



## **A New Independence for El Salvador**

***By Hector Perla Jr., Senior Research Fellow & Liliana Muscarella,  
Research Associate at the Council on Hemispheric Affairs***

On September 15, El Salvador celebrated its 195<sup>th</sup> year of independence from Spanish rule. A few days later though, the tiny Central American nation had even greater reason to celebrate: in an effort to take on political corruption and historically weak judiciaries, the administration of President Salvador Sánchez Céren, who is focusing efforts on fortifying its own institutions and steadfastly refusing to become dependent on foreign tutelage.<sup>i</sup> The result is a contemporary kind of independence that goes against the recent trend in Central America's Northern Triangle (El Salvador, Guatemala, Honduras), where countries facing similar endemic issues have had to rely on international institutions to address such troublesome problems.

Punctuating the Salvadoran government's efforts to domestically strengthen its judicial and executive rule of law was an announcement on September 14 by Salvadoran Attorney General Douglas Meléndez. At a teleconference at Woodrow Wilson Center in Washington, D.C., Meléndez announced the creation of a new unit within the prosecutor's office to lead the fight against existing impunity. This move, importantly, carries both promise and risk. It is promising in that such a homegrown approach in the country has distinct advantages for reinforcing the capabilities of El Salvador's domestic institutions to curtail corruption, as well as long term potential for strengthening the rule of law. Here, though, lies the risk: the success of the new unit and the positive legacy of the new administration hinges on Meléndez's integrity when carrying out supposed anti-corruption measures, as well as his ability to resist interference by Washington in Salvadoran affairs.

### **A Promising Approach**

In El Salvador's neighboring countries, Honduras and Guatemala, the fight against corruption and impunity is currently spearheaded by international bodies, while the institutions of the countries themselves have become mere supporting actors in their own affairs. For example, since 2007, the United Nations (UN) has been operating the International Commission against Impunity in Guatemala (*La Comisión Internacional contra la Impunidad en Guatemala*, CICIG).<sup>ii</sup> Similarly, in April 2016, the Support Mission Against Corruption and Impunity in Honduras' (*Misión de Apoyo Contra la Corrupción y la Impunidad en Honduras*, MACCIH) was set up in that country by the Organization of the American States (OAS). These institutions were built on a framework of foreign reliance, making the countries dependent on those institutions'

continued involvement for any success they might generate. Despite issues of self-determination, international observers from both sides of the political spectrum have lauded the successes brought about by these bodies.<sup>iii</sup>

But this is not the only solution when faced with systemic impunity. In fact, both the CICIG's and the MACCIH's creation was more the product of necessity than the manifestation of an ideal. Honduras' 2009 coup set back the country's democratic legitimacy and institutional credibility for decades to come, while Guatemala was never able to uproot its own deeply entrenched corruption in the wake of the 1996 peace accords--in part because it never developed an authentically strong, progressive political-electoral movement capable of generating much-needed reforms. It is understandable, then, that both Guatemala and Honduras turned to outside help.

In contrast, El Salvador's Sánchez Céren administration is well positioned to advocate for a domestic approach that will take on corruption and impunity through solely national institutions. This is largely thanks to the significant democratic advances that the country has made since its post-civil war peace accords in 1992. Despite all of the country's current socio-economic and political shortcomings, El Salvador's past democratic successes, including the peaceful transfer of executive office from right-wing *Alianza Republicana Nacionalista* (ARENA) party to the leftist *Frente Farabundo Martí para la Liberación Nacional* (FMLN), provide the country with a unique set of advantages compared to its Northern Triangle neighbors. Recent steps forward include the passage of the country's transparency law, which put in place mechanisms for public access to government information, the creation of the Presidential Secretariat for citizen participation transparency, as well as the Salvadoran Supreme Court's rollback of the controversial 1993 amnesty law following the country's grueling civil war.<sup>iv</sup>

Continuing this promising trend, since 2014, Sánchez Céren's administration has uncovered approximately 150 cases of graft or corruption by former ARENA government officials and has since filed charges with the Attorney General's office. Two ongoing cases seem poised to set judicial precedents, as both involve former presidents from each of the country's two dominant political parties. One case involves the first-ever prosecution of a former president: Francisco Flores. Following several devastating earthquakes in 2001, Flores received a donation of between \$10 and \$20 million USD for disaster relief from the government of Taiwan. However, the payment was made to Flores himself, and the funds' final destination is still uncertain. Flores died last year while on house arrest awaiting trial; the investigation of all those involved in the diversion of these funds is still incomplete. The second case centers on allegations of illicit enrichment by Mauricio Funes, a former president who was elected as part of the FMLN's 2009 electoral coalition. If Funes is charged after the upcoming final hearing in November, it will be the first time that a former president faces prosecution while the party that brought him into office controls the government.<sup>v</sup>

### **Future Anti-Corruption Hinges on Present Integrity**

The forward motion of these two cases suggests that sustainable changes in the Salvadoran justice system are beginning to take root. Nevertheless, the aforementioned

teleconference brought up a potential setback in such a plan. When asked specifically about the status of the cases filed by the Sánchez Céren Administration, Meléndez confirmed that his office received them, but stated that he is unable to move forward judicially due to a lack of resources. However, the Attorney General's office has succeeded in processing other, newer cases whose statutes of limitation are far from expiring, unlike many of those involving high-ranking former government officials. Furthermore, a September 25 joint statement from U.S. Vice President Joe Biden and the Northern Triangle presidents, clarified that the new Salvadoran anti-corruption unit was given support from the Salvadoran Executive Branch, "including additional funding to hire more assistant prosecutors."<sup>vi</sup> This message clearly refutes Attorney General Meléndez's claim that he lacks the funds to proceed with the corruption cases presented by the Sánchez Céren Administration. The discrepancy also raises suspicion that Attorney General Meléndez's failure to act on these high-profile cases may be more the result of political bias than a lack of resources. This same issue has been raised by a national coalition of Salvadoran-Americans who circulated a letter addressing this concern. It remains to be seen if the attorney general will act on these particular cases in a non-biased way or face the possibility of charges for judicial corruption such as his immediate predecessor currently confronts.<sup>vii</sup>

Another development that must be watched critically is Washington's ongoing involvement in the El Salvador's internal affairs. While the Obama Administration has thus far shut down rightwing demands to cut off aid to El Salvador due to alleged corruption--a move loudly called for by Senator Marco Rubio, who accused a prominent FMLN leader of drug trafficking and other offenses--this support should not be mistaken for selfless moral commendation. The United States has traditionally intervened on behalf of oligarchic interests in Salvadoran affairs, and it would be unwise to assume that this trend will suddenly come to a halt. But in a promising development, the day before Meléndez announced the new anti-corruption unit, President Sánchez Céren and Vice President Joe Biden spoke by phone. Following their meeting, the White House issued a statement of support for the Salvadoran government's efforts: "The Vice President commended El Salvador's leadership in advancing the Plan for the Alliance of Prosperity for the Northern Triangle of Central America, including deepening investments in security, prosperity, and establishing the rule of law."<sup>viii</sup> This statement of support for the Salvadoran government's independent progress signals the important role a stable El Salvador plays in the broader U.S. strategy toward Central America--a strategy that is based on the controversial Alliance for Prosperity and designed to stem the regional migration crisis while fighting criminal networks and drug trafficking. This strategy must not be taken at face-value, but rather analyzed in the context of the Salvadoran quest for independence.

## **Conclusion**

Despite a long history of corruption and judicial inefficiency, El Salvador is not backing down--in fact, it is rapidly moving toward self-determination and governmental accountability. Even so, despite President Sánchez Céren's impressive first steps toward improvement and the hope of Meléndez's new unit, caution is advised. It still remains to be seen whether the Attorney General will act without bias on the cases presented by the

Sánchez Céren Administration, or continue the trend of judicial corruption. Furthermore, the United States' role must be watched critically to ensure that the Central American country's attempts to maintain its sovereignty are not in vain.

In sum, Meléndez's anti-corruption unit has immense potential, and represents a necessary departure from excessive reliance on foreign institutions and the whims of foreign interests. But the success of El Salvador's domestic approach to fighting impunity hinges on two crucial elements. First, individual actors, starting with Attorney General Meléndez, must resist the temptation of deciding which cases to prosecute based on political bias. Instead, he should proceed with the cases presented by the Sánchez Céren Administration with the same vigor with which he has gone after other corruption cases. Second, the United States must be respectful of the country's sovereignty even while enthusiastically supporting the fight against impunity. If these circumstances are met, El Salvador represents a promising case study for the future of the Northern Triangle countries and other countries tackling the scourge of corruption in the Western Hemisphere.

\* Translated by author.

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Research Associate at the Council on Hemispheric Affairs***

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<sup>i</sup> Goodfriend, Hillary. "El Salvador's New Anti-Corruption Crusaders." *NACLA: Report on the Americas*. November 16, 2015. Accessed October 5, 2016. <https://nacla.org/news/2015/11/16/el-salvador%E2%80%99s-new-anti-corruption-crusaders>.

<sup>ii</sup> *Washington Office on Latin America*. "The international commission against impunity in Guatemala." June 2015. Accessed October 5, 2016. [https://www.wola.org/sites/default/files/Citizen%20Security/2015/WOLA\\_CICIG\\_ENG\\_FNL\\_extra%20page.pdf](https://www.wola.org/sites/default/files/Citizen%20Security/2015/WOLA_CICIG_ENG_FNL_extra%20page.pdf)

<sup>iii</sup> *The Economist*. "A Central American spring? Fury at corruption sparks mass demonstrations." August 15, 2015. Accessed October 5, 2016. <http://www.economist.com/news/americas/21661036-fury-corruption-sparks-mass-demonstrations-central-american-spring>.

<sup>iv</sup> Asamblea Legislativa de El Salvador. Centro de Documentación Legislativa. "Ley de Acceso a la Información" August 4, 2011. Accessed October 5, 2016. <http://asamblea.gob.sv/eparlamento/indice-legislativo/buscador-de-documentos-legislativos/ley-de-acceso-a-la-informacion>.

<sup>v</sup> "Camara admite todas las pruebas en caso contra Funes." *La Prensa Grafica*. September 21, 2016. Accessed October 5, 2016. <http://www.laprensagrafica.com/2016/09/21/camara-admite-todas-las-pruebas-en-caso-contra-funes>.

<sup>vi</sup> The White House. Office of the Vice-President. "Joint Statement By The Presidents Of El Salvador, Guatemala, And Honduras, And The Vice President Of The United States." September 25, 2016. Accessed October 5, 2016. <https://www.whitehouse.gov/the-press-office/2016/09/25/joint-statement-presidents-el-salvador-guatemala-and-honduras-and-vice>.

<sup>vii</sup> LaSusa, Mike. "Arrest of Ex-Attorney General a Promising Sign for El Salvador." *InSight Crime*. August 23, 2016. Accessed October 5, 2016. <http://www.insightcrime.org/news-analysis/arrest-of-ex-attorney-general-a-promising-sign-for-el-salvador>.

<sup>viii</sup> The White House. Office of the Vice-President. Readout of Vice President Biden's Telephone Call with President Salvador Sanchez Ceren of El Salvador. September 13, 2016. Accessed October 5, 2016. <https://www.whitehouse.gov/the-press-office/2016/09/13/readout-vice-president-bidens-telephone-call-president-salvador-sanchez>.