award contracts.<sup>20</sup> Yet, the prescription drug shortage remains ongoing—exacerbated by the COVID-19 pandemic<sup>21</sup>—and is projected to continue despite international aid provided by the United Nations.<sup>22</sup>

## AMLO Abandons the War Against Drug Cartels

Mexico is unlikely to make meaningful progress on corruption without reigning in the drug cartels and their growing power throughout the country. Their grip on the country was on full display during the recent midterm election cycle in which violence was rampant—nearly 100 politicians were assassinated and over 900 others were assaulted.<sup>23</sup> To counteract this intransigent threat, AMLO has adopted a “hugs, not bullets” approach to confronting cartel violence.<sup>24</sup> Despite a catastrophic homicide rate (nearly 35,000 deaths in each of 2019 and 2020) and rampant corruption fueled by Mexico’s decades-long struggle against drug cartels, AMLO has eschewed largescale police and military engagement with the cartels, vowing instead to “fight them with intelligence and not force.”<sup>25</sup> Against this backdrop of decreased domestic enforcement, anti-drug trafficking cooperation between the United States and Mexico has also collapsed.<sup>26</sup> After deteriorating over the past two years, U.S.-Mexico cooperation declined further following the United States’ arrest of retired General and former Mexican Defense Minister Salvador Cienfuegos Zepeda in October 2020.<sup>27</sup> The move—which was met with immediate resistance by Mexico—was soon reversed by then-Attorney General William Barr, who dropped all charges and released Cienfuegos. By then, however, the damage was done, and already tenuous relations were weakened further.

Now, the Biden Administration’s recently announced dual priorities of combatting corruption and improving conditions driving immigration to the United States may present an opportunity to resume some U.S.-Mexico cooperation on curtailing the drug cartels. On June 3, the Biden Administration released a memorandum directing a heightened focus on the U.S. government’s approach to anti-corruption, both at home and abroad.<sup>28</sup> The memo identified top anti-corruption priorities, including working “with international partners to counteract strategic corruption by foreign leaders, [and] foreign state-owned or affiliated enterprises,” among other entities.<sup>29</sup> Ropes & Gray recently reviewed the memo in more detail in a separate alert ([Biden Administration Places Combatting Corruption at the Center of its National Security Agenda](#)). A few days following the memo’s release, U.S. Vice President Kamala Harris visited Guatemala and Mexico to discuss regional cooperation on a host of issues aimed at stemming the tide of immigration to the United States, including by focusing on the importance of combatting corruption in the region. This trip coupled with the Administration’s emphasis on anti-corruption could open a window to start the process of rebuilding U.S.-Mexico collaboration.

## Meaningful Anti-Corruption Progress Is Unlikely

Despite incremental steps to partially implement some of the OECD Working Group’s anti-corruption recommendations and limited progress in high-profile investigations, AMLO and MORENA have demonstrated that the administration’s

appetite for sweeping, systemic anti-corruption change is less vociferous than AMLO's thunderous campaign rhetoric. After two full years in office, critics say that AMLO has failed to address some of the most dire issues facing the Mexican people in favor of aggregating power in the hands of his administration and loyalists. Now that his coalition has failed to garner a qualified supermajority on the national level, AMLO will likely be unable to implement the sweeping constitutional changes he planned and may face increased legislative resistance to his attempts to further consolidate power. Against this backdrop, the remainder of AMLO's time in office seems unlikely to deliver meaningfully on his anti-corruption campaign rhetoric.

1. *Barómetro Global de la Corrupción América Latina y el Caribe 2019*, Transparency International 46 (2019), <https://images.transparencycdn.org/images/GCB-LAC-2019-report-in-Spanish.pdf>.
2. *59% of Mexicans unimpressed with AMLO's fight against corruption*, Mexico Daily News (May 11, 2021), <https://mexiconewsdaily.com/news/59-of-mexicans-unimpressed-with-amlos-fight-against-corruption/>.
3. AMLO's coalition consists of his own party, MORENA, and the Ecological Green Party of Mexico (Partido Verde Ecologista de México) and the Labor Party (Partido del Trabajo).
4. *Mexico's President Loses Congressional Supermajority in Elections*, Financial Times (June 7, 2021), <https://www.ft.com/content/36e737a9-ae48-4ff8-8e6c-88f54344b372>.
5. Dave Graham, *Mexican president's looming election win masks disquiet over economy*, Reuters (May 4, 2021), <https://www.reuters.com/world/americas/mexican-presidents-looming-election-win-masks-disquiet-over-economy-2021-05-04/>.
6. Francesco Manetto, *López Obrador y el coste del poder*, El País (June 12, 2021), <https://elpais.com/mexico/elecciones-mexicanas/2021-06-12/lopez-obrador-y-el-coste-del-poder.html>.
7. OECD, *Implementing the OECD Anti-Bribery Convention: Phase 4 Two-Year Follow-Up Report 3–4* (2021), <https://www.oecd.org/daf/anti-bribery/mexico-phase-4-follow-up-report.pdf>.
8. *Id.*
9. *Id.*
10. *Instalan Comisión encargada de designar al Comité del Sistema Nacional Anticorrupción*, Senado de la República (Apr. 28, 2021), <http://comunicacion.senado.gob.mx/index.php/informacion/boletines/50880-instalan-comision-encargada-de-designar-al-comite-del-sistema-nacional-anticorrupcion.html>.
11. *Attack against democracy the decision of the INE in the Salgado and Morón case: AMLO*, Aristegui Noticias (Apr. 14, 2021), <https://aristeguinoticias.com/1404/mexico/atentado-contra-la-democracia-la-decision-del-ine-en-caso-salgado-y-moron-amlo/>.
12. *Mexico president defends Supreme Court chief justice's term extension*, Reuters (Apr. 26, 2021), <https://www.reuters.com/article/us-mexico-politics-court/mexico-president-defends-supreme-court-chief-justices-term-extension-idUSKBN2CD2NS>.
13. *FMI pide revisar a fondo consecuencias de reforma al Banxico*, La Silla Rota (Dec. 16, 2020), <https://lasillarota.com/dinero/fmi-pide-revisar-a-fondo-consecuencias-de-reforma-al-banxico/466298>.
14. *Banxico Offers to Finance Mexico Banks Stuck With Dollars*, Bloomberg (Feb. 8, 2021), <https://www.bloomberg.com/news/articles/2021-02-08/banxico-plans-to-finance-banks-that-can-t-dispose-of-dollars>.
15. *Mexico Set to Reshape Power Sector to Favor the State*, New York Times (Mar. 7, 2021), <https://www.nytimes.com/2021/03/07/world/americas/mexico-energy-sector-privatization.html>; Adriana Barrera, *UPDATE 3-Mexican Congress approves changes to energy law, fuelling risks for private companies*, Reuters (Apr. 22, 2021), <https://www.reuters.com/article/mexico-oil/update-3-mexican-congress-approves-changes-to-energy-law-fuelling-risks-for-private-companies-idUSL1N2MF2J8>.
16. *Id.*
17. *Mexican judge rules against president's gasoline law*, Associated Press (May 10, 2021), <https://apnews.com/article/latin-america-laws-business-d14cf1a306c9617a27185100cde1fd50>.
18. *SFP sancionó a 60 farmacéuticas y hay otras más en proceso*, Puente Libre (Jan. 23, 2020), [http://www.puentelibre.mx/noticia/sfp\\_farmacauticas\\_proceso\\_salud\\_corrupcion\\_mexico\\_2020/](http://www.puentelibre.mx/noticia/sfp_farmacauticas_proceso_salud_corrupcion_mexico_2020/).
19. Ariadna Ortega and Ana Valle, *Gobierno de México investiga a PISA y otras 5 empresas farmacéuticas*, Expansion Política (Jan. 23 2020), <https://politica.expansion.mx/mexico/2020/01/23/gobierno-de-mexico-investiga-a-pisa-y-otras-5-empresas-farmacauticas>.
20. Mario Maldonado, *Zoe Robledo revive a distribuidoras vetadas por AMLO*, El Universal (Apr. 13, 2020), <https://www.eluniversal.com.mx/opinion/mario-maldonado/zoe-robledo-revive-distribuidoras-vetadas-por-amlo>.

21. *COVID-19 pandemic exacerbating medicine shortage in Mexico*, Al Jazeera (April 15, 2021), <https://www.youtube.com/watch?v=Rhm4yEAANsY>.
22. *Impunidad Cero advierte desabasto de medicamentos para el resto de la administración de AMLO*, Latinus (Feb. 16, 2021), <https://latinus.us/2021/02/16/impunidad-cero-advierde-desabasto-medicamentos-administracion-amlo/>.
23. Lizbeth Diaz, *Severed head, body parts and kidnappings on Mexico midterm election day*, Reuters (June 6, 2021), <https://www.reuters.com/world/americas/man-throws-severed-head-voting-station-mexico-authorities-find-hands-2021-06-06/>.
24. Carrie Kahn, *As Mexico's Dominant Cartel Gains Power, The President Vows 'Hugs, Not Bullets'*, NPR (July 23, 2020), <https://www.npr.org/2020/07/23/893561899/as-mexicos-dominant-cartel-gains-power-the-president-vows-hugs-not-bullets>.
25. *Id.*; *Mexico's homicide rate stayed high in 2020 despite pandemic*, Associated Press (Jan. 20, 2021), <https://apnews.com/article/homicide-coronavirus-pandemic-latin-america-mexico-a90c2a172f39ab2546de465c73a60543>.
26. Brian Mann, *U.S.-Mexico Efforts Targeting Drug Cartels Have Unraveled, Top DEA Official Says*, NPR (May 3, 2021), <https://www.npr.org/2021/05/03/993059731/u-s-mexico-efforts-targeting-drug-cartels-have-unraveled-top-dea-official-tells>.
27. *Id.*
28. *Memorandum on Establishing the Fight Against Corruption as a Core United States National Security Interest* (June 3, 2021), <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/06/03/memorandum-on-establishing-the-fight-against-corruption-as-a-core-united-states-national-security-interest/>.
29. *Id.*